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City of Fort Hancock, Texas Zoning Ordinance Model

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***City of Fort Hancock, Texas
Zoning Ordinance Model****



Technical Report Number: 2005-04

November, 2005

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* This document entitled "City of Fort Hancock, Texas Zoning Ordinance Model" was based on the state-of-the-art zoning rewrite for the city of Socorro in December 2001 by the Graduate Students of CIERP 5304, Plan Implementation – Elise Bright., Associate Professor of the School of Urban and Public Affairs. This document's use has been designed to provide decision makers a guidance tool.

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Throughout this text suggested new language is underlined and commentary is in italics.

ARTICLE 1-PURPOSE AND INTENT

The ordinance currently lacks a purpose and intent statement, which is one of the most basic parts of a zoning ordinance. Following is a suggested purpose and intent statement.

It is declared the intent and purpose of this Zoning Ordinance to promote and protect the health, safety, morals and general welfare of the citizens of Fort Hancock assuring quality development that conforms to a comprehensive plan of the city. It is further declared that the city is hereby divided into zones or districts for the following purposes:

This statement is designed to state that the ordinance will conform to the police powers granted to the city by the state enabling act and that the ordinance will be tied to a comprehensive plan, both points are very desirable from a legal basis.

To promote the stability of existing land uses that conform with the comprehensive plan and to protect them from unharmonious influences and harmful intrusions;

This statement is intended to establish the goal of linking all land uses together in an overall pattern showing harmony and a sense of order.

To promote a harmonious, convenient, workable relationship among land uses;

This statement is to set the goal of coordinating uses of land in a manner that shows order and which allows the land uses to complement each other and allow for synergies of use.

To encourage quality development through effective planning which utilizes modern innovations of urban design;

This statement is to allow for the use of urban design standards and use of overlay districts with the goal of implementing design standards.

To allow for the creation of mixed use neighborhood business and residential districts;

To promote and protect the aesthetic quality of the city;

To protect and enhance areas of scenic, historic or cultural importance;

To provide adequate light and air;

To encourage proper population densities and prevent the overcrowding of structures;

To facilitate the adequate provision of water, sewerage, streets, schools, parks, and other community facilities;

This is to allow for the setting of regulations, programs, and standards of capital improvement and public service provision.

To provide safety from fire and other dangers;

To preserve and protect environmentally sensitive lands:

This statement is to allow for regulations, standards, and programs designed to protect the environmentally sensitive land and land uses of the city; such as aquifer recharge areas, areas where soil or geological conditions create hazards, wetlands, and uses that effect water quality.

To provide for and protect areas of natural beauty and open space:

This statement is to allow for the setting of standards, regulations, and programs designed to protect and promote the natural beauty of the city and preserve its open land for future use and to protect the environment and ecology of the city through the preservation of open space.

Within the zones or districts, the city may restrict and regulate the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and

other specified uses; regulate the intensity of the use of lot areas, and regulate and determine the area of open spaces surrounding such uses; establish building lines and locations of buildings designed for specified industrial, business, residential and other uses within such areas, set standards to which buildings or structures shall conform; prohibit uses, set performance standards or prohibit buildings or structures incompatible with the characteristics of such districts; prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; and provide for the gradual elimination of nonconforming uses of land, buildings and structures.

This paragraph is designed to allow for the regulation, setting of standards, provision of public service, and use of performance standards in all the districts that the city may set up. It is designed to allow for the zoning ordinance to apply to the land uses, structures, uses of structures, building of structures, and to regulate the performance of those structures and uses as it may affect the public health, safety, morals and general welfare of the city.

ARTICLE 2-DEFINITIONS

Original	In interpreting this ordinance, the following terms, words, or phrases used herein shall be interpreted as follows: "Person" includes a firm, association, organization, partnership, trust, company, or corporation as well as individuals. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The words "shall" and "must" are mandatory; the word "may" is permissive.
<u>Revision</u>	<u>The following definitions shall apply in the interpretation and the enforcement of this ordinance. The terms not defined herein shall be construed in accordance with the customary usage and meaning in city planning and engineering practice.</u> <u>When necessary for a reasonable construction of this ordinance, words in the singular shall include the plural, words in the plural shall include the singular, and words used or defined in one tense or form shall include other tenses or derivative forms. The word "building" shall include the word "structure," the words "shall," "must," or "will" are mandatory and the word "may" is permissive.</u>
Commentary	<i>The definition of "person" will be placed in its alphabetical position. This word is important enough to merit its own separate entry. Tense and number have been put in a general paragraph as a type of disclaimer. This is typical in ordinances and the language used here was taken from the zoning ordinances of Hurst, TX and Missouri City, TX.</i> It is recommended that definitions not be numbered as this makes it awkward when adding or deleting definitions in subsequent revisions. The definitions section can be placed at the beginning or the end of the ordinance although having it at the beginning is more common. The phrase, "The following definitions shall apply in the interpretation and the enforcement of this ordinance" is used as a precautionary measure in the event a definition conflicts with another term in a related local code or ordinance. When the zoning ordinance is nearing its completion, it would be wise to check the definitions against other such codes.
Original	"Accessory building or use" means a subordinate building or use, the use of which is incidental to and customarily found in connection with the principal or use, and located on the same lot with the principal building or use. An accessory use shall not exceed one fourth (1/4) of the use or area of the main business

or building.

Revision

ACCESSORY BUILDING-A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use. (Note: This can also be cross-referenced as "Building, Accessory". See below under "Building".)

ACCESSORY DWELLING-A subordinate structure used or capable of being used as living quarters that is incidental to, but located on the same lot or parcel as, the primary structure; the gross floor area of which is no larger than 50% of the gross floor area of the primary dwelling unit.

ACCESSORY USE-Accessory uses are incidental or subordinate to the principal use of a parcel of land or is a use commonly associated with the principal use and

integrally related to it. (Note: This can be cross-referenced under-Use, Accessory.)

Commentary

Note that these are suggested possibilities and can only be used if the terms are actually being used in the zoning ordinance itself. This caveat will hold true for many terms being suggested for use in this ordinance. Accessory use and accessory buildings are commonly separated as individual terms. Given the nature of existing dwellings in Fort Hancock, these may present possible ways to deal with some of the unique dwelling units. Notice that the original definition states that an accessory use shall not exceed of the use area while the revised definition states an accessory dwelling cannot exceed 50% of the gross floor area of the primary dwelling unit. The choice of a quantity to use is a decision that must be made by Fort Hancock. These definitions come from the zoning ordinance of Doña Ana County, an area in southern New Mexico on the Mexican border.

Original

The definition of adult business appears under Section 10 B.

Revision

ADULT BUSINESS-Shall include but is not limited to: adult arcade, adult bookstore, adult cabaret, adult drive-in theater, adult mini-motion picture theater, adult model studio, adult motel, adult motion picture theater, adult theater, body painting studio, massage parlor, *or any other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.*

Commentary	<i>It is recommended that the definition be moved to the definitions section. The activities listed are exactly the same as those listed in Section 10 B. The last phrase, "or any other commercial enterprise..." has been added from the Hurst zoning ordinance. This definition should be checked for consistency against local codes which govern the activities of such businesses. (Note that another commonly used term is "sexually oriented business".)</i>
Original	"Alley" means a public thoroughfare with a width of not less than sixteen (16) feet, which affords only a secondary means of access to abutting property. An alley is not to be used for through traffic or as primary access to a property.
Revision	<u>ALLEY-A right-of-way that affords only a secondary means of access to adjacent property.</u>
Commentary	<i>The original definition comes close to defining its use as opposed to providing a general definition of what an alley is. The definition provided here is from the Fort Worth, TX Zoning Ordinance.</i>
Original	"Amusement park or enterprise" means profit-oriented, commercially operated business with various devices for entertainment, which is permanently located at one site. "Amusement enterprise (temporary)" means commercially operated amusement facility park or enterprise, which is located on one site for less than ninety (90) days.
Revision	<u>AMUSEMENT PARK OR ENTERPRISE-means profit-oriented, commercially operated business with various devices for entertainment, whether permanent or temporary.</u>
Commentary	<i>The definition of amusement park is not a common one, thus these definitions can be simplified.</i>
Original	"Apartment" means a dwelling unit used exclusively for lease or rent as a residence.
Original	"Arterial street" is a street which accommodates large volume of comparatively high-speed traffic from one area of the city to another and is labeled as such on the City's Future Land Use Plan" or "Streets and Highways Plan."
Commentary	<i>I suggest that all street types be placed under one heading, "streets," then each type defined separately. It is not necessary to cross-reference.</i>

<u>Addition</u>	<u>Assisted Living Facility</u> -A facility providing responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.
Original	"Attached" means any structure or building having a common wall with another structure or building.
Original	"Basement" means the lowest habitable story of a building below ground level.
Original	"Billboard" means a freestanding pole sign at least one hundred twenty-eight (128) square feet in size, and eight (8) feet above the ground surface which advertises or directs attention to a business, product, service, or event, not appurtenant to the use(s) of the property on which it is located.
Commentary	<i>This definition should be moved to the sign regulations section.</i>
Original	"Block" means property bounded on one side by a street, railroad, right-of-way, waterway, unsubdivided areas, or other definite boundaries.
Commentary	<i>This term is not used and should be eliminated.</i>
Original	"Boarding or breeding stable" is a stable used for the boarding, breeding or raising of horses not owned by the occupants of the premises.
Commentary	<i>This term is not used in the ordinance, so it should be eliminated.</i>
Original	"Boarding house" means a dwelling, other than a hotel, motel, or tourist facility, where for compensation and by pre-arrangement, food and/or lodging are provided for five or more persons, eighteen years of age or older, unrelated by blood or marriage, including sorority and fraternity houses.
<u>Revision</u>	<u>BOARDING HOUSE</u> -A residence consisting of at least one dwelling unit with more than two rooms that are rented or intended to be rented to longer term residents on a monthly basis, as distinct from transient residents staying overnight or on a weekly basis.
Commentary	<i>The specific needs of Fort Hancock will need to be considered. Is there a reason for requiring, as the original definition does, that a boarding house have at least five or more persons or that the persons be at least eighteen years of age or older?</i>
Original	"Body shop" means a shop where vehicle exteriors are

	replaced and reconditioned. Waxing, prefabrication, stripping, or similar activity shall not be considered body work.
Commentary	<i>This definition should be eliminated, as it is not used in the ordinance. (See commentary to "Filling station or service station".)</i>
Original	"Build" means to erect, convert, enlarge, reconstruct, or structurally alter a building.
Commentary	<i>It is not clear that it is necessary to define this term. Defining the term construction may be a possibility: "Construction -the act of breaking ground and erecting a building."</i>
Original	"Building" means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.
Revision	<u>BUILDING-A structure designed to be used as a place of occupancy, storage or shelter.</u> <u>BUILDING, ACCESSORY-A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.</u> <u>BUILDING, PRINCIPAL-The primary building on a lot or a building that houses a principal use.</u>
Commentary	<i>These definitions are taken from the Unified Development Ordinance, (UDO) by Michael Brough. The definition for "building, accessory" is identical to that used under accessory building above. The same caution applies here, 'viz. that these terms can be used if they are used in the ordinance. If principal building or accessory building are not used in the ordinance, then they should not be defined in this way. These terms and definitions represent current usage.</i>
Original	"Building area" means that area of a lot that is or may be occupied by buildings or structures pursuant to the requirements of this ordinance. "Building height" means the height of a building measured from the ground surface level to the highest point of the building. "Buildable depth" means the depth of the lot remaining to be built upon after the required front and rear yards are provided. "Buildable width" means the width of the lot remaining to be built upon after the required front and rear yards are provided.
Revision	<u>BUSINESS-Any non-residential locations where any</u>

commerce or transactions take place. Non-profit organizations are also included in this description.

Original "Centerline" means the line halfway between the street lines.

Original "Child Care Center" is a commercial or publicly sponsored establishment for the day or night care of more than six (6) individuals under the age of eighteen (18), not to include a halfway house.

Revision **CHILD CARE HOME**-A home providing 24 hour care for not more than six (6) orphaned, abandoned, dependent, abused, or neglected children under the age of eighteen (18) with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

CHILD CARE GROUP HOME-A home providing 24 hour care for seven (7) to twelve (12) orphaned, abandoned, dependent, abused, or neglected children under the age of eighteen (18).

CHILD CARE INSTITUTION-An institutional facility housing thirteen (13) or more orphaned, abandoned, dependent, abused, or neglected children under the age of eighteen (18).

DAY CARE CENTER-A facility that provides non-medical care and supervision for more than six children, elderly persons or persons with physical and/or mental disabilities less than 24 hours a day. This definition does not include those uses defined as a Child Care Home, Group Home, or Institution.

Commentary *The first three definitions above are based on those used by the Texas Department of Protective and Regulatory Services from the section of the Texas Administrative Code dealing with childcare licensing. They mean something different than the original definition of "child care center". Caution is advised that the legal terms and definitions not be confused with the original definition. These terms should be used if relevant to Fort Hancock's needs. If the current definition is commonly understood, then it should remain. The term, however, is precariously similar to the other terms.*

The Fort Hancock Ordinance does not provide a definition for a day care center or facility. The definition of "day care center" provided here is taken from the Fort Worth ordinance. All of these terms can imply multiple types of care facilities, each having different impacts. The correct terms should be used in the ordinance.

Original "Church" means any religious, non-profit organization with a membership of more than ten (10) persons. Any secular

commercial use associated with a church that involves the sale of merchandise shall be subject to the requirements of the Zoning Code pertaining to that use, and shall not be considered as a church use for the purpose of this Code.

Commentary

This is another term that is not commonly defined in the definitions section. It seems that the second sentence beginning with, "Any secular commercial use..." might be better dealt with in the use section itself by making this use subject to a conditional use permit. Also, defining a church based on a minimum number of members could be problematic. I would recommend eliminating this term. (One option worth mentioning: The Fort Worth Zoning Ordinance defines a "place of worship" as "a building in which persons regularly assemble for religious worship". It does not list church in the definitions section. It provides a separate definition for "religious institution" as it relates to sexually oriented businesses: "a building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.")

Original

"Clear-site triangle" means an area of unobstructed vision at street intersections, entrances/exits, permitting a vehicle driver to see approaching vehicles to the right or left. Nothing over three (3) feet in height measured from the street at the point where the pavement meets the curb-stone shall be permitted to obstruct a sight line which shall be the front street and side street lines of a corner lot and a line connecting point thirty (30) feet distance from the intersection of the property line of such lot. Any existing trees located within the clear sight triangle will be allowed to remain if all branches are trimmed from a height between three (3) feet and eight (8) feet. No single post or column within the designated triangle shall exceed twelve (12) inches in thickness at its greatest cross-sectional.

Revision

CLEAR SIGHT TRIANGLE-That area of unobstructed vision at street intersections, entrances and exits, permitting a vehicle driver to see approaching vehicles to the right or left. Nothing over 2.5 feet in height measured from the street at the point where the pavement meets the curb-stone shall be permitted to obstruct a sight line which shall be the front street and side street lines of a corner lot and a line connecting point feet (50) feet from the intersection of the property line of such lot. Any existing trees located within the clear sight triangle will be allowed to remain if all branches are trimmed from a height between three (3) feet and eight (8) feet. No single post or column within the designated triangle shall exceed twelve (12)

inches in thickness at its greatest cross-sectional.

Commentary	<i>The term "site" is a typo. The different height requirements are used elsewhere in the ordinance.</i>
Original	"Clinic" means an establishment where patients are not lodged overnight, but are admitted for examination or treatment by a physician, chiropractor, dentist, optometrist, or group that is practicing together. As used in this Code, clinic does not refer to a veterinarian clinic.
<u>Revision</u>	<u>An institution, public or private, or a station for the examination are not lodged overnight, but admitted for out-patient services by an individual or group of doctors, dentists or other licensed members of the human health-care profession.</u>
Commentary	<i>By using the term "other licensed members of the human health-care profession," one can eliminate the need to list other types of doctors as well as the need to include the caveat about a veterinarian clinic. This definition is from the Hurst ordinance.</i>
Original	"Club" means buildings or facilities owned or operated by a corporation, association, person, or persons for social, intellectual, educational, or for profit; includes lodge.
<u>Revision</u>	<u>CLUB-Building or use catering exclusively to club members and their guests for recreational and/or social purposes, and not operated primarily for profit; includes lodges.</u>
Commentary	<i>The original definition, if too broadly interpreted, could also include certain types of colleges or universities.</i>
Original	"Collector street" means a street, which carries moderate volumes of traffic from local or minor residential streets to the major arterial streets and highways, and is labeled as such on the City's "Future Land Use Plan" or "Streets and Highways Plan".
Commentary	<i>See commentary to "arterial streets" above.</i>
<u>Addition</u>	Community Home -A community-based residential home containing not more than eight disabled persons and two non-resident supervisory personnel and which otherwise meets the requirements of the Community Homes for Disabled Persons Location Act, Chapter 123.001, Texas Human Resources Code.
Original	"Comprehensive plan" means a compilation of policy statements, goals and objectives, standards, maps and statistical data for the physical, social, and economic development, both public and private, of this community.

Original	"Conditional use" means an allowable land use, but which shall not be undertaken until such use is reviewed and approved by the City Planning and Zoning Commission. Since it is an allowable use, the City Planning and Zoning Commission may not deny it outright; however, the commission may require the applicant to enter into enforceable agreements or undertakings restricting such use in the interest of the public welfare and the value of the property in that area.
<u>Revision</u>	<u>CONDITIONAL USE</u> -A use which may be permitted in a district, subject to the requirements of this ordinance as well as any additional requirements imposed by the City Planning and Zoning Commission.
Commentary	<i>The definition provided here is succinct and to the point. Issues such as public welfare and property value should be stated in the "purpose" sections.</i>
Original	"Condominium" means one or more structures containing two or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are situated. This includes townhouses, patio houses, and other similar forms of individual ownership.
Commentary	<i>Eliminate the last sentence, "This includes..." This definition differs from the one provided for townhouses below. If left as is, the two definitions conflict.</i>
Original	"Contiguous" means touching or separated only by an alley or street.
Commentary	<i>This definition should be eliminated.</i>
Original	"Court" means an open space that is more than half surrounded by a single building or buildings.
Commentary	<i>This term is not used in the ordinance, so it can be eliminated.</i>
<u>Addition</u>	<u>Cross Aisle or Aisle or Circulation Area</u> -the area required for driveways and other vehicle maneuvering to access a parking space.
Original	"Cul-de-sac" means a minor street with one (1) outlet, the end of which provides a circular turnaround.
Commentary	<i>See commentary to "arterial streets" above.</i>
Original	"Dedicated easement" means a public easement that is

	dedicated for public use and is recorded as such in the office of the County Clerk. (See definition of Easement .)
Commentary	<i>This is a term that is not typically defined and should be eliminated.</i>
Original	"Detached" means a unit, building, or structure that is apart or separate from another.
Commentary	<i>Is this term, along with "attached," referring exclusively to dwelling units? If so, then it might be helpful to define them under the heading "dwelling, attached and "dwelling, detached". It is a close call, but if they do not specifically refer to dwelling units, their use may be superfluous. See commentary below at Dwelling (single family).</i>
Original	"District" means any zone of the City of Fort Hancock within which certain zoning and land use requirements are specified and are uniform, and which are designated on the Official Zoning District Map.
Original	"Duplex" means a building arranged, intended, or designed to be occupied by two families living independently of each other and having separate cooking facilities in each dwelling unit.
Revision	<u>See Dwelling (two-family), below.</u>
Original	"Dwelling" means a building or unit thereof designed and used exclusively for residential occupancy.
Revision	<u>DWELLING UNIT-Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation purposes.</u>
Commentary	<i>This definition is taken from the Doña Ana County, NM ordinance and is very similar to that used in many other ordinances. It eliminates any problems, which might result with the use of the phrase "used exclusively for residential occupancy". The UDO defines a dwelling unit as "an enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family."</i>
Original	"Dwelling (single-family)" means a dwelling designed for and occupied exclusively by one family.
Original	"Dwelling (two-family) means a building or buildings designed for two families occupying separate, attached or detached living units.

<u>Revision</u>	<u>DWELLING (TWO-FAMILY)</u> -A building or buildings designed for two families occupying separate, attached or detached dwelling units, including duplexes.
<i>Commentary</i>	<i>The only change here is from living units to dwelling units, as living units is not defined and the addition of the phrase, "including duplexes".</i>
<i>Original</i>	"Dwelling (multiple-family)" means a building or buildings designed for three (3) or more families occupying separate, attached, or detached living units.
<u>Revision</u>	<u>DWELLING (MULTIPLE-FAMILY)</u> -A building or buildings designed for three (3) or more families occupying separate, attached or detached dwelling units.
<i>Commentary</i>	<i>The only change here is from "living units" to "dwelling units."</i>
<i>Original</i>	"Easement" means a non-possessing interest held by one person, party, or entity in land of another, whereby that person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the right of the fee owner to the use and enjoyment of his land. (See Dedicated Easement) Road easements are not to be used for primary access to a property.
<i>Commentary</i>	<i>This term is not commonly defined in zoning ordinances, so should be eliminated.</i>
<i>Original</i>	"Exotic animals" means animals such as monkeys, llamas, boa constrictors, and such which are not indigenous to the Southwest.
<u>Revision</u>	<u>EXOTIC ANIMALS</u> -See <u>WILD ANIMALS</u> .
<i>Commentary</i>	<i>These terms can be combined with a cross-reference used if necessary. See definition for wild animals.</i>
<i>Original</i>	"Family" means person(s) related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.
<u>Revision</u>	<u>FAMILY</u> -One or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage occupying a premise and living together as a single housekeeping unit.
<i>Commentary</i>	<i>The changes here are minor grammatical ones. This definition is</i>

in conformity with current definitions for the term family.

Original	"Farm" means an area, which is used for the growing of the usual farm products such as vegetable, fruit, fodder, trees and grain, and their storage on the area.
Original	"Filling station or service station" means a business where the primary use is to sell motor vehicle fuels at retail prices.
Commentary	<i>This might be a case in which more detail is helpful. The definition used by the city of Hurst for filling stations is as follows: "An establishment where gasoline is sold and dispensed into motor vehicle tanks. Such establishment may also have accessory facilities for washing cars, minor maintenance, oil and grease, battery charging, tire repair and sale of auto accessories. Such establishment shall not perform body repair, engine or transmission overhaul and shall not display vehicles for sale except in districts allowing such sales. No inoperative motor vehicles shall remain outside the business building for more than twenty-four (24) hours." Now, this might be too restrictive but there may be some useful phrases here that can be tailored to Fort Hancock. It really depends on the desires of the Fort Hancock community. This may also be a case in which performance standards can be used in lieu of a more restrictive definition. (For example, certain types of activities that produce lots of noise might be restricted to certain hours if the service station is located within a specified distance from a residential area.)</i>
Original	"Flea or open market" means an open-air market in which spaces are rented or leased for the purpose of selling second-hand articles and home crafts.
Commentary	<i>This definition is fine. The only concern is with the phrase "second-hand articles". Often, the goods sold are not second-hand but are brand new, being sold at a deep discount.</i>
<u>Additions</u>	<u>Base Flood</u>-Also known as the "100-year flood," this is the flood having a one percent chance of being equaled or exceeded in any given year. <u>Floodplain</u>-Any land area susceptible to being inundated by water from the base flood. The term refers to that area designated as subject to flooding from the base flood on the latest Flood Insurance Rate Map (FIRM) available from the Federal Emergency Management Agency (FEMA). A copy of the latest FIRM is on file at City Hall. This area will comprise the Floodplain Overlay District and will be designated by "FP" on the official zoning map.

Floodway-The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The term refers to that area designated as a floodway on the latest Flood Insurance Rate Map (FIRM) available from the Federal Emergency Management Agency (FEMA). A copy of the latest FIRM is on file at City Hall. This area will comprise the Floodway Overlay District and will be designated by "FW" on the official zoning map.

Artificial Obstruction-Any obstruction, other than a natural one, that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood-carrying capacity of a stream.

Original "Floor area" means the total gross area of all floors of a building.

"Floor area ratio" means the relationship of the floor area to the lot area computed by dividing the floor area by the lot area.

Original "Fraternity or sorority" means a dwelling with sleeping rooms or a dormitory used for occupancy by individuals in a recognized organization, and in which kitchen facilities are for the common use of all occupants.

Commentary *Are there sororities or fraternities in the area? If so, then this definition is fine as is. If not, eliminate it.*

Original "Frontage" means a specified distance measured along a street line or front property line.

Original "Garage, commercial" means any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired, or equipped for a charge, and where the service and sale of gasoline and oil are incidental to the principal building use.

Revision **GARAGE**-A building or portion thereof, other than a private storage garage, designed or used for equipping, servicing, repairing, selling, storing or parking motor driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

OR

GARAGE REPAIR-An establishment where mob vehicles receive maintenance, repair or where auto body repair takes

place. Such establishment shall not include salvaging.

Commentary	<i>The first definition is taken from the Doña Ana County, NM ordinance. Clearly, it does not allow for auto body repair to take place at garages. The second definition allows for auto body repair as part of its definition of maintenance. Again, this is a situation that must be tailored to the needs of Fort Hancock. Performance standards can be used in conjunction with the definition to limit certain types of undesirable impacts near residential areas. (See commentary to "Filling Station" above.) It may, be the desire of some residents to have such facilities close to home. The original definition may be intentionally broad. However, it might be desirable to limit certain impacts such as the presence of junked vehicles.</i>
Original	"Garage, private" means any accessory building for the primary purpose of housing vehicles, which are owned and used by the occupants of the main building.
Commentary	<i>This term is not commonly defined in ordinances and should be eliminated.</i>
Original	"Grade" means the average of the finished ground level at the center of all walls of a building.
Original	"Ground surface level" means that surface of a yard, which directly abuts a wall, fence, building, or structure, or the average grade level, whichever is more appropriate.
<u>Addition</u>	<u>Group Home</u> -A family based facility, which provides 24-hour care in a protected living arrangement for the mentally and/or physically impaired, developmentally disabled, or victims of abuse or neglect. This classification includes congregate living facilities for the elderly, maternity homes, emergency shelters during crisis intervention for victims of crime, abuse, or neglect, and residential services licensed by the Texas Commission on Alcohol and Drug Abuse, but not primarily for criminal rehabilitation.
Original	"Guest dwelling" means an attached or detached unit found on a lot with other separate single-family units.
<u>Revision</u>	<u>GUEST DWELLING</u> -An attached or detached unit found on a lot with other separate single-family dwellings which unit is clearly subordinate and incidental to the principal dwelling on the same lot, and intended for use without compensation by guests of the occupants of the principal dwelling. It shall be subject to all regulations affecting accessory buildings and uses.

Commentary	<i>This definition has been restricted somewhat with some additional language.</i>
Original	"Halfway house" means a residential facility located in a structure or dwelling or any living unit thereof designed, used, or intended to be used as human habitation, the principal use or goal of which is to serve as a place for persons seeking rehabilitation, recovery, or counseling from any physical, mental, emotion, penal, or legal infirmity, in a family setting, as part of a group rehabilitation or recovery program.
Revision	<u>HALFWAY HOUSE</u> -A residential facility located in a building or dwelling unit designed, used, or intended to be used as human habitation which principal use is to serve as a place for persons seeking rehabilitation, recovery, or counseling from any physical, mental, emotional, penal or legal infirmity, in a family setting, as part of a group rehabilitation or recovery program.
Commentary	<i>Changes made here are for consistency with changes suggested elsewhere (dwelling unit versus living unit) and one grammatical change (emotional instead of emotion).</i>
Original	"Home occupation" means an occupation conducted in a dwelling unit.
Revision	<u>HOME OCCUPATION</u> -An occupation conducted in a dwelling unit or accessory building, which is clearly incidental and secondary to the use of the dwelling for residential purposes and is subject to the regulations of this ordinance.
Commentary	<i>Not all ordinances have a separate section devoted to home occupation permits. Because this section does exist in the Fort Hancock ordinance, a general definition is provided here with deference made to the specifics outlined in the pertinent section.</i>
Original	"Horticulture" means the science and art of growing fruits, vegetables, flowers, and ornamental plants.
Commentary	<i>This definition should be eliminated.</i>
Addition	<u>Hospice</u> -Temporary residence for patients and their families receiving medical or psychological care from licensed institution. May include family counseling, group therapy, psychiatric treatment and training of family members by authorized practitioners in the provision of a caring environment for supplying the physical and emotional needs of the ill and their families, Includes homes for alcoholic, narcotic, or psychiatric patients, and institutions for patients with a contagious disease, such as tuberculosis sanitariums.

<u>Addition</u>	<u>Hospital</u> -An institution providing in-patient medical or surgical care for the acutely sick, chronically ill, or injured, Included as an integral part of the institutions are such related facilities as laboratories, outpatient departments, educational facilities, food services and staff offices; includes homes for alcoholic, narcotic, or psychiatric patients, and institutions for patients with a contagious disease, such as tuberculosis sanitariums.
Original	"Hotel" means a building in which lodging or boarding is offered to the public and in which room assignments are made for compensation and in which entrance to and exit from all rooms is made through an inside lobby or office supervised by a person in charge at all times.
<u>Revision</u>	<u>HOTEL</u> -One or more buildings containing individual living or sleeping units specially designed as temporary quarters for transient guests, including provisions for meals and personal services.
Commentary	<i>The original definition could, in some instances, describe certain types of apartment buildings. This definition, taken from the Fort Worth ordinance, more clearly states the intended definition of a hotel.</i>
Original	"Impervious surface area" means that around area of a lot, tract, or parcel that is not penetrable by water, to include, but not be limited to, buildings, structures, pavement, sidewalks, and certain land covers for landscaping.
Commentary	<i>This definition should be eliminated.</i>
Original	"Institution" means building(s) housing an organization dedicated to public or non-profit service.
Commentary	<i>Minor change: use building without the parenthetical "s" to be consistent with the rest of the document.</i>
Original	"Junkyard" means the use of premises of any size for the storage, handling, dismantling, wrecking, keeping, or sale of wrecked or discarded automobiles and/or other vehicles and parts thereof, or for the storage of wood, plastic, fiber, or any other tangible scrap materials.
Original	"Kennel, commercial" means any premises on which eight (8) or more dogs, and/or eight (8) or more cats, four (4) months of age or older, are kept; and/or where the business of buying, selling, breeding, training, or boarding of dogs and/or cats is conducted; does not include veterinary hospitals, or the humane societies, or animal shelters or pounds approved by a governmental

agency.

"Kennel, private residential" means any premise on which more than two (2) dogs or two (2) cats or any combination thereof in excess of two (2) but not more than seven (7) in number, four (4) months of age or older, are kept and on which premises the business of buying, selling, breeding, training, or boarding of either dogs or cats is not carried on with the exception that the sale of not more than two (2) litters per year shall be permitted.

Commentary I have to assume there exist substantial reasons for these very precise definitions. If this is the case, then no changes are recommended. In the event a broader definition is needed, the following is provided in the UDO for Kennel: "A commercial operation that provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian) or engages in the breeding of animals for sale." Alternatively, the definition used by Doña Ana County, NM is "a commercial establishment for the breeding, sale, grooming, or boarding of small animals and household pets." At the very least, Fort Hancock may wish to substitute the phrase "small animals and household pets" for dogs and cats used above.

Original "Large animals means those that shall include equine, bovine, and swine and other such animals described and assumed by their size, weight, and/or appearance to be large animals.

Addition **Loading and Unloading Area**-The area required for delivery of goods, merchandise, people or equipment.

Original "Lot" means a portion of a legally platted subdivision that is shown as a lot, tract, or parcel of land and held in separate ownership, as shown on the record of the County Assessor. A legal lot is a parcel that has been divided in accordance with present or past zoning and subdivision requirements.

Revision **LOT**-A portion of a legally platted subdivision that is shown as a lot, tract, or parcel of land and *can be* held in separate ownership, as shown on the record of the County Assessor. A legal lot is a parcel that has been divided in accordance with present or past zoning and subdivision requirements.

Commentary The only change here is to add the words "can be" -shown above in italics -to the definition.

Original "Lot, corner" means a lot abutting two (2) or more streets at their intersection.

"Lot, depth" means the mean horizontal distance between the front and rear lot lines.

"Lot, double frontage" means an interior lot fronting on two (2) streets. Both frontages shall be construed as front yards.

"Lot, triple frontage" means a lot fronting on three (3) streets.

"Lot, interior" means a lot other than a corner lot.

"Lot of record" means a legal lot, tract, or parcel, the map or deed of which has been recorded in the office of the County Clerk of El Paso County prior to the effective date of this Code.

"Lot width" means the width of a lot at the front property line.

"Lot splits" means the subdivision or division of a lot, tract, or parcel of land into separate lots, tracts, or parcels.

Commentary *The only change would be to eliminate the phrase "prior to the effective date of this Code" under "Lot of record".*

Original "Lumber yards" means a business enterprise or storage facility, the primary purpose of which is the sale or storage of lumber in large quantities.

Commentary *This definition should be eliminated.*

Original "Main building(s)" means the primary building or buildings on a lot used for any use.

Commentary *This definition is unnecessary if the more common term, **Building, Principal** is used.*

Original "Mini-storage unit" means small storage units, each used for the sole purpose of domestic storage for individuals and strictly prohibiting the use for business activity.

Revision **MINI-STORAGE UNIT**-Small storage units, each used for the sole purpose of storage and strictly prohibiting the use for *any other business*.

Commentary *The words domestic and individuals have been deleted. The words any other (in italics) have been added.*

Original "Mobile home" means a dwelling which has dimensions equal to or exceeding 12 feet by 50 feet, if it is a single wide and 24 feet by 24 feet if it is a double wide and has the following characteristics:

Designed for long-term occupancy containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems all in compliance with the 1976 H.U.D. Housing Code Standards.

Designed to be transported after fabrication on its own wheels, flat bed, other trailers, or detachable wheels. Arrives at the site where it is to be occupied as a dwelling complete with major appliance and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities, and the like.

Revision

MOBILE HOME-A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty 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.

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 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as-a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR 3 3282.8(g).

Commentary

These definitions are taken from the Fort Worth ordinance but they are also statutory definitions found in the Texas Manufactured Housing Standards Act (MHSA). We were shown photographs of some of the existing structures in Fort Hancock. Some of these will not easily meet or fit the descriptions of dwelling types commonly found in zoning ordinances. They will become nonconforming uses and will be phased out over time.

Original

"Mobile home park" means a parcel of land on which space is leased for terms of twelve (12) months or less, or rented for occupancy for thirty (30) days or more by mobile homes, and which contains permanent facilities for the use of mobile homes and which contains permanent facilities for the use of mobile

home occupants.

Commentary In the last line, substitute "their" for "which contains permanent facilities for the use of mobile home". Also, add "or manufactured after the word "mobile" throughout the definition.

Original "Mobile home subdivision" means a parcel of land equal to one city block or its equivalent, subdivided into lots individually owned and utilized at the site for

placement of a single mobile home.

Commentary Add "or manufactured" after the word "mobile" throughout the definition.

Original "Modular home or housing unit (MDH)" means a standardized factory-fabricated transportable building module not having a chassis or wheels of its own, designed and constructed in accordance with all applicable local building codes and intended to be placed on a permanent foundation, meeting all local zoning codes and to be used by itself or incorporated with similar units at a building site. Modular homes can be used for residential or commercial uses when located in appropriate zoning districts.

Original "Motel (motor court, motor hotel, motor lodge)" means a building or buildings in which lodging and/or boarding are offered to the public for compensation, and which has separate entrance to the exterior from each unit with at least one (1) parking space for each unit.

Revision **MOTEL**-Any building or portion thereof or group of buildings containing five or more guest rooms or suites where such rooms or suites are directly accessible from an outdoor parking area and where each is used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit.

Commentary This definition comes from the Mendocino County, CA Zoning Ordinance. It was chosen because it seems to include all information that distinguishes the definition of motel from that of an apartment or other multiple family dwelling. The number of guestrooms can be changed to suit the particular needs of Fort Hancock.

Original "Non-conforming use" means the use of land or a building, or a portion thereof, which does not conform to the current land use regulations of the zoning district in which it is located.

Revision **NONCONFORMING USE**-The use of land or a building, lot or

structure, or a portion thereof, which does not conform with the current land use regulations of the zoning district in which it is located.

Commentary Words above have been added.

Original "Nuisance" means the use of property or land, which creates unusual, unnecessary, or undue problems or situations for persons in the vicinity that would not have normally occurred otherwise.

Addition **Nursing Home**-An institution providing meals and resident care and services for persons who are generally admitted for periods of time exceeding 30 days. Such service includes custodial or attendant care, and may or may not provide for routine and regular medical and nursing services. Nursing and care homes include homes for the aged, and convalescent and rest homes.

Original "Open space" means that area of a lot, tract, or parcel not devoted to any building or structure.

Original "Permanent accessory building" means a building or structure which is permanently attached to a slab or foundation, the use of which is clearly incidental to the principal building and which is located on the same lot. An accessory building shall not be used for a business or dwelling.

Commentary *Omit the last sentence. The sentence, 'An accessory building shall not be used for a business or dwelling' may render some home occupations and "mother-in-law" type apartments illegal.*

Original "Person" includes a firm, association, organization, partnership, trust, company, or corporation as well as individuals.

Revision **PERSON**-An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

Commentary *This definition has been moved from the opening paragraph to its alphabetical position for reasons given in the commentary section to the opening paragraph.*

Original "Porch" means a roofed patio entrance or exit area, open on at least one (1) side.

Commentary *This definition should be eliminated.*

Original "Premises" means any lot or combination of contiguous lots held in single ownership, together with all development thereon.

Commentary	<i>This definition should be eliminated.</i>
Original	"Property line" means the official boundary of a parcel, lot, or tract of land as designated by either a metes and bound description or subdivision plat filed in the records and maps of the County Clerk.
Commentary	<i>This is a term not commonly defined in zoning ordinances and should be eliminated.</i>
Original	"Public right-of-way" means the land area deeded, reserved, or otherwise acquired by the City, the County, or the State of Texas for public use.
Original	"Recreational vehicle, travel trailer" meal is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not designed to be permanently connected to utilities.
Commentary	<i>This definition is fine as it applies to recreational vehicles, which are not in any way affixed to property. What if a .travel trailer or house trailer, as opposed to a mobile home or manufactured home, has been attached to a structure or even if some of these trailers stand alone as dwellings? A house trailer is defined in the Texas Transportation Code as % trailer designed for human habitation. The term does not include manufactured housing." Generally a house trailer is used for short-term residential use. Certificate of title to a house trailer is issued by the Texas Department of Transportation. Once the trailer is affixed and depending upon the manner in which it is affixed, it becomes personal property and is subject to different rules and regulations. The distinctions between the various types of trailers and mobile homes are legal ones, and beyond the scope of this document to explain. Advice should be sought to clarify these terms as they apply to existing housing in Fort Hancock.</i>
Original	"Recreational vehicle lodging facility (camper park)" means a facility at least five (5) acres in size, designed to accommodate overnight parking of recreational vehicles, campers, and travel trailers.
Revision	<u>RECREATIONAL VEHICLE LODGING FACILITY OR CAMPGROUND</u> -A lot, tract, parcel of land or facility at least five (5) acres in size which is licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pickup campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes and which does not allow use for more than thirty (30) consecutive

days.

Commentary	<i>The definition for recreational vehicle lodging facility has been combined with that of "travel trailer court or campground" to come up with one inclusive definition.</i>
Original	"Residential street" means a street of relatively short length and width that provides direct access to a limited number of abutting residential properties, and is designed to discourage its use for through traffic.
Commentary	<i>See commentary to arterial streets.</i>
Original	"Riding school or stable" means any place, which has available for hire, boarding, and/or riding instruction any horse, pony, donkey, mule, or burro.
Original	"Roof" means an overhead structure used for protection or shielding from the sun, rain, or other elements of weather.
Commentary	<i>Is this definition necessary? It may be in Fort Hancock, depending on its use in the ordinance.</i>
Original	"School, commercial" means a school, conservatory or business operated for profit which is not approved by the State as a kindergarten, elementary, or secondary school and where the primary function is instruction or teaching.
	"School, private" means a school approved by the State with a curriculum the same as ordinarily given in a public kindergarten, elementary, junior high, or high school.
Revision	<u>SCHOOL</u>-Public and private, primary and secondary educational facilities providing education up through and including the twelfth grade level. <u>Schools providing educational facilities as well as long-term treatment or rehabilitative services are not considered schools for the purposes of this definition.</u> SCHOOL (VOCATIONAL/TECHNICAL) -A secondary or higher educational facility primarily teaching skills that prepare students for jobs in a trade and/or meeting the state requirement for a vocational facility such as a barber/beauty college, or electrical training.
Commentary	<i>The term 'private school' is defined separately but there does not seem to be an example that distinguishes the permitted or conditional uses of private versus public schools. In fact, the term that is often used in the current Fort Hancock ordinance is 3school</i>

(public, private or parochial)". The impacts of concern (are they near adult entertainment type business or liquor stores) are the same whether they are public or private facilities when discussing the common K through 12-type school. A definition for a vocational/technical school has been provided but it may be irrelevant to the needs of Fort Hancock. Some treatment centers also offer high school classes and can claim status as a school. Fort Hancock may want to differentiate these types of schools for purposes of some permitted or conditional uses in certain residential areas, hence the qualifying second sentence.

Original	"Screening and buffering" means the use of walls, thick shrubbery, or similar materials to minimize the potentially adverse impact of one land use on another.
Original	"Setback" means the required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure except as may be authorized by this ordinance.
<u>Revision</u>	<u>SETBACK</u> -The distance between a wall or any projection of a building and the property line excluding steps and unenclosed porches.
Commentary	<i>The original definition excludes structures such as porches and doghouses. The revised definition takes into account unenclosed porches. Structures such as doghouses could be allowed depending on the interpretation of building, specifically the word "shelter": If it is a desire of the community that structures such as doghouses be exempt from setback requirements, then the definition of building could be changed. Once exceptions are allowed, however, it opens the proverbial door. Perhaps this is an issue that is best addressed on a case-by-case basis at the discretion of the Planning and Zoning Commission. Again, it depends on the structures that might currently exist in setback areas and the goals of the community to continue to allow these to exist or to do away with them.</i>
Original	"Signs" means a device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be construed to be a sign: Flags or government insignias, except when used in commercial displays. Integral decorative or architectural features on buildings, except letters, trademarks, moving parts, or moving light. Illustration of names of occupants, post office box numbers, and property

numbers when smaller than one square foot. Legal notice of identification, informational, or directional signs erected or required by governmental bodies. Private traffic signs bearing no advertising matter. Real estate advertising of the property on which the sign is located provided that the area of the sign or group of signs is less than five (5) square feet. Signs denoting the name and address of the occupants of the premises, the number of which shall not exceed three (3) and the area of each shall not exceed one (1) square foot. Professional nameplates that shall not exceed three (3) in number and the area of each shall not exceed one (1) square foot. Signs for home occupation, the number of which shall not exceed one (1) and the area of which shall not exceed one (1) square foot. Signs for private day-care facilities and kindergartens, the number of which shall not exceed one (1) and the area of which shall not exceed one (1) square foot. Signs denoting the architect, engineer, or contractor placed on the premises where construction, repair, or renovation is in progress, with

a combined total surface area not exceeding four (4) square feet. Signs for a temporary garage or yard sale which shall be located on the premises where the sale is conducted, the number of which shall not exceed one (1) and the area of which shall not exceed two (2) square feet.

Commentary *Eliminate definitions pertaining to signs. Sign definitions are clustered in the section dealing with sign regulations.*

Original "Small animals" means goats, sheep, fowl, rabbits, miniature horses, domestic animals, and other such comparably sized animals distinguished from those described as large animals.

Revision **SMALL ANIMALS**-Goats, sheep, fowl, miniature horses, and other such comparably-sized animals distinguished from those described as large animals, and from domestic animals which live inside the dwelling.

Commentary *These changes clarify the difference between small animals and what are typically thought of as pets or domestic animals.*

Original	"Social" means, as applied to the Comprehensive Plan, social development including the gathering and presentation of data on trends, needs, and resources that pertain to community, standards of living, and education.
Commentary	<i>This definition should be eliminated.</i>
Original	"Special use" means a specific land use of unusual character or potentially incompatible in an area and which requires Planning and Zoning Commission approval for its use on one (1) specific parcel of land, such use being subject to a particular set of conditions as approved in accordance with the provision of this Code, and not permitted by right in a zoning district.
Commentary	<i>The term "special use" is being eliminated in favor of "conditional use". See Conditional Use for a definition.</i>
Original	"Spot zoning" means the singling out of a lot or a small area for a zoning change which is out of harmony with the Comprehensive Plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.
Commentary	<i>This definition should be eliminated.</i>
<u>Revision</u>	<u>STALL OR PARKING SPACE-the area set for parking of one vehicle.</u>
Original	"Story" means a single-level area between a floor and its ceiling, excluding all subterranean building area.
Original	"Street, public" means a public thoroughfare that affords the principal means of access to abutting property.
	"Street, private" means a private roadway that affords the traffic circulation within a development or parcel of land and gives access to apartments, townhouses, condominiums, offices or businesses.
	"Street, curb level" means a level measured from the street surface or the top of an abutting curb.

"Street line" means the outermost boundary or property line of a street right-of-way that is the mutual property line of abutting properties.

From other parts of this section:

"Arterial street" is a street which accommodates large volume of comparatively high-speed traffic from one area of the city to another and is labeled as such on the City's Future Land Use Plan" or "Streets and Highways Plan."

"Collector street" means a street that carries moderate volumes of traffic from local or minor residential streets to the major arterial streets and highways, and is labeled as such on the City's "Future Land Use Plan" or "Streets and Highways Plan".

"Cul-de-sac" means a minor street with one (1) outlet, the end of which provides a circular turnaround.

"Residential street" means a street of relatively short length and width that provides direct access to a limited number of abutting residential properties, and is designed to discourage its use for through traffic.

"Thoroughfare" means a road giving public access to a property or parcel of land.

Revision

STREET-A public or private thoroughfare that affords principal means of access to adjacent property.

STREET, ARTERIAL-A street that accommodates a large volume of comparatively high-speed traffic from one area of the city to another.

STREET, COLLECTOR-A street which carries moderate volumes of traffic from local or minor residential streets to the major arterial streets and highways.

STREET, CUL-DE-SAC-A street that terminates in a vehicular turnaround.

STREET, RESIDENTIAL-A street of relatively short length and width that provides direct access to a limited number of abutting residential properties, and is designed to discourage its use for through traffic.

STREET LINE-The outermost boundary or property line of a street right-of-way that is the mutual property line of abutting properties.

Commentary *The term thoroughfare has been eliminated, as it is redundant with the use of street. The term, "street, curb level", if necessary should be redefined so that the term being defined is not used in the actual definition. The definition for street comes from the Fort Worth Zoning Ordinance. In reading through the Fort Hancock ordinance, I*

see no reason to provide separate definitions for public and private street.

Original "Structure" means anything constructed or erected between the ground and sky, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground.

Revision **STRUCTURE** -Anything constructed or erected.

Commentary *This definition is succinct and to the point*

Original "Thoroughfare" means a road giving public access to a property or parcel of land.

Revision **See Street**

Original "Time rental riding facility" means a facility in which saddle horses or ponies are rented to the general public.

Commentary *This definition should be eliminated.*

Original "Total height" means the distance between the ground surface level of a building or structure and the highest point of the structure.

Revision **See Building Height.**

Commentary *This definition should be removed, as it is duplicative. Building height is the more common term used.*

Original "Tower" means a vertical structure that is at least six (6) feet in exterior width or diameter, which is normally used for radio, television, or microwave communications or for purposes other than a building.

Revision **TOWER** -Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission and reception towers, microwave towers, common-carrier towers, cellular telephone towers, and the like, but shall not include towers accessory to residential uses. Towers accessory to

residential uses shall mean amateur radio equipment not used for commercial purposes, including ham radio and CB equipment.

Commentary *This definition may be too specific for Fort Hancock's purposes. The original definition has the same flaw as that of signs in that a quantitative description is used in the definition. Unless a quantity is unique to the term, it should be explained in the applicable permitted and conditional use sections, not in the definitions section. Also, the phrase at the end of the original definition, "for purposes other than a building," is ambiguous at best. The revised definition separates out home versus commercial towers. Sighting of cell phone towers-is a controversial topic right now, so this section may need special attention.*

Original "City house" means one of a group of attached dwelling units divided from each other by common walls and each having a separate entrance leading directly to the outdoors at ground level.

Commentary *The only comment here is whether or not something about ownership should be*

provided. Are townhouses typically rented or leased units as distinct from condominiums that are held under individual ownership, as noted in the definition of condominium?

Original "Travel trailer court or campground" means a lot, tract, or parcel of land licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pickup campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes and which does not allow use for more than thirty (30) consecutive days.

Revision See Recreational Vehicle Lodging Facility or Campground.

Original "Usable open space" means open space within a lot, tract, parcel, or development site excluding areas devoted to roadways and parking. At least one-half (1/2) of all areas designated as usable open space must have a slope of less than ten percent (10%).

Commentary *This definition should be eliminated.*

Original "Use" means the purpose for which land or buildings are arranged, designed, maintained, or occupied.

<u>Revision</u>	<u>USE</u> -The activity or function that actually takes place or is intended to take place on a lot.
<i>Commentary</i>	<i>This definition is broader, encompassing not just actual use but intended use. As noted in the commentary section to "Accessory Use", this term can also be placed here as Use, Accessory. Some ordinances also use and define the term, "Use, Principal". If Fort Hancock uses this term in the district regulations, then it should probably be defined in simple terms as a use that is permitted by right. (The revised definition of Accessory Use above uses the term 'principal use'.)</i>
Original	"Variance" means a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements or as elsewhere specifically authorized by the ordinance.
<u>Addition</u>	<u>Vehicle Accommodation Area</u> -That portion of a lot .that is used by vehicles for access, circulation, parking, loading and unloading. It comprises all circulation areas, loading and unloading areas, and parking areas.
Original	"Veterinary hospital" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.
Original	"Warehouse" means a building used primarily for storage of products or wares, in conjunction with retail stores, not including accessory uses such as storerooms or stockrooms. Mini-storage or self-storage of household goods and similar uses shall not be construed as a warehouse use.
Original	"Wild animals" means any living raccoon, skunk, fox, coyote, snake, and any other animal, which can normally be found in the wild state.
<u>Revision</u>	<u>WILD ANIMALS</u> -Any living raccoon, skunk, fox, coyote, snake; or monkeys, llamas, boa constrictors, and such which are not indigenous to the Southwest and which are not normally domesticated.
<i>Commentary</i>	<i>As indicated under exotic animals, these two definitions are combined here. It is assumed that the negative impacts</i>

associated with each would be similar so that any restrictions placed upon one would most likely include the other. If these terms are not necessary, then they should be eliminated.

Original	"Yard" means the space on a lot unobstructed by buildings from the ground to the sky, including sidewalks, driveways, patios, and other ground level surfaces. "Yard (rear)" means the required yard between a rear property line and a building or structure. "Yard (front)" means the required yard between a front property line and a building or structure. "Yard (side)" means the required yard between a side property line and a building or structure.
<u>Revision</u>	<u>YARD</u>-The space on a lot including sidewalks, driveways, patios, and other ground level surfaces, which is unobstructed by buildings from the ground to the sky. <u>YARD, FRONT</u>-The required setback between a front property line and a building or structure. <u>YARD, REAR</u>-The required setback between a rear property line and a building or structure. <u>YARD, SIDE</u>-The required setback between a side property line and a building or structure.
Commentary	<i>These changes to "yard" are grammatical, not substantive. In the other definitions, the word yard used in the actual definition has been changed to setback.</i>
Original	"Zero-lot line" means the construction of a building upon one (1) side property line, leaving a zero (0) setback or distance from the property line to the structure or building.
Commentary	<i>This is a term that should be eliminated.</i>

ARTICLE 3-ESTABLISHMENT OF DISTRICTS

Section 3.1: Provisions for Official Zoning Map

Original:

Official Zoning Map. The city is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this ordinance.

If, in accordance with the provisions of this ordinance and Section 211 of the Texas Local Government Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this ordinance shall become effective until after change and entry had been made on said map.

No changes of any nature shall be made in the Official Zoning Map or material shown thereon except in conformity with the procedure set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 19 of this ordinance.

Revision:

Official Zoning Map: There shall be a map known and designated as the Official Zoning map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department. The Official Zoning Map which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this ordinance.

Changes to be entered: If changes are made in the district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council. No amendment to this ordinance shall become effective until after change and entry had been made on said map.

Identification of changes made: Approved zoning changes shall be entered on the official zoning map by the city enforcing officer, and each change shall be identified on the map with the date and number of the ordinance making the change. Unauthorized changes prohibited: No change of any nature shall be made on the official zoning map that is not in accordance with this section and chapter.

To be the final authority: Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the city planning department, shall be the final authority as to the current zoning status of land and water areas, buildings and other

structures in the city. The official zoning map shall be available to the public at all hours when the city hall is open to the public.

(1) Replacement. Should the official zoning map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further council authorization or action is required so long as no district boundaries are changed. Latest date of the revision shall be added and the replacement map will supersede any older version. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof.

(2) Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment. These copies shall be kept in the planning department.

Commentary: There needs to be more organization, thus the reason for the complete reformat. The original version was vague, and the revisions should help bring clarity. This outline form helps people reading the ordinance to find information quickly. Breaking the information into smaller paragraphs helps readers understand the text and keeps the readers interest. Ultimately, the ordinance should be readable to a wide range of people and not just lawyers. It is also important to mention that old maps should be saved because historical records are frequently necessary to determine the legitimacy of claims that lawful nonconforming use status has been achieved. Timing of when amendments take affect is necessary to establish.

Where the Official Zoning Map is located and what materials the map is map from are other factors than need to be addressed, and were addressed in the revisions. This allows for there to be one official copy, and if a dispute ever arises about where to official map is, the matter can be settled quickly. Official map should also be op en to the public to inspect.

Section 3.2: Rules for Interpretation of District Boundaries

Original: Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries shall be construed as the centerline of existing, future, or vacated streets, highways, railroads, alloys, or irrigation canals or other public rights of way.
2. Where property has been subdivided into block and lot, the boundaries shall be construed to be the lot line.
3. Where property is not otherwise designated, divided, or subdivided, the boundary line shall be determined by the scaled distance shown on the Official Zoning District Map.

Revision: Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries shall be construed as the centerline of existing, future, or

vacated streets, highways, railroads, alleys, or irrigation canals or other public rights of way.

(b) Where property has been subdivided into block and lot, the boundaries shall be construed to be the lot line.

(c) Where property is not otherwise designated, divided, or subdivided, the boundary line shall be determined by the scaled distance shown on the Official Zoning District Map.

Commentary: There was a small spelling error that was corrected.

Original: Where due to the scale, lack of detail, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of a zone district boundary line shall, upon a written request, be determined by the Board of Adjustment.

Revision: (d.) Where due to the scale, lack of detail, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of a zone district boundary line shall, upon a written request submitted to the planning department, be determined by the Board of Adjustment. The Board of Adjustment is authorized to interpret the zoning map and rule upon disputed questions of lot lines or district boundary lines and similar questions. An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the planning department. The application shall contain sufficient information to enable the board to make the necessary interpretation.

Commentary: It is important to tell where the request is being submitted, so to alleviate confusion. Also, it should be clear in the ordinance where a person can submit a request.

Section 3.3: Zoning Districts Established

The following zone districts are hereby established:

RE Rural Estate

R-1 Single Family Residential

R-2 Medium Density Residential

R-3 High Density Residential

RM-1 Residential Mobile Home Subdivision

RM-2 Residential Mobile Home Park

C-1 Neighborhood Commercial

C-2 General Commercial

M-1 Light Industrial

M-2 Heavy Industrial

FP Floodplain and Floodway Overlay District

A-1 Agricultural

PUD Planned Unit Development

HP Historic Preservation

Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

ARTICLE 4-SCHEDULE OF DISTRICT REGULATIONS

Section 4.1 RE-Rural Estate

4.1.1. PURPOSE: This zone is designed to accommodate agricultural activities and residential uses that are conducive to a rural atmosphere and to allow the use of single-family dwellings.

4.1.2. PERMITTED USES:

Single-family detached dwellings, on-site construction, one unit per lot. Only conventional building materials listed in the Uniform Building Code will be used for structural and finish materials. Tin, cardboard, and plywood will not be used as finish materials in any structure. Accessory structures and uses including garages, carports, private workshop, greenhouses, home occupations, and other structures that are customarily incidental to the principal structures. Building materials and style will be similar to those of the primary structure. A limit of one (1) guest dwelling or accessory structure per lot.

Commentary: This will create a more uniform "estate" appearance to the zone and prevent the use of mobile homes as accessory structures.

Storage of one boat, one camper, and one trailer or other recreational vehicle, shall be limited to the side or rear yard separated by at least 10 feet from any property line. A limit of 3 vehicles will be stored on any one lot. Any stored vehicle visible from any right-of-way shall be screened behind an opaque fence/wall of at least six feet in height.

Commentary: This will prevent the lot from having the appearance of a junkyard.

The raising of nursery products; and

The keeping of large or small animals.

4.1.3. CONDITIONAL USES (Requires permit):

(a) Churches, hospitals, schools, and religious and philanthropic institutions provided, however that such uses shall be located on sites of sufficient size to meet off-street parking requirements of this article and to provide setback from all property requirements of this article and to provide setback from all property lines a distance of at least one (1) foot for each foot of building height or yard setback minimums as set out in section C, whichever is greater.

(b) Private or commercial kennels and veterinary hospitals.

(c) Cemeteries and mausoleums.

(d) Mobile homes or trailers connected to available utilities used as living quarters during construction of a building on the premises, allowable only with a Conditional Use permit, renewable on an annual basis for a maximum of 4

years. Such a permit will only be granted if the property owner attests that they will begin construction of a permanent residence within the first year. Substantial proof of construction must be submitted before the Planning and Zoning Commission by the end of each year prior to renewal of permit.

4.1.4. AREA REQUIREMENTS:

Minimum lot area: one (1) acre.

Minimum yard setbacks:

Front -35 feet

Side -15 feet

Rear -25 feet

Accessory structures:

No accessory structure, excluding fences, patios, porches, carports or walls, shall be closer to any property line than the required yard setback; however, an accessory structure may be as close as ten feet to any rear property line.

An accessory structure shall not exceed the interior square footage of the principal structure.

Height limitations: No building or structure shall exceed 35 feet in height, except that accessory objects usually required to be placed above the roof level, do not consume more than 1/3 of the total roof area, and are not intended for human occupancy, may exceed this height.

Reason: the provisional limit of 1/3 roof space was found in other city ordinances and prevents the building height being exceeded under the guise of accessory objects.

Section 4.2 R-1 Single-Family Residential

4.2.1. PURPOSE: The purpose of this zone is for single-family dwelling units and other uses which maintain the low-density residential nature of the district.

4.2.2. PERMITTED USES:

(a) One single-family dwelling unit per lot. Only conventional building materials listed in the Uniform Building Code will be used for structural and finish materials. Tin, cardboard, and plywood will not be used as finish materials in any structure.

(b) Accessory structures and uses including garages, carports, guest dwellings, private workshop, greenhouses, home occupations, and other structures that are customarily incidental to the principal structures. There is a limit of one (1) guest dwelling per lot.

(c) Storage of one boat, one camper, and one trailer or other recreational vehicle, shall be limited to the side or rear yard separated by at least 10 feet from any property line. A limit of 3 vehicles will be stored on any one lot. Any stored vehicle visible from any right-of way shall be screened behind an opaque fence/wall of at least six feet in height.

(d) Public parks, playgrounds, or ball fields.

(e) Private kennels.

Swimming pools: Permitted only when a protective fence, minimum four (4) feet in height, is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

4.2.3. CONDITIONAL USES (Requires permit):

(a) Churches, hospitals, schools, and religious and philanthropic institutions provided, however that such uses shall be located on sites of sufficient size to meet off-street parking requirements of this article and to provide setback from all property requirements of this article and to provide setback from all property lines a distance of at least one (1) foot for each foot of building height or yard setback minimums as set out in section C, whichever is greater.

(b) Real estate sales office in connection with a specific development, allowable only as a renewable Conditional uses for 6 months at a time.

(c) Mobile homes or trailers connected to available utilities used as living quarters during construction of a building on the premises, allowable only with a Conditional Use permit, renewable on an annual basis for a maximum of 4 years. Such a permit will only be granted if the property owner attests that they will begin construction of a permanent residence within the first year. Substantial proof of construction must be submitted before the Planning and Zoning Commission by the end of the each year prior to renewal of permit.

(d) Recreational facility (non-profit) such as a community center, swimming pool, or tennis club.

(e) Child care homes.

4.2.4. AREA REQUIREMENTS:

Minimum lot area: 8,500 square feet.

Minimum yard setbacks:

Front -25 feet

Side, interior -7 feet

Side, street -10 feet

Rear -25 feet

Accessory structures:

(a) No accessory structure, excluding fences, patios, porches or walls, shall be closer to any property line than the required yard setback; however, an accessory structure may be as close as ten feet to any rear property line.

(b) An accessory structure shall not exceed the interior square footage of the principal structure.

Height limitations: No buildings or structure shall exceed 35 feet in height, except that accessory objects which are usually required to be placed above the roof level, do not consume more than 113 of the total roof area, and are not intended for human occupancy, may exceed this height.

Section 4.3 R-2 Medium Density Residential

4.3.1. PURPOSE: The purpose of this zone is to provide a mix of single-family and multi-family dwellings, to accommodate a maximum density of 15 dwelling units per acre, in order to create a more urban appearance.

4.3.2. PERMITTED USES:

(a) Single-family detached dwellings. Only conventional building materials listed in the Uniform Building Code will be used for structural and finish materials. Tin, cardboard, and plywood will not be used as finish materials in any structure.

(b) Multi-family dwellings, including duplexes, townhouses, row houses, and other single-family attached dwellings with a maximum of 4 attached or detached dwelling units per lot.

(c) Accessory structures and uses including garages, carports, private workshop, greenhouses, home occupations, and other structures that are customarily incidental to the principal structures.

(d) Public parks, playgrounds, or ball field.

(e) Private kennels.

(f) Real estate sales office in connection with a specific development, allowable only as a renewable Conditional use for 6 months at a time.

(g) Storage of one boat, one camper, one trailer, or one other recreational vehicle, shall be limited to a maximum of one (1) per dwelling unit. Storage is limited to the side or rear yard separated by at least 10 feet from any property line. Any stored vehicle visible from any right-of way shall be screened behind an opaque fence/wall of at least six feet in height.

(h) A private swimming pool is permitted only when a protective fence four (4)

feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than ten (10) feet from any property line and approval from all utilities is required to insure overhead safety.

4.3.3. CONDITIONAL USES (Requires permit):

- (a) Child care homes, child care group homes, and day care centers.
- (b) Schools (Public, private)
- (c) Churches
- (d) Recreational facilities (non-profit) such as a community centers, swimming pools, or tennis clubs
- (e) Golf courses and country clubs
- (f) Cemeteries and mausoleums
- (g) Nursing homes, assisted living facilities, and community homes
- (h) Public and private utility services, excluding sanitary landfills, incinerators, refuse and trash dumps

4.3.4. AREA REQUIREMENTS: Minimum

lot area: 6,000 square feet.

Minimum yard setbacks:

Front -15 feet

Side, interior -7 feet

Side, street -10 feet

Rear -20 feet

Accessory structures:

(a) No accessory structure, excluding fences, patios, porches, carports or walls, shall be closer to any property line than the required yard setback; however, an accessory structure may be as close as ten feet to any rear property line.

(b) An accessory structure shall not exceed seven hundred fifty (750) square feet.

Height limitations: No building or structure shall exceed 35 feet in height, except that accessory objects which are usually required to be placed above the roof level, do not consume more than 113 of the total roof area, and are not intended for human occupancy, may exceed this height.

Section 4.4 R-3 High Density Residential

4.4.1. PURPOSE: The purpose of this zone is to accommodate single-family and multi-family dwelling units, to accommodate a maximum density of 30 dwelling units per acre.

4.4.2. PERMITTED USES:

(a) Single-family detached dwellings. Only conventional building materials listed in the Uniform Building Code will be used for structural and finish materials. Tin, cardboard, and plywood will not be used as finish materials in any structure.

(b) Multi-family dwellings, including duplexes, townhouses, row houses, and other dwellings with a maximum of 4 attached or detached dwelling units per lot.

(c) Boarding houses, fraternity and sorority houses.

(d) Accessory structures and uses including garages, carports, private workshop, greenhouses, home occupations, and other structures that are customarily incidental to the principal structures.

(e) Public parks, playgrounds, ball fields.

(f) A private swimming pool is permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than ten (10) feet from any property line and approval from all utilities is required to insure overhead safety.

(g) Real estate sales office in connection with a specific development, allowable only as a renewable Conditional use for 6 months at a time for a maximum of 3 years. Use shall discontinue upon completion of the development or within three (3) years from date of original permit, whichever is sooner.

4.4.3. CONDITIONAL USES (Requires use permits):

(a) Child care homes, child care group homes, child care institutions, and day care centers. Play areas shall be in accord with State licensing requirements and enclosed with a solid wall or fence five (5) feet in height. A stacking lane for autos shall be provided at least fifteen (15) feet in width and a minimum length of twenty-seven (27) feet for each ten (10) children of maximum enrollment.

(b) Construction yard or building (temporary use). Such yard or building shall be removed upon the completion of construction or within three (3) Years from date of permit, whichever is sooner. All such areas will be enclosed by a fence five (5) feet in height.

(c) Club buildings shall not be located within 100 feet of an R-1 or R-2 zone. Private clubhouses and game rooms are also permitted when used as part of an apartment, condominium, or city house complex, provided such building(s) shall not be located within 50 feet of an R-1 or R-2 zone.

(d) Churches

(e) Community buildings

(f) Cemeteries or mausoleums.

(g) Halfway houses, assisted living facilities, community homes, group homes, hospices, and nursing homes.

(h) Schools (Public, private)

(i) A public or private swimming pool is permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than ten (10) feet from any property line and approval from all utilities is required to insure overhead safety.

(j) Public and private utility services, excluding sanitary landfills, incinerators, refuse and trash dumps.

4.4.4. AREA REQUIREMENTS

Minimum lot area: 5,000 square feet

Minimum yard setbacks:

Front -10 feet

Side, interior -7 feet

Side, street -10 feet

Rear -15 feet

Accessory structures:

(a) No accessory structure, excluding fences, porches, patios, carports for up to two cars, or walls, shall be closer to any property line than the required yard setback; however, an accessory structure may be as close as ten feet to any rear property line.

(b) An Accessory structure shall not exceed seven hundred fifty (750) square feet.

Height limitations: No building or structure shall exceed 45 feet in height, except that accessory objects which are usually required to be placed above the roof level, do not consume more than 113 of the total roof area, and are not intended for human occupancy, may exceed this height.

Section 4.5 RM-1 Residential Mobile Home Subdivisions.

4.5.1. PURPOSE: The purpose of this zone is to accommodate detached single-family manufactured and mobile home subdivision developments together with such public and semi-public buildings and facilities and accessory structures or uses as may be necessary and are compatible to maintain and protect a low-density residential character.

Commentary: This zone allowing only mobile /manufactured homes lends a more cohesive appearance to the subdivision and is better able to serve the needs of this type of housing. There should also be a more stable property value than that of a mixed-use subdivision.

4.5.2. PERMITTED USES:

(a) Mobile homes, as provided in Section 8.5 of this Ordinance under "Development Requirements," below.

(b) Manufactured homes, HUD Code

(c) Modular Homes

(d) Accessory uses of buildings customarily incidental to a residential area including storage buildings, and carports.

(e) Public parks, playgrounds, ball fields

(f) Private kennels

(g) Real estate sales office in connection with a specific development, allowable only as a renewable Conditional use for 6 months at a time for a maximum of 3 years. Use shall discontinue upon completion of the development or within three (3) years from date of original permit, whichever is sooner.

(h) Storage of one boat, one camper, one trailer, or one other recreational vehicle, shall be limited to a maximum of one (1) per dwelling unit. Storage is limited to the side or rear yard separated by at least 10 feet from any property line. Any stored vehicle visible from any right-of way shall be screened behind an opaque fence/wall of at least six feet in height.

(i) A swimming pool is permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than ten (10) feet from any property line and approval from all utilities is required to insure overhead safety.

4.5.3. CONDITIONAL USES (Require permits):

(a) Child care homes and day care centers

(b) Cemeteries or mausoleums

(c) Churches

(d) Community buildings

(e) Golf courses and country clubs

(f) Schools (Public or private)

(g) Public and private utility services, excluding sanitary landfills, incinerators, refuse and trash dumps.

4.5.4. DEVELOPMENT REQUIREMENTS:

Mobile and manufactured homes used as dwellings shall comply with the following standards:

Commentary: This addresses health and safety issues. Square footage requirements are based on current industry standards and will prevent the use of travel trailers in this zone.

(a) Maximum number of mobile or manufactured homes permitted per lot: one (1)

(b) Minimum square footage of the mobile or manufactured home: 500 square feet and not less than ten (10) feet in width.

(c) The wheels and tongue of the mobile or manufactured home shall be removed prior to the tie-down process

(d) Mobile or manufactured home undercarriages shall be skirted within thirty (30) days of placement upon the lot. The skirt or apron shall be continually and properly maintained between the bottom of the unit and the ground.

(e) Utility connections, foundation specifications, tie-down specifications, and all other installation requirements shall be done at time of placement in accordance with the Texas Department of Labor and Standards' *Texas Mobile Home Tie-down Standards*.

(f) All mobile and manufactured homes shall be constructed according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401, et.seq.

4.5.5. AREA REQUIREMENTS:

Minimum lot area: 5,000 square feet

Minimum yard setbacks:

Front -15 feet Side -10 feet Rear -20 feet

Accessory structures:

(a) No accessory structure, excluding fences, patios, porches, carports for up to two cars, or walls, shall be closer to any property line than the required yard setback; however, an accessory structure may be as close as ten feet to any rear property line.

(b) An accessory building shall not exceed fifty (50) percent of the square footage of the principal building

Section 4.6 RM-2 Residential Mobile Home Park District.

4.6.1. PURPOSE: The intent of this zone is to provide for park development, which accommodates manufactured and mobile home units with such public and semi-

public buildings and facilities and accessory structures or uses as may be necessary and are compatible with residential development.

4.6.2. PERMITTED USES:

(a) Mobile homes as provided in Section 8.6 of this Ordinance under "Development Requirements," below.

(b) Manufactured homes, HUD Code

(c) Accessory uses of buildings customarily incidental to a residential area including storage buildings, and carports.

(d) Administrative and management offices for mobile home parks.

(e) Storage buildings related to principal structure or business-related, (This does not include dry boat storage sheds or work shops.)

(f) Laundry facilities

(g) Club or game rooms, recreational facilities and uses intended for the sole use of the residents of the development and their guests

4.6.3. CONDITIONAL USES (require permits):

(a) Child care homes and day care centers.

(b) Public and private utility services, excluding sanitary landfills, incinerators, refuse and trash dumps.

(c) A swimming pool is permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than ten (10) feet from any property line and approval from all utilities is required to insure overhead safety.

(d) Recreational vehicle lodging facilities or campgrounds.

4.6.4. DEVELOPMENT REQUIREMENTS:

Mobile and manufactured homes used as dwellings shall comply with the following standards:

Commentary: This addresses health and safety issues. Square footage requirements are based on current industry standards and will prevent the use of travel trailers in this zone.

(a) Minimum square footage of the mobile or manufactured home: 500 square feet and not less than ten (10) feet in width.

(b) The wheels and tongue of the mobile or manufactured home shall be removed prior to the tie-down process

(c) Mobile or manufactured home undercarriages shall be skirted within thirty (30) days of placement upon the lot. The skirt or apron shall be continually and properly maintained between the bottom of the unit and the ground.

(d) Utility connections, foundation specifications, tie-down specifications, and all other installation requirements shall be done at time of placement in accordance with the Texas Department of Labor and Standards' Texas Mobile Home Tie-down Standards.

(e) All mobile and manufactured homes shall be constructed according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401, et.seq.

4.6.5. AREA REQUIREMENTS:

Minimum park size-ten acres

Maximum density-twelve units per acre

Minimum lot area-3,600 square feet

Minimum setback from park boundaries at public street-35 feet

Minimum horizontal distance between mobile home/recreational vehicle:

Side to side-20 feet

End to end-20 feet

Side to end-20 feet

Accessory structures:

Commentary: This will allow for small storage structures at the rear of the lot and will allow for covered parking beside each dwelling unit.

(a) No accessory structure, excluding fences, patios, porches or walls, shall be closer to any property line than three feet.

(b) An accessory building shall not exceed fifty (50) percent of the square footage of the principal building.

Section 4.7 C-1 Neighborhood Commercial District (a.k.a. Light Commercial)

4.7.1. PURPOSE. The Neighborhood Commercial District is intended to permit a limited mixture of residential and retail commercial activities. This district establishes and preserves areas for those commercial facilities which are essentially useful in close proximity to residential areas, while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service.

4.7.2. PERMITTED USES.

(a) One accessory dwelling per business.

(b) Filling or service stations (including food stores) occupying no more than three thousand square feet.

(c) Specialty shops (antiques, art objects and supplies, books, cameras and photo supplies, candy, gift, greeting cards, framing, coins, stationary, tobacco, and pharmacies).

(d) Personal service shops (interior decorating, watch and jewelry repair, art gallery, museum, photography, dance or fine art).

(e) Churches, day care centers, child care group homes, community homes, group homes, and hospices.

(f) Veterinary clinics of up to three thousand square feet floor space excluding overnight boarding of animals.

(g) Public buildings, fire stations, government offices and public libraries.

(h) Any other neighborhood office, retail, service, or commercial use occupying no more than 3,000 square feet, except bars, liquor stores, and adult businesses.

4.7.3. CONDITIONAL USES (require permits):

(a) Office and retail uses that are over 3,000 square feet, but less than 10,000 square feet.

(b) Public, private, or vocational schools

(c) Commercial kennels

(d) Child care institutions, nursing homes, and halfway houses.

(e) Water wells, storage, or pumping facilities.

4.7.4. Area requirements: No change in the current ordinance is needed (includes height, parking, signage).

Section 4.8 C-2 General Commercial District

4.8.1. PURPOSE: The purpose of this zone is to allow those commercial uses that serve the general community on a day-to-day basis.

4.8.2. PERMITTED USES:

(a) All retail sales of goods and services conducted entirely within a building as well as the incidental display of merchandise wholly under a permanent part of a main building, such as a marquee;

(b) Movie theaters, bowling alleys and skating rinks; pool tables allowed as an accessory and secondary use to such permitted uses;

- (c) Churches, post offices, fire stations, libraries and public buildings;
- (d) Offices;
- (e) Commercial kennels and veterinary clinics;
- (f) Cafes, restaurants, cafeterias, and drive through eating establishments;
- (g) Clubs and lodges without alcoholic beverage sale to members or the public;
- (h) Child care institutions, day care centers, nursing homes, and halfway houses;
- (i) Service establishments, including filling or service stations;
- (j) Ambulance service with or without outdoor storage of ambulances;
- (k) Spas, health studios or fitness centers, without outdoor activities.

4.8.3. CONDITIONAL USES (require permits):

(a) Shopping malls and all other commercial, office, retail and service uses requiring over 50,000 sq. ft.;

(b) Bars, liquor stores, and adult businesses, provided ,that:

1. No such businesses shall be located within 1,500 feet of the nearest point of a lot on which is located a religious and/or educational institution, a public park or recreation facility.
2. No such business shall be located within 1,500 feet of any lot within any residential zone.

Commentary: Since adult businesses are currently prohibited within 1500 feet of these establishments, the sale of alcoholic beverages should be prohibited about the same distance because it poses some of the same threats to society as adult businesses.

3. No such business shall operate between the hours of 2:00a.m. and 9:00a.m.

(c) Amusement parks

(d) Hospitals

(e) Colleges and Universities

(f) Motor vehicle body shops, parts manufacturing, repair and maintenance facilities, provided that:

1. All body and fender repairing must be done within a completely

enclosed building or room with stationary windows that may be opened only at intervals necessary for ingress and egress.

2. No spray painting may be done except in a completely enclosed spray booth especially designed for that purpose.

3. All other auto repairing, etc., must be conducted within a building enclosed on at least three sides.

Commentary: In the current Fort Hancock ordinance, the permitted use section is too broad. By narrowing the list of permitted uses and making the conditional uses broader, it cuts down on the text. It doesn't hurt to make this section broader because conditional uses imply that this section is more flexible than the permitted uses. I also included the Adult Businesses section regulations directly into C-2 rather than having its own section. The activities section has been included in the definitions section rather than here because these activities simply help to define exactly what an Adult Business is.

4.8.4. Area requirements: No change in the current ordinance is needed (includes height, parking, signage).

Section 4.9 M-1 Light Industrial.

Original: The purpose of the M-1 District is intended to accommodate a wide variety of light manufacturing, commercial, processing, storage, packaging, compounding, wholesaling, and distribution operations. Such uses shall be constructed and operated to insure that...not be permitted.

Revision

4.9.1. PURPOSE: The purpose of the M-1 District is to accommodate a wide variety of light manufacturing, processing, storage, packaging, compounding wholesaling, and distribution operations. Such uses shall be constructed and operated in accordance with the performance standards found elsewhere in this ordinance.

Commentary: The word "intended" is redundant. Mixing commercial and industrial uses can create incompatibilities, so commercial uses should require a conditional use permit (see below). The sentences phrase in parentheses above were omitted because the performance standards cover this issue, and because any use not listed is automatically prohibited, so naming residential as a prohibited use is unnecessary. Further, naming one (residential) is dangerous because it can be interpreted to imply that all others not specifically listed might be permitted.

4.9.2. PERMITTED USES:

(a) Motor vehicle body shops, parts manufacturing, repair and

maintenance facilities, provided that all work must be done in completely enclosed buildings

1. All body and fender repairing must be done within a completely enclosed building or room with stationary windows that may be opened only at intervals necessary for ingress and egress.
2. No spray painting may be done except in a completely enclosed spray booth especially designed for that purpose.
3. All other auto repairing, etc., must be conducted within a building enclosed on at least three sides.

(b) Wholesale and distribution facilities, provided that no retail sales shall be permitted

(c) Vocational schools

(d) Manufacturing, compounding, assembling or treatment of articles from previously prepared materials except those listed as conditional uses below, and provided that no toxic, flammable, explosive or otherwise hazardous substance may be used or stored in any quantity that would be reportable to, or necessitate a permit from, the US Environmental Protection Agency or the State of Texas.

4.9.3. CONDITIONAL USES (require permits):

(a) Correctional or detention facilities

(b) Airports, heliports

(c) Public or private utility facilities

(d) Uses listed as permitted or conditional in the C-2 General Commercial zone

(e) One accessory dwelling per lot, provided that the dwelling must be occupied only by a watchman or caretaker.

(f) All uses listed as permitted uses in the M-2 district, except item 1.

4.9.4. AREA REQUIREMENTS:

Minimum lot size and setbacks: none, except that wherever an M-1 zoning district abuts a residential or commercial zoning district, a setback of 30 feet shall be provided between any structure or use of the property zoned M-1 and the nearest residential or commercially zoned property line and a six-foot opaque fence shall be constructed along the full length of said property line.

Height requirements: Maximum height of any building or structure shall be 45 feet.

Section 4.10 M-2 Heavy Industrial.

4.10.1. PURPOSE: The purpose of the M-2 District is to accommodate all types of manufacturing, processing, storage, packaging, compounding, wholesaling, and distribution operations. Such uses shall be constructed and operated in accordance with the performance standards found elsewhere in this ordinance.

4.10.2. PERMITTED USES:

- (a) All uses listed as permitted in the M-1 Light Industrial district
- (b) Motor vehicle wrecking, storage or junk yard
- (c) Manufacturing, compounding, assembling or treatment of articles other than those listed as conditional uses below.
- (d) Concrete or cement products manufacturing, batching plants, and processing of stone
- (e) Gravel, sand, or dirt stockpiling, processing or distribution.
- (f) Manufacturing of lime, gypsum, or glue

4.10.3. CONDITIONAL USES (require permits):

- (a) Manufacturing, use or storage of any toxic, flammable, explosive or otherwise hazardous substance in any quantity that would be reportable to, or necessitate a permit from, the US Environmental Protection Agency or the State of Texas
- (b) Towers and antennas
- (c) Sanitary landfills
- (d) Slaughter of animals
- (e) Stockyard or animal feeding pens
- (f) Cannery, curing of raw hides
- (g) Wool pulling or scouring
- (h) All uses listed as conditional in the M-1 Light Industrial district.

4.10.4. AREA REQUIREMENTS:

Minimum lot size, setbacks and height: none, except that wherever an M-2 zoning district abuts any residential or commercial zoning district, a setback of 50 feet shall be provided between any structure or use of the property zoned M-2 and the nearest residential or commercially zoned property line and a six-foot opaque fence shall be

constructed along the full length of said property line.

Commentary: The original use lists made little sense, leaving out many uses and arbitrarily including others. Buffering requirements have been added as well.

Section 4.11 A-1 Agricultural

Commentary: The change of name is due to the fact the rural is redundant in relation to agriculture. The only other changes in this zone would be to add the following text to the use lists:

4.11.2. PERMITTED USES:

(a) Single-family detached dwellings, on-site construction, one unit per lot. Only conventional building materials listed in the Uniform Building Code will be uses for structural and finish materials. Tin, cardboard, and plywood will not be used as finish materials in any structure.

4.11.3. CONDITIONAL USES (require permits):

(B). Riding schools or stables

Section 4.12 FP Floodplain and Floodway Overlay District

4.12.1. PURPOSE: The purpose of the Floodplain and Floodway Overlay District is to protect persons and property from periodic flooding and to enable the city to participate in the National Flood Insurance Program.

4.12.2. ESTABLISHMENT OF OVERLAY DISTRICT. The Floodplain and Floodway District is hereby established as an "overlay" district, meaning that the district is overlaid upon the other districts and the land so encumbered may be used in a manner permitted in the underlying district only if such use is also permitted in the applicable overlay district. For any property in an overlay district, then, the regulations of both the overlay district and the underlying zoning district apply. In the case of conflict between the regulations of the underlying and overlay district, the most restrictive regulations take precedence.

4.12.3. PERMITTED USES WITHIN FLOODWAYS. No permit to make use of land within a floodway may be issued unless the proposed use is allowed in the underlying district and in the following list:

- (a) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses;
- (b) Lawns, gardens, play areas, and other similar uses;
- (c) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback-riding trails, open space, and other similar private and public recreational uses.
- (d) No artificial obstruction may be located within any floodway.

4.12.4. CONSTRUCTION RESTRICTIONS. No building permit may be issued for any development within a floodplain until the administrative official has reviewed the plans for any such development to assure that:

- (a) The proposed development is consistent with the need to minimize flood damage.
- (b) All public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
- (c) Adequate drainage is provided to minimize or reduce exposure to flood hazards.
- (d) All necessary permits have been received from those agencies from which approval is required by federal or state law.
- (e) No structure may be constructed and no substantial improvement of an existing structure may take place within any floodway.
- (f) No new building may be constructed and no substantial improvement of a building may take place within any floodplain unless the lowest floor (including basement) of the building or improvement is elevated to or above two (2) feet above the base flood elevation. Residential accessory structures will be allowed within floodplains provided they are firmly anchored to prevent flotation.
- (g) No mobile home may be located or relocated in a floodplain unless its lot or pad is elevated on compacted fill or by any other method approved by the administrator so that the lowest habitable floor of the mobile home is at or above two (2) feet above the base flood elevation; and
- (h) Load-bearing foundation supports such as piers or pilings are placed on stable soil or concrete footings no more than 10 feet apart (if the support height is greater than 72 inches, the support must contain steel reinforcement). Whenever any portion of a floodplain is filled in with dirt, slopes will be adequately stabilized to withstand the erosive force of the base flood. If slopes are greater than 1 vertical to 1 ½ horizontal, they will be reinforced with concrete or otherwise reinforced to provide concrete-like stability.

Commentary: This may need to be modified depending on what types of floodplains are in city. Get a copy of the latest FEMA map and consult with the city engineer on this section.

Section 4.13 PUD Planned Unit Development

4.13.1. PURPOSE: The Planned Unit Development ("PUD") Overlay District is intended to provide for a greater flexibility and discretion in the more integrated development of residential, commercial, industrial, and institutional uses, and combinations of such uses. The "PLID" district is intended to provide for a more unified plan for land parcels and more effective mitigation of potentially adverse impacts than is possible under conventional district regulations. Use of the "PUD" district is also to encourage conservation of open space. The property may be designated as PUD only in combination with another district such as PUD-Com (Planned Unit Development-Commercial) or PUD-Res. (Planned Unit Development-Residential). This would provide for the efficient development of large tracts for

multiple uses.

Commentary: The purpose statement is written to explain the importance of a Planned Unit Development zone for this area. It provides for more flexible types of development of combinations of residential, commercial, and industrial uses.

4.13.2. GENERAL REGULATIONS:

Area requirements: Each PUD district shall be at least 5 acres in size.

Maximum coverage: No more than fifty (50) percent of the site shall be covered by primary or accessory buildings. Of the fifty percent, no more than forty (40) percent shall be for residential, no more than twenty (20) percent for commercial and no more than ten (10) percent for industrial uses.

Compatibility: No PUD shall be approved by the city council until it has been determined that the planned use is compatible with the area that it will affect.

Commentary: These general regulations give the minimum requirements that must be considered before rezoning to a PUD.

4.13.3. PROCEDURES:

(1) A concept plan may be submitted to the administrative official for purpose of general review and discussion prior to submitting the development site plan.

The concept plan shall contain the following information:

- Description of the general land configuration;
- Proposed densities and lot sizes;
- Proposed amenities;
- Proposed area design regulations.

(2) Prior to consideration of any Planned Development, an application must be filed with the city's administrative official of the planning and zoning department accompanied by a development plan.

(3) A development plan shall include the following information:

(a) The description of the site and adjacent property, all land use and zoning of the abutting sites and all public and private right of ways and easements;

(b) The location and type of all existing and planned structures on the site;

(c) Height of all structures;

(d) Proposed minimum area regulations including set backs, lot sizes, depth, side yards, square footage of residential structures;

(e) The location of all on-site and proposed facilities for liquid and solid waste disposal;

(f) The location of all off-street parking and loading facilities and location of lighting for the same;

(g) The location and detail of all walls, fences, screening and landscaping including existing and

proposed tree lines;

(h) The location of all streams, ponds, drainage ditches, steep slopes, boundaries of floodway and floodplains and other supporting facilities that have been provided

(i) The location of all dumpsters;

(j) The location of all fire hydrants;

(k) The location of all streets, private roads, alleys, and sidewalks, including proposed surface materials;

(l) The location of underground utility lines, including water, sewer, electric power, telephone, gas and cable television;

(m) The location of all signs.

(4) A development schedule indicating the approximate date of when construction begins and the rate of anticipated development to completion will accompany the application.

(5) The procedure for hearing a request for a zoning change to PUD shall be the same as for a requested change in any other district.

(6) Any revision to a development plan, between the public hearing before the Planning and Zoning Commission and the public hearing before the City Council, shall necessitate the development plan being referred back to the Planning and Zoning Commission for review and evaluation unless the revision is a minor change in accordance with the list in (7) below.

(7) Minor changes may be authorized by the enforcing officer when such minor changes will not cause any of the following circumstances to occur:

(a) A change in the character of the development;

(b) An increase in the ratio of the gross floor areas in structures to the area of any lot;

(c) An increase in the intensity of use;

(d) A reduction in the originally approved separations between buildings;

(e) Any adverse changes in traffic circulation, safety, drainage and utilities;

(f) Any adverse changes in such external effects on adjacent property as noise, heat, light, glare, vibration, height or proximity;

(g) A reduction in the originally approved setbacks from property lines;

(h) An increase in ground coverage by structures;

(i) A reduction in the ratio of off-street parking and loading space;

(j) A change in the subject, size, lighting, or orientation of originally approved signs.

(8) Any change deemed not to be a minor change, as indicated above, shall be processed as a new application in accordance with the provision of this section.

(9) Provision for public, private and common open space shall be evaluated with regard to density, site coverage and physical characteristics. This shall be required in the development plan.

(10) A development plan shall expire five years from the date of final City Council approval unless any part of the planned development has already obtained a Certificate of Occupancy for the use of the property as described in the plan.

(11) Planned Unit Development zoning shall be revoked if:

(a) Approval of the development was obtained by fraud or deception, or

(b) If one or more of the conditions set by the Council has not been met or has been violated.

Commentary: These procedures are written for the rezoning process of a PUD. A PUD is considered a type of zone and not to be considered as a conditional use. This type of zoning coordinates many uses into a unified development for land parcels. It encourages the conservation of open space and mitigates the adverse impacts more effectively than a more conventional zoning.

Section 4.14 HP Historic Preservation District

4.14.1. POLICY: The Fort Hancock Mission is connected to the El Paso Mission Trail Historical Area, the protection of which is allowed for by Section 231.172 of the Texas Local Government Code. The City Council realizes the importance of preserving this historical area as well as other historical places in the city. The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic places are a public necessity.

4.14.2. PURPOSE: The purpose of this section is to promote the public health, safety and general welfare, and:

(a) to protect, enhance and perpetuate places and areas which represent distinctive and important elements of the city's historical, cultural, archeological, political and architectural history;

(b) to promote tourism and strengthen the economy of the city;

(c) to foster civic pride and promote the enjoyment and use of historic resources by the city's residents;

(d) to preserve and enhance the beauty of historic areas; and to provide for new development in historic districts that is consistent with the existing historic structures.

4.14.3. INITIATION OF REVIEW -After determining that there is considerable

interest among its membership or citizenry in designating a place or area as an historic district, the City Council shall vote on whether or not to initiate a review to consider establishment of an historic overlay district. During this review period, which shall not last longer than sixty days, no building permit shall be issued for proposed work to the exterior of the affected property (ies) nor shall the affected property (ies) be demolished or removed. The City Council shall provide notice of and conduct public hearings as provided in the City's zoning ordinance(s) to consider the historical overlay district designation.

4.14.4. CRITERIA FOR ESTABLISHMENT OF DISTRICTS -The City Council may consult with experts in deciding whether to establish an historic overlay district. In making such a decision, the City Council shall consider if the place or area has one or more of the following characteristics:

- (a) Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entry on the National Register of Historic Places;
- (b) Location as the site of a significant historic event
- (c) Identification with a person or persons who significantly contributed to the culture and development of the city, state or country;
- (d) Embodiment of elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation;
- (e) Exemplification of the cultural, economic, social, or historical heritage of the city, state, or country.
- (f) Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (g) Embodiment of distinguishing characteristics of an architectural type of specimen;
- (h) Identification as the work of an architect or master builder whose individual work has influenced the development of the city;
- (i) Relationship to other historic places or areas;
- (j) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest; and
- (k) Value as an aspect of community sentiment or public pride.

4.14.5. ESTABLISHMENT OF DISTRICTS -After notice and public hearing as required by law, the City Council may establish an historic overlay district to preserve places and areas of historical, architectural, archeological, or cultural importance or value. These places and areas will be designated by "H" on the official zoning map. At the time of establishing a specific historic district, the City Council may impose additional regulations upon the district to preserve its historic value and fulfill any other purposes of the district.

An overlay district is "overlaid" upon other districts, and the land so encumbered may be used in a manner permitted in the underlying district only if such use is also permitted in the applicable overlay district. For any property in an overlay district, then, the regulations of both the overlay district and the underlying zoning district apply. In the case of conflict between the regulations of the underlying and overlay

district, the most restrictive regulations take precedence.

4.14.6. CERTIFICATE OF APPROPRIATENESS-The administrative official shall issue no building permit for proposed work to the exterior of a structure in an historic overlay district or for new construction in a historic overlay district unless the Planning and Zoning Commission has issued a Certificate of Appropriateness to the property owner.

When applying for such a permit, the applicant shall forward two copies of all detailed plans, elevations, perspectives, specifications and other documents pertaining to the work, to the administrative official, who shall forward one copy to the Planning and Zoning Commission within five days of receipt thereof.

Upon review of the application, the Planning and Zoning Commission shall determine, based on guidelines set by the City Council, whether the proposed work is of a nature which will adversely affect any historical, architectural, archaeological, or cultural feature of the historic structure, and whether such work is appropriate and consistent with the spirit and intent of this Section and the ordinance establishing the historic overlay district. The Planning and Zoning Commission shall deny or approve a Certificate of Appropriateness and forward such action to the administrative official within thirty days of receiving the application. The administrative official shall immediately notify the applicant of the Planning and Zoning Commission's action. Upon request of the property owner, the City Council may elect to entertain an appeal of the decision. In such case, upon appropriate notice being given and a public hearing being held, the City Council may elect to uphold the denial of a Certificate of Appropriateness or overturn it.

4.14.7. DEMOLITION OR REMOVAL-If the administrative official receives an application for demolition or removal of any structure in an historic overlay district, the Planning and Zoning Commission shall hold a hearing within thirty days after the application is filed. The Planning and Zoning Commission shall hear all interested parties. The Planning and Zoning Commission shall consider the state of repair of the structure, the reasonableness of the cost of restoration or repair, taking into account the purpose of preserving the historic structure, the character of the historic area, and all other factors that it finds appropriate. Based on these factors, the Planning and Zoning Commission may determine that, in the interest of preserving historical value, the structure should not be demolished, and in that event, the application shall be denied. Upon request of the property owner, the City Council may elect to entertain an appeal of the decision. In such case, upon appropriate notice being given and a public hearing being held, the City Council may elect to uphold the application denial or overturn it.

4.14.8. PENALTIES -It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, or maintain any structure in an historic overlay district in violation of the provisions of this Section. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent such unlawful action.

Any person who violates any provision of this Section shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted, and each offense shall be punishable by a fine in accordance with the provisions of Article 6 of this ordinance.

Commentary: The original provided for designating sites as historic landmarks. It is better to designate sites or areas as overlay districts so that it is more clear that the permitted uses and regulations of the underlying district are retained. The original did not have a provision to prevent property owners from demolishing or altering structures during the period of time when the City Council is considering a historic designation -this can be dangerous because a property owner who does not, wish to follow the regulations is able to do what he will with his property before it becomes protected. The rewrite lays out a detailed procedure whereby a property owner can seek a building permit to build or alter a structure in a historic overlay district, whereas the original only outlined the process. The rewrite also establishes a procedure for seeking permission to demolish or remove a structure in a historic overlay district -the original had no such provision. Nor did the original specify the penalty for not complying with the historic district regulations.

ARTICLE 5 SUPPLEMENTARY DISTRICT REGULATIONS

Section 5.1: Wall & Fence Requirements

Commentary: Due to the amount of suggested revisions, this section has been rewritten. The need for the changes results from the original ordinance being too convoluted. Thus the suggested revisions address the purpose of the original section on wall and fence requirements.

Original: (B) Fences, Walls, and Hedges: Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge-of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over two an one-half (2 1/2) feet in length;

Revision: (a) Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, provided that no fence, wall, or hedge shall be more than 2.5 feet above the street curb level within the clear sight triangle (see definitions).

Commentary: Original wording left room for too many possibilities to get around the meaning of this paragraph. The 2 ½' restriction applies to height, not length, of the fence, wall, or hedge.

(b) The height of the wall or fence shall be determined by measuring the distance from the nearest adjacent ground to the tallest portion of the fence or wall.

(c) An eight foot maximum height shall be permitted on any side or rear lot provided that such a wall or fence is in accordance with this ordinance.

(d) A wall retaining four feet or more of soil must be designed and stamped by a Professional Engineer, registered in the State of Texas.

(e) No wall or fence shall be permitted in the city Right of Way.

(f) A lot that contains a swimming pool greater than 20 feet in width/diameter shall be enclosed by a wall or fence of at least four feet in height.

(g) Barbed wire fences of any kind shall not be permitted in any residential districts.

(h) Exceptions: The height regulations on walls and fences in residential districts shall not apply to tennis courts or any other uses that the planning director deems appropriate.

Section 5.2: Miscellaneous Provisions

Original: (C) Accessory Building: No accessory building shall be erected in any

required yard, and no separate accessory building shall be erected within (5) feet of any other building;

Revision: 5.2.1. ACCESSORY BUILDINGS: All accessory buildings must comply with the street right-of-way and side lot boundary setbacks, but (subject to the remaining provisions of this ordinance) shall be required to observe a five-foot setback from rear lot boundary lines.

Commentary: It is too restrictive to prohibit accessory building in yards. This complete re-write allows for more flexibility concerning allowing accessory buildings, while still giving heavy restrictions on where they can be placed.

Original: (D) Erection of More Than One Principal Structure on a Lot: More than one structure housing a permitted or permissible principal use may be erected on a single lot if yard and other requirements of this ordinance are met for each structure as though it were on an individual lot;

Revision: 5.2.2. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT: No more than one structure housing a permitted or permissible principal use may be erected on a single lot. Land must be subdivided and the platting procedure and other procedures must be followed if an owner wants to construct more than one principal structure on a lot.

Commentary: Before revision, this subparagraph allowed subdividing without platting. If an owner wants to add another principal building the land should be subdivided and the normal platting process should take place. The old way allowed for the circumventing of the procedures.

Original: (F) Structures To Have Access: Every building hereafter erected or moved shall be on a lot adjacent to and with vehicular access to a public street, or with access to an approved private street, and all structure shall be so located on lots as to provide safe and convenient vehicular access for servicing, fire protection, and required off street parking;

Revision: 5.2.3. STRUCTURES TO HAVE ACCESS: Even/ building hereafter erected or moved shall be on a lot with at least 40 feet frontage on, and with vehicular access to, a public street: and all structures shall be so located on lots as to provide safe and convenient vehicular access for servicing, fire protection, and required off street parking.

Commentary: To prevent flag lots, remove the term "adjacent to." Developers will take advantage of this term and could put only a few feet "adjacent to" to a public street for lot access. This problem has been seen in many cities. Also, remove "or with access to an approved private street." It is not necessary to have these.

Original: (G) Parking, Storage, or Use of Major Recreational Equipment: No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided however that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. N such equipment shall be used for living or housekeeping purposes when parked or stored

on a residential lot, or in any location not approved for such use;

Revision: 5.2.4. PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL EQUIPMENT: No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided however that such equipment may be parked anywhere on residential premises not to exceed 72 hours. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use;

Commentary: 24 hours is too restrictive when talking about parking. It would be difficult for people using an RV, visiting friends to either move their vehicle out of the driveway every 24 hours, or leave the city. A 24-hour limit may be difficult to enforce because recreational equipment is so popular. Many people would likely be in violation of this ordinance, especially people traveling to the city. It is more understanding to allow people 72 hours to move recreational equipment to a better location.

Original: (I) Pre-existing Wrecking or Junk Yards: Any wrecking or junk yard including those existing prior to the ordinance shall have constructed a complete surrounding solid wall or fence at least ten (10) feet high which shall hide from public view the wrecking or junk yard premises. Wire or chain link fences prohibited.

Revision: 5.2.5. PRE-EXISTING WRECKING OR JUNK YARDS: Any wrecking or junk yard including those existing prior to this ordinance shall have constructed a complete surrounding solid wall or fence at least ten (10) feet high which shall hide from public view the wrecking or junk yard premises. Wire or chain link fences are ineffective at concealing these yards and therefore are prohibited.

Alternative Revision: 5.2.5. PRE-EXISTING WRECKING OR JUNK YARDS: Wrecking or junk yard excluding those existing prior to June 1, 2002 shall have constructed a complete surrounding solid wall or fence at least ten (10) feet high which shall hide from public view the wrecking or junk yard premises. Wire or chain link fences are ineffective at concealing these yards and therefore are prohibited.

Commentary: The last sentence in the subparagraph was incomplete. The additional information helps bring clarity to why chain link and wire fences are not permitted. Also, since this subparagraph applies to existing uses, there might be a problem with the city's ability to enforce such a restrictive regulation. On the other hand, enforcement would greatly help the appearance of the city. In case there is an enforcement problem with the regulation "as is," please look at this alternative revision.

Original: (J) Pre-existing Mobile Homes: Any mobile home permanently placed, and no matter what size, shall be skirted, be it a mobile home placed prior to or after the adoption of this ordinance.

Revision: 5.2.6. PRE-EXISTING MOBILE HOMES: Any mobile home permanently placed, no matter what size, shall be skirted, regardless of whether it is a mobile home placed prior to or after the adoption of this ordinance.

Commentary: Minor grammatical changes have been made here. However, if the city cannot force all the existing mobile homes to add skirts there will be an enforcement problem, and it would be better to drop this clause altogether.

Original: Annexed Land. At such time as territory may hereafter be annexed the city, it shall continue to be zoned and subject to such land used restrictions as prior to such annexation. Provided, however, if such territory is not subject to zoning or land use restrictions, the City Council shall as a condition of such annexation zone such territory.

Revision: Section 5.2.7. ANNEXED LAND: At such time as territory may be annexed by the city, it shall continue to be zoned, according to the comprehensive plan, and subject to such land use restrictions. Provided, however, if such territory is not subject to zoning or land use restrictions, the City Council shall as a condition of such annexation zone, according to the comprehensive plan, such territory.

Commentary: It is important to insure that zoning happens according to the comprehensive plan. Some cites prefer to zone all annexed land as some category and change the zoning later, but this should not be the case. There is a comprehensive plan for a reason, and one major reason is to know how to zone. Two additions relating to the comprehensive plan were added, and a minor word to help with readability. Also there was a subtraction of the text that I thought convoluted to the meaning and was not needed. (Removed "as prior to such annexation," from the text, also "hereafter" was removed because it was not adding anything to the paragraph.)

Section 5.2.8. BY-RIGHT USES: No use is permitted in any district unless it is specifically allowed by the regulations governing such district. Any use not named in any district is prohibited from the entire city. A use named in any district and not named in any other district is allowed only in the district where it is named. Where district regulations specifically allow permitted uses from another district, such shall allow only those uses appearing under the permitted uses section of such other district, and shall not allow conditional uses. Uses can be added through the amendment process described by this ordinance.

Commentary: Adding a section about uses permitted only in districts when specifically a110 wed, could help clarify questions regarding uses permitted. There is no original text, this is an addition.

Section 5.3: Home Occupation Permits

Original: 13(A) No more than (3) persons shall be engaged in such home occupation.

Revision: No more than (3) persons shall be engaged in such home occupation on the site.

Commentary: These words have been added to clarify the description given for how many people can be involved with the home occupation.

Original: 13(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than fifteen percent (15%) of the floor area, not to exceed five hundred (500) square feet, shall be used in the conduct of the home occupation.

Revision: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes.

Commentary: The last portion of Section 13(B) has been deleted due to it being too restrictive. In a typical United States city this regulation would be appropriate, but in the City of Fort Hancock many people have small home businesses, and with this restriction there is the possibility of many violations.

Original: 13(H) Storage in connection with any home occupation shall totally enclosed within the home and limited to items which have been ordered by a customer, but have not been delivered to the customer. Storage shall not exceed eight percent (8%) of the floor area, not to exceed two hundred (200) square feet.

Revision: Storage in connection with any home occupation shall be totally enclosed within the home and limited to items that have been ordered by a customer, but have not been delivered to the customer.

Commentary: The last sentence has been deleted due to it being unenforceable. It would be too difficult to attempt to calculate such an area to determine if a home is violating the 200 square feet requirement for storage.

Section 5.4: Keeping of Large Animals

Original: General Purpose the keeping of dogs and cats shall be in strict conformance with the El Paso City/County Health Department regulations. The following are supplemental regulations and are established for keeping of small animals such as rabbits, poultry, goats, sheep, miniature horses, and the like.

Revision: 5.4.1. PURPOSE: The keeping of dogs, cats, and other small pets that live inside the main dwelling unit shall be in strict conformance with the El Paso City/County Health Department regulations. The following are supplemental regulations and are established for the keeping of small animals that live outside the main dwelling unit.

Commentary: The General Purpose for this section on small animals needed revisions due to it not including other small animals that the El Paso City/County health Department regulates. The last correction is due to clarification on where the small animals can be kept. For health reasons animals, such as poultry, goats, and sheep must be kept outside of the dwelling unit.

Original: 15 (1) One-half acre or more-minimum square footage of open lot area (not including dwelling unit) shall be two thousand (2000) square feet for each animal; provided the total number of animals shall not exceed one hundred (100), regardless of lot size. (For Animals not mentioned here, the density per acre limitation shall be determined by the Planning Department after consultation with relevant agencies.)

Revision: Minimum square footage of open lot area (not including main dwelling unit) shall be two thousand (2000) square feet for each species of animal; provided the total number of animals of each species does not exceed fifty (50). The Planning Director shall have the authority to grant exceptions to the given density above.

Commentary: Section (15) (1) is somewhat unclear on what the regulation is for the allowable density. Thus half of the section was rewritten in attempt to make the regulation more clear.

Section 5.5: Keeping of Small Animals

Original: 14(2) Density Per Acre Limitation for Livestock. (Not applicable to young animals below weaning age or six months of age, whichever is greater.)

Revision: Density Per Acre Limitation for Livestock. (Not applicable to animals below the age of six months.)

Commentary: Weaning age needs to be left out, because it is an ambiguous term. Weaning age is different for all animals, and therefore it would be hard to enforce this regulation on weaning age animals.

Original: 14(3) No animals shall be kept closer than thirty-five feet to an adjoining dwelling.

Revision: No animals shall be kept closer than thirty-five feet to a dwelling on an adjoining property.

Commentary: This additional regulation of keeping animals 35 feet away from property is to prevent any conflicts that may arise with neighboring property owners.

Original: 14(6) (A) Corral Size. Every corral to be provided shall have a minimum dimension of not less than twelve (12) feet and shall contain not less than two hundred forty (240) square feet.

Revision: Corral Size. Every corral shall have a minimum width or length of 12 feet and shall contain not less than two hundred forty (240) square feet.

Commentary: The usage of dimension is not clear, thus the suggestion for width and length to make it easier to understand.

Original: 14(6) (1) Drainage. All areas adjacent to any pen, coop, stable, stall, barn, corral, grazing, workout or grazing areas, or other building structures and areas where animals are kept and maintained shall be graded to

drain away from such facilities so as to prevent ponding and insect harborage.

Revision: Drainage. All pens, coops, stables, stalls, barns, corrals, grazing areas and workout areas, or other building structures and areas where animals are kept and maintained, shall meet the EPA Regulations for drainage areas containing animals.

Commentary: It is illegal to allow contaminated water to run off without mitigating the ill effects of the water. This is due to the contamination of water that results from polluted runoff.

Original: 14(6) (K) Compliance With Health Regulations Required. The keeping and maintenance of large animals, as provided for in this section, shall comply with all regulations and provisions of the Health and Sanitation laws of the City. All premises and facilities upon which animals, poultry, or fowl are permitted shall be maintained in a clean, orderly, and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance at least once each week, and all premises and facilities shall be treated with biologically, ecologically, and environmentally approved pesticides for the control of odors, insects, and rodents, which in any way can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace, and/or tranquility of the general public.

Revision: Compliance With Health Regulations Required. The keeping and maintenance of large animals, as provided for in this Section, shall comply with all regulations and provisions of the Health and Sanitation laws of the City All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly, and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance at least once week, and all premises and facilities shall be treated as needed with environmentally approved pesticides for the control of odors, insects, and rodents which can be considered a clear and present nuisance or detriment to the health, safety, comfort, and welfare of the general public, shall be controlled.

Commentary: The first correction is suggested because there is no need to state poultry or fowl because they are both animals. The last sentence was rewritten in order to promote the use of environmentally friendly chemicals in preventing possible nuisances that will result from keeping of animals in confined spaces.

Section 5.6: Performance Standards

Commentary: After looking over the zoning ordinance for the City of Fort Hancock and looking at the many sections of the ordinance, I made an observation that the zoning ordinance did not contain many sections that would fully meet the needs of the city of Fort Hancock. One section that was needed and was and was missing entirely from the section was the performance standards section. The control of negative impacts can be achieved indirectly by regulating where they types of uses can go and directly regulating the impacts themselves through performance standards. Therefore I went ahead and after looking at performance standards sections in other ordinances, I developed the suggestions written below. The

performance standards section in the ordinance is aimed towards the industrial companies so they will comply with the minimum and maximum standards for the operations of their businesses and so it will protect the safety, public health and general welfare of the community at large. By implementing the performance standards, the City of Fort Hancock will have the ability to improve the quality of life and at the same time be able to regulate many of the businesses that have intentionally or unintentionally made the community undesirable to live in by causing many nuisances that other cities may not have. The purpose of this section is to regulate where types of uses can go directly by regulating the impacts themselves through performance standards. It protects the city from unwanted nuisances and regulates them in a manner that will keep them from developing. This section of the ordinance protects the safety, health, and welfare of its citizens by regulating these items.

5.6.1. COMPLIANCE REQUIRED: Unless otherwise stated, no land, building or structure in any district must be used or occupied to create any dangerous condition or dangerous element that might adversely affect the surrounding area. Permitted uses as set forth in this ordinance must be undertaken and maintained only if they conform to the regulations of the section.

Examples of dangerous conditions:

Injurious conditions

Noxious use

Fire/explosion

Noise/vibration

Smoke/dust or other form of air pollution

Heat/cold/dampness

Electrical or other substance

5.6.2. PERFORMANCE STANDARD REGULATIONS: The following development standards apply within the various zoning districts as indicated.

A. Exterior noise. For the purpose of determining compliance with the noise standards in this section, noise levels are to be measured at any residential property line within any permanent residential zoning district.

(1) For noise emanating from a property located within any residential zoning district, the maximum allowable noise levels will be as follows:

<u>Time Interval</u>	<u>Allowable Exterior Noise Level</u>
<u>10:00 PM to 8:00 AM</u>	<u>50 dB (A)</u>
<u>8:00 AM to 10:00 PM</u>	<u>55 dB (A)</u>

(2) For noise emanating from a property located within any commercial zoning district, the maximum allowable noise levels shall be as follows:

<u>Time Interval</u>	<u>Allowable Exterior Noise Level</u>
<u>10:00 PM to 8:00 AM</u>	<u>65 dB (A)</u>
<u>8:00 AM to 10:00 PM</u>	<u>70 dB (A)</u>

(3) For the noise emanating from a property located within the M-1 light industrial zoning district, the maximum allowable noise levels shall be 70 dB (A).

(4) For noise emanating from a property located within the M-2 industrial zoning district, the maximum allowable noise levels shall not exceed 75 dB (A).

Exceeding Noise Levels

(5) Noise emanating from a property within any zoning district may exceed:

(a) The allowable noise level plus up to five dB (A) for a cumulative period of no more than 30 minutes in any hour; or

(b) The allowable noise level plus six to ten dB (A) for a cumulative period of 15 minutes in any hour; or

(c) The allowable noise level plus 11 to 15 dB (A) for a cumulative period of five minutes in any hour; or

(d) The allowable noise level plus 16 or more dB (A) for a cumulative period of one minute in any hour.

Adjustment Clause

(6) In the event that existing ambient noise levels exceed the allowable noise levels in sections 1 to 5 above, the maximum allowable noise levels for the property in question can be increased to allow the uses for which the property is zoned.

Non-Measuring Noises

(7) For the purpose of determining compliance with the noise standards in this section, the following noise sources will not be included:

(a) Noises not directly under control of the property owner, lessor, or operator of the premises.

(b) Noises emanating from construction, grading, repair, remodeling, or any maintenance activities between the hours of 8:00 am and 8:00 pm.

(c) Noises of safety signals, warning devices, and emergency pressure relief valves.

(d) Transient noise of mobile sources, including automobiles, trucks, airplanes and railroads.

Occasional outdoor gatherings pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events.

Measurements

(8) For the purpose of determining compliance with the noise standards in this section, noise levels are to be measured at any residential property line within any permanent residential zoning district.

B. Vibration. No vibration from any use within any zoning district must be permitted which is perceptible without instruments at the property line of any residentially zoned or used property.

C. Lighting and Glare. It will be unlawful for anyone to control any lighting including, but not limited to, spotlights, floodlights, or similar illuminating devices not on the owners' property. Those which project a glare or brightness in excess of the standards described below, directly or indirectly upon a lot, tract, or parcel of land other than that upon which such lighting is situated, must also be disallowed if they annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of others, within the limits of the city.

All lighting in the city consisting of spotlights, floodlights, or similar illuminating devices must be installed, hooded, regulated and maintained by the owner or person in control thereof in such a manner that the direct beam of any light does not glare upon any lot, tract, parcel of land other than that upon which it is situated, and so that it will not create any illumination from direct or indirect lighting in, on, or over the ground beyond the boundary of the lot, parcel, or tract above the following levels: 1 foot-candle where the adjacent development is zoned for non-residential uses .25 foot-candle where the adjacent development is zoned for residential uses

Shielding Required. All exterior light sources visible to pedestrian or vehicular off-premise traffic are required to be shielded, except as provided below, so that the light source is not visible to said pedestrian or vehicular traffic. Lights elevated on standards, for example in parking areas, shall be side-shielded on off-premise pedestrian or vehicular travel sides. Lighting mounted on low standards (such as bollard lights) is the preferred method for illuminating smaller parking areas and walkways.

Exceptions

(1) Unshielded lighting facing off-premise pedestrian or vehicular sides of the property will be permitted provided the light source is not in excess of 1700 lumens.

(2) Historical-style or architectural lighting visible to pedestrian or vehicular off- premise traffic must be permitted provided that the fixtures does not cause or permit any illumination in, on, or over the round at or beyond the boundary of the lot, parcel, or tract above the following levels: 1 foot-candle where the adjacent development is zoned for non-residential uses.25 foot-candle where the adjacent development is zoned for residential uses

Compliance Required. This ordinance will apply to all new facilities upon adoption and publication as required by law. All existing facilities with lighting in place on the date of adoption shall comply with the requirements herein 24 months after the effective date of the ordinance by installing shielding, redirecting lights, or other steps necessary for compliance. The Commission may grant a one-time extension of up to an additional 24 months if the property owner or agent can demonstrate hardship, including undue expense related to the time required for facilities replacement. Further, existing publicly owned facilities would be required to comply with the requirements herein before the 24-month limit is reached if the facilities undergo renovation to the exterior or the overall renovation exceeds fifty percent (50%) of the costs of construction of the existing facilities.

D. Particulate air contaminants. No emissions, dust, fumes, vapors, gases or other forms of air pollution shall be permitted in violation of the rules and regulations of the Texas Air Control Board, the Environmental Protection Agency or any other laws pertaining to environmental protection.

5.6.3. Exceptions from performance standards. The owner or operator of any building, structure, operation or use which violates any performance standard may file an application for a variance from the provisions thereof wherein the applicant shall set forth all actions taken to comply with said provisions and the reasons why immediate compliance cannot be achieved. The Board of Adjustment within the city of Fort Hancock may grant variances with respect to time of compliance, subject to terms, conditions and requirements, as it may deem reasonable to achieve maximum feasible compliance with the provisions of this section of the ordinance. In its determinations, the Zoning Board of Adjustment shall consider the following:

A. The magnitude of the nuisance caused by the violation.

B. The uses of property within the area of impingement by the violation.

C. The time factors related to study, design, financing and construction of remedial work.

D. The economic factors relating to age and useful life of the equipment.

E. The general public interest, welfare and safety.

F. Unique hardships

Section 5.7: Parking and Loading Requirements

5.7.1. PURPOSE: It is the purpose of this section to establish guidelines for parking spaces consistent with the proposed land use to:

(a) Reduce the occurrence of on-street parking throughout the city;

(b) Avoid traffic congestion and public safety hazards;

(c) Expedite the movement of traffic on public thoroughfares in a safe manner

and thus increase the carrying capacity of streets;

(d) Reduce amount of land required for streets and thus reduce costs for both the city and owner; and

(e) Ensure that parking facilities meet basic requirements.

Commentary: Parking requirements are important in any design and their purpose has to state that. Omitting the purpose/intent makes a section like parking less important.

5.7.2. GENERAL PARKING REQUIREMENTS:

(a) Area to be allocated for parking spaces shall be calculated based on the gross floor area of the building proposed. See Table of Parking Requirements below.

(b) While determining the number of parking spaces required as a result of calculation thereof, any fraction of one-half or less shall be disregarded and a fraction in excess of one-half shall be counted as one parking space.

(c) The Council recognizes that the Table of Parking Requirements cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit issuing authority is authorized to determine the parking requirements using the table as a guide.

(d) All parking proposed shall be located on the same lot with the proposed building or in a detached but dedicated lot, not more than 400 feet from the proposed building.

(e) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or other obstruction.

(f) Circulation areas and parking spaces shall be clearly designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles.

Commentary: These are minimum requirements. They are used as an extension of the purpose, and define the rules by which parking requirements to be gauged.

5.7.3. SPACE REQUIREMENTS:

(a) Each parking space should contain a rectangular area at least 18 feet long and 10 feet wide. For residential uses the width of the parking space need not be more than 9 feet. For parallel parking the dimensions of such parking spaces should not be less than 22 feet by 10 feet. See also Table of Parking Requirements below.

(b) Parking spaces may be aligned in any angles, as long as the rectangular area

conforms to the size mentioned above. See Table of Aisles and Angles below.

Commentary: These sizes are derived from models and other city ordinances. They are the minimum requirements.

5.7.4. TABLE OF PARKING REQUIREMENTS

<u>Permitted Use</u>	<u>Number of Parking Spaces</u>	<u>Additional requirements</u>
<u>A. Residential</u>		
<u>Single-family dwelling unit</u>	<u>2 per living unit</u>	
<u>Two-family dwelling unit</u>	<u>2 per living unit</u>	
<u>Multiple-family dwelling unit</u>	<u>1.5 per living unit</u>	
<u>Boarding houses, fraternities, and sororities</u>	<u>1 per living unit</u>	
<u>B. Educational and institutional uses</u>		
<u>Elementary and junior high schools</u>	<u>1 per each classroom, workshop, laboratory, or office</u>	<u>+1 per 200 square feet of auditorium, gymnasium, and cafeteria</u>
<u>Senior high schools</u>	<u>4 per each classroom, workshop, laboratory, or office</u>	<u>+1 per 200 square feet of auditorium, gymnasium, and cafeteria</u>
<u>C. Municipal, Neighborhood, and community buildings</u>	<u>1 per 250 square feet of net lease able area</u>	
<u>D. Libraries or Museums</u>	<u>1 per 250 square feet of net lease able area</u>	
<u>E. Churches</u>	<u>1 per 4 seats</u>	
<u>F. Auditoriums</u>	<u>1 per 100 square feet of net lease able area</u>	
<u>G. Day care facilities</u>	<u>2 minimum</u>	<u>+1 per every 10 children</u>
<u>H. Public buildings other than the above two levels of schools</u>	<u>1 per 250 square feet of net least able area</u>	
<u>I. Recreational and entertainment</u>		
<u>Theaters</u>	<u>1 per 3 seats</u>	
<u>Bowling alleys</u>	<u>5 per bowling lane</u>	
<u>Parks, athletic fields, tennis and pool facilities, golf courses, enclosed recreational buildings, specialized facilities and related uses</u>	<u>As determined by the Planning and Zoning Commission</u>	
<u>J. Gymnasiums, stadiums, field houses, grand stands, and related facilities</u>	<u>1 per 4 seats or spectator seats</u>	
<u>K. Other structures for use of gatherings or groups of people</u>	<u>1 per each 4 seats</u>	<u>Based on total capacity</u>
<u>L. Medical offices</u>	<u>1 per 200 square feet of net least able area</u>	
<u>M. Nursing homes and other institutions for care of the aged, disabled, or children</u>	<u>1 per each 2 beds</u>	
<u>N. Hospital, Medical center, other treatment facility</u>	<u>1 per each 2 beds</u>	<u>+1 per 350 square feet of net least able area for measurements of office, Clinic, testing, research, administrative and 1 per each 4 seats for teaching facilities</u>

<u>O. Commercial uses-General</u>	<u>1 per 200 square feet of net lease able area</u>	<u>Commercial uses-General should be defined in Commercial uses section and need not be described here</u>
<u>P. Commercial uses-Specific</u>		
<u>Office</u>	<u>1 per 350 square feet of net lease able area</u>	
<u>Home Occupation</u>	<u>1 per 200 square feet area for home occupation purposes</u>	
<u>Neighborhood groceries and Laundromats</u>	<u>1 per 400 square feet of net least able area</u>	
<u>Hotels and motels</u>	<u>1 per rental unit</u>	
<u>Auto sales, new and used</u>	<u>1 per 200 square feet of building area including repair shop</u>	<u>Total area used for calculations should exclude area allotted for display of cars</u>
<u>Eating and drinking establishments</u>	<u>1 per 50 square feet of area</u>	
<u>Drive-in eating and drinking establishments</u>	<u>1 per 30 square feet of area</u>	<u>Minimum 10 spaces</u>
<u>Drive-in Banks</u>	<u>1 per 350 square feet of net lease able area</u>	<u>+1 per 30 square feet of drive-in teller space, + customer drive-in spaces as determined by the P&Z</u>
<u>Shopping centers</u>	<u>5 per 1,000 square feet of net lease able area</u>	
<u>Q. industrial uses</u>		
<u>Specific warehouse and distribution</u>	<u>1 per 500 square feet of net lease able area</u>	
<u>Auto and junk yards</u>	<u>1 per 1700 square feet of land and building area</u>	
<u>Mini-warehouses</u>	<u>1 per storage area</u>	
<u>Other Industrial uses and industrial parks</u>	<u>As determined by the P&Z Commission</u>	

5.7.4: TABLE OF AISLES AND ANGLES

Angle in degrees

<i>UNIT/ANGLE OF PARKING</i>	<i>0</i>	<i>35</i>	<i>45</i>	<i>60</i>	<i>90</i>
<i>Stall, parallel to Aisle</i>	<i>23.0</i>	<i>18.0</i>	<i>12.7</i>	<i>10.4</i>	<i>9.0</i>
<i>Stall, perpendicular to Aisle</i>	<i>9.0</i>	<i>16.5</i>	<i>19.0</i>	<i>20.0</i>	<i>18.0</i>
<i>Aisle width, one-way</i>	<i>12.0</i>	<i>12.0</i>	<i>12.0</i>	<i>16.0</i>	<i>24.0</i>
<i>Aisle width, two-way</i>	<i>22.0</i>	<i>22.0</i>	<i>22.0</i>	<i>24.0</i>	<i>24.0</i>
<i>Cross Aisle, one-way</i>	<i>11.0</i>	<i>11.0</i>	<i>11.0</i>	<i>11.0</i>	<i>11.0</i>
<i>Cross Aisle, two-way</i>	<i>22.0</i>	<i>22.0</i>	<i>22.0</i>	<i>22.0</i>	<i>22.0</i>

*Note: All dimensions above are in feet*5.75. MAINTENANCE AND DESIGN SPECIFICATIONS:

(a) All aisles and stalls shall be paved with all-weather resistant material and drained in such a manner that runoff will be channeled into a storm water drain, or other outlets.

b) Any light used to illuminate or identify a parking or loading shall be placed so as to reflect the light away from the adjacent dwellings and so as not to interfere with traffic control devices (*Zoning ordinance of Hurst*). Areas unusable for parking or maneuvering space shall be landscaped. See parking with landscape

below.

5.76 PARKING EXCEPTIONS

a) Where several different property uses will share a joint parking area, the parking requirements shall be computed based upon overall development. This figure may be reduced by up to 20% if the various users need the spaces at different times of day.

b) Parking for the Physically Handicapped shall be provided so as to provide the most convenient access to entryways or to the nearest curb cut. Number of designated parking spaces shall comply with the standards listed below.

<u>Total Number of Spaces In a Parking Lot</u>	<u>Minimum Handicapped Parking Spaces</u>
<u>0-25</u>	<u>1</u>
<u>26-35</u>	<u>2</u>
<u>36-50</u>	<u>3</u>
<u>51-100</u>	<u>4</u>
<u>101-300</u>	<u>8</u>
<u>301-500</u>	<u>12</u>
<u>501-800</u>	<u>16</u>
<u>801-1,000</u>	<u>20</u>
<u>More than 1,000</u>	<u>20+3 for each additional 1,000</u>

(c) The minimum on-street parking requirements shall be reduced up to a maximum of 20 percent where an equal percent of the total parking are has been retained and developed as landscaped open space.

d) For existing uses, where required parking is not available due to a change in use or expansion of use, parking may be provided at a nearby lot, where that nearby lot is not already sharing with another use. Distance between the nearby lot and the existing building should not exceed 400 feet. The additional area provided for parking requirement in such cases, shall comply with the use expansion or change (see Table of Parking Requirements).

5.7.7. OFF-STREET LOADING REQUIREMENTS:

a) The intent of this section is to ensure that adequate off-street loading is provided with the construction, alteration, or change of use of any business or structure, or with any change in land use. Whenever the normal operation of any development requires that goods, merchandise, passengers, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and loading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner. The following minimum loading and unloading requirements shall be complied with in all districts:

- (i) All permitted or permissible uses requiring loading space for normal operations shall provide adequate loading space so that no vehicle being loaded or unloaded in connection with normal operation shall stand in or project into any public street, walk, alleyway, required front yard, or common ingress-egress easement;
- (ii) Adequate off-street loading facilities shall be separated and not considered to be a part of required off-street parking facilities;
- (iii) Loading areas shall be paved in conformance with paving requirements specified in off-street parking standards;
- (iv) Each off-street merchandise loading space shall be no less than 2 feet by 30 feet, and each off-street passenger loading space shall be no less than 10 feet by 22 feet, with a clear height of 12 feet.

The number of loading and unloading spaces provided shall satisfy the following standards:

<u>Gross Lease Able Area of Building</u>	<u>Number of spaces</u>
<u>1,000-19,999</u>	<u>1</u>
<u>20,000-79,999</u>	<u>2</u>
<u>80,000-127,999</u>	<u>3</u>
<u>128,000-191,999</u>	<u>4</u>
<u>192,000-255,999</u>	<u>5</u>
<u>256,000-319,999</u>	<u>6</u>
<u>320,000-391,999</u>	<u>7</u>

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

Section 5.8: Landscape Requirements

A landscaping section is necessary in any effective zoning ordinance. Landscaping requirements and regulations do more than enhance the aesthetics of property and cities. Landscaping provides shade, prevents run-off, promotes healthier air and soil, buffers incompatible land uses and creates a sense of place. Landscaping requirements and regulations are instrumental in creating a sustainable community, from an environmental perspective and an economic perspective. Appendix A is an example of a good, simple landscaping ordinance from the City of Grapevine. Fort Hancock would need an ordinance that would more appropriately address the unique climate of the area. The ordinance could promote xeriscaping through bonuses or certain exemptions. Xeriscaping is landscaping using native plants to the area that require little or no pesticides or fertilizers to grow. This helps reduce the amount of water being used, and reduces the amount of pollutants being washed into local creeks and rivers.

Section 5.9: Signage Regulations

The original section of the ordinance is cited, the revision and commentary briefly explaining the Fort Hancock sign regulations update. These revisions constitute a full replacement of Section 9.5 of the Fort Hancock Ordinance, and call for some changes in the Definitions section of the ordinance as well.

5.9.1 PURPOSE: The sign regulations are designed to ensure safety and protect the well being of the community within the City by primarily regulating construction, erection, sizes, aesthetics and maintenance of signs within the City.

Commentary: A purpose statement will ensure the legality of the regulations, as well as guide the entire section.

5.9.2. DEFINITIONS:

Commentary: Most definitions were scattered throughout the Definitions section of the ordinance, but some were here. All sign-related definitions have been moved to this section.

"Billboard" means a freestanding pole sign at least one hundred twenty-eight (128) square feet in size, and eight (8) feet above the ground surface which advertises or directs attention to a business, product, service, or event, not appurtenant to the use(s) of the property on which it is located.

"Sign" means any surface, fabric, device, display or visual medium, including the component parts, which bears letters, pictorial forms or sculptured matter, including logos, used or intended to be used to convey information or to attract attention to the subject matter of such sign. Graphics painted upon the side of a building which carry no advertising shall not be construed to be a sign, except where such graphics pictorially display products or business that convey an advertising intent. The term "sign" includes the sign structure.

"Sign area" means the total that will contain the entire sign excluding architectural embellishments and supports on neither of which there is displayed any advertising material or lighting.

"Sign, free standing" means a sign attached to or supported from the ground and not attached to a building.

"Sign, ground" means any sign mounted on freestanding poles or columns, not attached to a building that is anchored in the ground.

"Sign, internally illuminated" means any sign where the source of illumination comes from within or directly behind the sign itself, as opposed to light that is illuminated on to a sign.

"Sign, monument" means a sign anchored in the ground, and not elevated by any columns or poles, usually constructed of some type of masonry or naturally based rock form.

"Sign, portable" means any sign designed to be easily moved from one location to another, usually attached/atop a trailer or wheels.

"Sign, temporary" means a sign that is constructed and/or intended to be used for less than 15 days.

"Sign, wall" means a sign ,flush to the exterior surface of a building, whether applied directly on the building or a signboard attached flush to the building, either of solid face construction or individual letters attached to the exterior of any building or structure.

5.9.3. EXEMPTIONS:

Commentary: The following text is from Section 17 Definitions, # 103. "Signs" means a device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be constructed to be a sign:

--Flags or government insignias, except when used in commercial displays.

--Integral decorative or architectural features on buildings, except letters, trademarks, moving parts or moving lights.

--Illustration of names of occupants, post office box numbers, and property numbers when smaller than one square foot.

--Legal notice of identification, informational, or directional signs erected or required by governmental bodies.

--Private traffic signs bearing no advertising matter.

--Real estate advertising of the property on which the sign is located provided that the area of the sign or group is less than (5) square feet.

--Signs denoting the name and address of the occupants of the premises, the number of which shall not exceed three (3) and the area shall not exceed one (1) square foot.

--Professional nameplates that shall not exceed three (3) in number and the area of which shall not exceed one (1) square foot.

--Signs for home occupation, the number of which shall not exceed one (1) and the area of which shall not exceed (1) square foot.

--Signs for private day-care facilities and kindergartens, the number of which shall not exceed one (1) and the area of which shall not exceed one (1) square-foot.

--Signs denoting the architect, engineer, or contractor placed on the premises where construction, repair, or renovation is in progress, with a combined total surface area

not exceeding four (4) square feet. If the sign is part of a new site plan, the sign will be reviewed during the normal site plan process.

--Signs for a temporary garage or yard sale which shall be located on the premises where the sale is conducted, the number of which shall not exceed one (1) and the area of which shall not exceed two (2) square feet.

Commentary: The ordinance is regulating what is considered exempt from the sign regulations in the general Definitions section. The exemptions should be listed in the actual sign regulations. As is, one would have to read the entire ordinance or already be familiar with the entire ordinance.

Revision

Exemptions: The following types of signs are exempt from this section of the ordinance:

- (a) Government signs;
- (b) Utility signs;
- (c) Transportation authority sign;
- (d) Vehicle signs;
- (e) Residential sale and rent signs;
- (f) Lot sale signs;
- (g) Political signs;
- (h) Directional signs;
- (i) Temporary signs;
- (j) Flags or government insignias except when used in commercial displays;
- (k) Signs used to advertise an event sponsored by a non-profit organization or religious organization.

Commentary: Some exemptions, such as home occupation and home name and address signs have been replaced with exemptions that might have less of a negative impact such as vehicle signs and utility signs.

5.9.4. PERMIT REQUIREMENTS AND PROCESS:

Original: Applications for permits for new signs shall contain:

- (a) The signature of the applicant;
- (b) The name and address of the sign owner and sign erector;
- (c) Three scaled lines drawings showing the design and dimensions of the sign and standard sign structure
- (d) Three scaled lined drawings of the site plan or building facade indicating the proposed location of the sign, and all other existing signs maintained on the premises and regulated by this ordinance.

Revision:

Applications for permits are made to the office of the building official. The office of the building official has three weeks to review and approve or deny a sign application. If the sign is part of a new sit plan, the sign will be review during the normal site plan process.

The building official shall enforce and administer the provisions of the sign regulations. The Planning and Zoning Commission is authorized to hear and administer all appeals.

Two week temporary permits may be granted. The drawings are not required for temporary permits although the application fee is still required. Portable signs and banners are allowed with two-week temporary permits to advertise a special event.

Applications for permits must contain:

- (a) The signature of the applicant;
- (b) The name and address of the sign owner and party erecting the sign;
- (c) Three scaled line drawings showing the design and dimensions of the sign and standard sign structure;
- (d) Three scaled line drawings of the site plan or building facade indicating the proposed location of the sign, and;

Commentary: The revised permit process specifies the actual process a little more including a section on temporary permits, responsible parties and length of process.

5.9.5. PROHIBITED SIGNS

Original:

- (a) Any sign shall pertain only to a business, industry, or pursuit lawfully conducted on or within the premises on which such sign is erected or maintained;
- (b) No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; no sign of any kind shall be attached to a standpipe or fire escape;
- (c) No sign shall be erected at the intersection of any streets in a manner which obstructs free and clear vision; or at any location where by reason of position, shape or color it may interfere with, or obstruct the view of, or be confused with any authorized traffic sign, signal, or device; or which make use of the words "STOP," "LOOK," "DANGER," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic;
- (d) It is unlawful for any person to display on any sign or other advertising structure any obscene, indecent, or immoral matter;
- (e) Except for electrically activated gas tubing, sign illumination shall be either indirect with the source of light concealed from direct view or shall be translucent

light diffusing materials.

(f) There shall be no exposed electrical conduits;

(g) No sign shall flash, blink, vary in intensity, revolve, or otherwise appear to be in motion;

(h) No sign shall have movable parts except that those signs or marquees having design and construction features for changing of legend or inscription may be approved;

(i) No sign shall be erected or maintained on or over public property; except for wall signs projecting over a front property line where the building wall is less than one (1) foot from the property line; providing such sign shall not impede or endanger pedestrian or vehicular traffic;

(j) No sign shall be placed or constructed unless a building and zoning permit shall have been erected.

(k) No sign shall flash, blink, vary in intensity, revolve or otherwise appear in motion.

(l) No portable signs or banners are permitted without a temporary permit.

Revision:

Prohibited Signs include:

(a) Signs erected or maintained on public property unless a permit granting temporary use is issued.

(b) Signs on private property without the consent of the owner.

(c) Unsafe signs, including but not limited to:

(i) Any sign that is physically endangering people or property.

(ii) Any sign that misleads people unjustifiably causing danger.

(iii) Any sign that obstructs the view of pedestrian or vehicular traffic.

Commentary: The revised Prohibited regulations are written in their own section so that a reader can find this section easily. The prohibited uses were edited down for clarity; the prohibited uses that were left out of the revised edition were either obvious or redundant.

5.9.6. REGULATIONS FOR SPECIFIC ZONING DISTRICTS

Original:

W. In RE, R-1, R-2, R-3 and UM Districts, no sign intended to be read from off the premises shall be permitted except there may be:

(a) Not more than two (2) identification signs, with combined surface area not

exceeding twenty (20) square feet;

(b) No such sign shall exceed ten (10) feet in height;

(c) Any such sign shall be parallel to the front lot line adjoining public property and such signs erected on corner lots may be oriented parallel to either front lot line at election of owner.

Revision: RE, R-1, R-2, R-3, R-M1, R-M2, and A-1 Districts Permitted Signs

(a) One monument sign not to exceed 15 square feet is allowed per development to mark subdivisions, duplex developments or multi-family developments.

(b) Multi-family residential developments are allowed to erect one monument sign and one wall sign per 50 housing units. The monument sign cannot exceed 15 square feet and the wall sign cannot exceed 60 square feet.

Commentary: Instead of using a wordy, double negative phrase for a regulation such as "no sign...permitted...except...not more than," the revised residential sign section permits signs of certain size and type. Signs are only permitted to notify/announce subdivisions and multi-family homes.

Original:

X. In C-1, C-2, M-1 , M-2 and SU-1 Districts, no sign intended to be read from the premises shall be permitted except there may be:

(a) For one business establishment on the premises, not more than three (3) signs, any one of which shall not exceed eighty (80) square feet shall three of which shall not exceed one hundred fifty (150) square feet;

(b) For two business establishments on the premises, not more than four (4) signs total, any one of which shall not exceed eighty (80) square feet in area and all of which for any one business establishment shall not exceed eighty (80) square feet;

(c) For three or more business establishments on the premises, one (1) sign with one (1) square foot of surface area for each one lineal foot of lot frontage on a public street, for the purpose of general identification of the entire premises, in any event not to exceed one hundred fifty (150) square feet. In addition, one (1) sign with one (1) square foot of surface area for each one lineal foot of building frontage not to exceed eighty (80) square feet per business establishment;

(d) No permitted sign shall exceed twenty-five (25) feet in height.

Revision: C-1, C-2, M-1, M-2, and PUD Districts Permitted Signs

(a) For one business establishment on the premises, not more than 2 signs are

allowed, any one of which may not exceed sixty square feet and both not to exceed 100 square feet.

(b) Where two or more business establishments utilize a common building, they shall collectively only be entitled to one square foot of surface sign area for each one lineal foot of lot frontage on a public street in any event not to exceed 150 square feet. The sign division within the development is the responsibility of the property owner or their management company. The common building is allowed one around or monument sign not to exceed 80 square feet. In addition, one wall sign with one square foot of surface area for each one lineal foot of building frontage not to exceed eighty square feet per business establishment.

(c) No sign shall exceed 25 feet in height.

Commentary: Slightly stricter sign regulations in commercial areas should improve the aesthetics of the city.

5.9.7. MAINTENANCE AND REMOVAL OF SIGNS

Original: Any sign now or hereafter existing which no longer advertise a bona fide business conducted or a product or a product sold shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, lot or structure upon which such sign may be found.

Whenever a sign is removed from a building or structure, the building or structure shall be cleaned, painted or otherwise altered and all sign supports, brackets, mounts, utilities or other connecting devices shall be removed so that there is no visible trace of the removed sign or the supports, brackets, mounts, utilities or other connecting devices. Upon failure to comply with the provisions of this section, the city zoning administrator's office is authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the premises.

Commentary: There is no real maintenance section, but there are related regulations.

Revision: Signs should be kept in good repair and neat in appearance, including but not limited to the replacement of lights and new paint. All structural aspects of signs should be checked for safety regularly.

Whenever a sign is removed from a building or structure, the building or structure shall be cleaned, painted or otherwise altered and all supports, brackets, mounts, utilities or other connecting devices shall be removed so that there is no visible trace of the removed sign.

If the building official deems a sign is not being maintained well or the sign removal has not been completed, a notification letter will be sent to the property owner giving the owner 30 days to correct any mentioned problems. If the problem is not corrected within 30 days, the building official can choose to remove or disassemble the sign or fine the property owner in accordance with the provisions of Section 19 of this Ordinance.

Commentary: The revised section enforces the same regulations in the original ordinance as well as requiring regular maintenance of signs, and penalties for disregard of such maintenance. This new section will help enhance the appearance of signs.

5.9.8. NONCONFORMING SIGNS

Original:

Y. Any sign or advertisement structure lawfully existing on the effective date of this ordinance but which does not conform to this ordinance may be required to be removed by the City. The City Council may, after notice to the owner or occupant of the premises on which the sign is located, declare that such sign or advertising structure be removed in the public interest. The City Clerk shall then contact two sign companies in the area for a written appraisal of the value of the sign or advertising structure and payment by the City of the higher appraised value to the owner thereof or to the occupant of the premises on which the sign or advertising structure is located.

Revision:

All signs that were legally permitted before the effective date of this ordinance and are not in compliance with this ordinance shall be considered legally existing nonconforming signs.

Legal nonconforming signs will be kept in good repair.

Any permanent nonconforming sign shall, within two years of the effective date of this ordinance be altered to comply with these regulations.

Nonconforming temporary or portable signs shall be removed or comply with this ordinance no later than 90 days after the effective date of this ordinance.

Commentary: Nonconforming signs are more clearly defined, and an amortization is included in the revision. These additions help phase out nonconforming signs.

ARTICLE 6: ADMINISTRATION AND ENFORCEMENT

Section 6.1 Conditional Use Permits

6.1.1. PURPOSE. This section provides the City Council the opportunity to deny or to conditionally approve those uses for which conditional use permits are required. These uses generally have unusual nuisance characteristics or are of a public or semipublic character often essential or desirable for the general convenience and welfare of the community. Because, however, of the nature of the use, the importance of the use's relationship to the comprehensive plan, or possible adverse impact on neighboring properties of the use, review, evaluation and exercise of planning judgment relative to the location and site plan of the proposed use are required.

6.1.2. PERMITS REQUIRED. A building permit or certificate of occupancy shall not be issued for any use to be located in a zoning district which permits that use only as a conditional use unless a conditional use permit has first been issued in accordance with the provisions of this section.

6.1.3. APPLICATION PROCEDURE. An application for a conditional use permit shall be filed with the planning and zoning commission. The application shall be accompanied by a site plan, which, along with the application, will become part of the conditional use permit, if approved. The accompanying site plan shall provide the following information:

- (a) Data describing all processes and activities involved with the proposed use;
- (b) Boundaries of the area covered by the site plan;
- (c) The location of each existing and proposed building and structure in the area covered by the site plan and the number of stories, height, roofline, gross floor area and location of building entrances and exits;
- (d) The location of existing drainage-ways, and significant natural features;
- (e) Proposed landscaping and screening buffers;
- (f) The location and dimensions of all curb cuts, public and private streets, parking and loading area, pedestrian walks, lighting facilities and outside trash storage facilities;
- (g) The location, height and type of each wall, fence, and all other types of screening;
- (h) The location, height and size of all proposed signs.
- (i) Bearings, and street frontage of the property;
- (j) Screening, lighting, and landscaping;

(k) The locations, calipers, and common names of all trees near proposed construction activity (trees in close proximity that all have a caliper of less than eight inches may be designated as a "group of trees" with only the number noted);

(l) A traffic impact analysis; and

(m) Any other information the Planning Commission determines necessary for a complete review of the proposed development.

6.1.4. CONDITIONS OF APPROVAL. A conditional use permit shall be issued only if all of the following conditions have been found:

(a) The conditional use will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair the normal and orderly development and improvement of surrounding property;

(b) The use will not be detrimental to the public health, safety or welfare;

(c) Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

(d) The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

(e) Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;

(f) Directional lighting will be provided so as not to disturb or adversely affect neighboring properties;

(g) There are sufficient landscaping and screening to insure harmony and compatibility with adjacent property;

(h) The location and size of the use, the nature and intensity of the operations involved and the size of the site in relation to it shall be in harmony with the orderly development of the district;

(i) The location, nature, and height of buildings, walls and fences shall be such as will not discourage the permitted use of adjacent land and buildings.

(j) No conditional use shall be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights than any other use allowable without permit under the provisions of this ordinance: and

(k) The proposed use is in accordance with the comprehensive plan.

In authorizing a conditional use permit, the city council may impose additional

reasonable conditions necessary to protect the public interest and welfare of the community.

6.1.5. TIME LIMIT. A conditional use permit issued under this section shall expire two years after its date of issuance if construction or use authorized there under is not substantially under way prior to the expiration of said two-year period; however, if, prior to the expiration of such two-year period, the owner of property to which a conditional use permit applies requests, in writing, an extension thereof, the city council, after recommendation from the planning and zoning commission, may approve such extension for not more than two additional years.

6.1.6. REVOCATION. A conditional use permit may be revoked or modified, after notice and hearing, for either of the following reasons:

(a) The conditional use permit was obtained or extended by fraud or deception;

(b) One or more of the conditions imposed by the permit has not been met or has been violated.

6.1.7. AMENDMENTS. The procedure for amendment of a conditional use permit shall be the same as for a new application, provided, however, that the city manager may approve minor variations from the original permit which do not increase density, change traffic patterns or result in any increase in external impact on adjacent properties or neighborhoods.

6.1.8. DISTRICT CHANGES: Conditional Use Permits shall not be considered zoning district changes.

6.1.9. EXPIRATION. A conditional permit shall be deemed to authorize only one particular use and shall expire if the conditional use shall cease for more than six months for any reason.

6.1.10. EXISTING VIOLATIONS. No conditional permit shall be issued for a conditional use for an existing building, which is in violation of any provision of this ordinance.

6.1.11. PROCESSING FEE. A processing fee shall be required for the processing of each conditional use permit request.

Commentary: The ordinance needed guidelines/criteria for granting or denying conditional use permit applications. The current method of having a "special use zone" is confusing and may even conflict with Texas enabling law.

Section 6.2. Planning and Zoning Commission (P&Z)

6.2.1. PURPOSE. A Municipal Planning and Zoning Commission is hereby established for the purpose of preparation, updating and implementing a comprehensive plan or other specific plans through various means such as zoning,

subdivision, annexation, and other related techniques. The City Council shall have final authority on all Conditional Use Permits, and subdivisions.

Commentary: Change special use permit to conditional use permit throughout the ordinance. These terms were used interchangeably, which should not be the case. It is less confusing if all terms in question are called conditional use permits.

6.2.2. APPLICATION PROCEDURES. Application for all zoning districts changes, conditional use permits, annexations, initial zonings, and zoning text amendments shall be submitted to the Planning and Zoning Commission. Any landowner or governmental agency may submit an application.

Commentary: Change special use permit to conditional use permit throughout the ordinance. Also, there was a small grammar change.

(5) Variances. A variance shall be defined as a variation in the numerical requirements of this ordinance. Use variances to the provisions of this ordinance shall not be permitted unless specifically recommended by the Board of Adjustment and approved by the planning and zoning commission.

Commentary: This section should be removed for several reasons. "Variance" is already defined in the definitions section. It does not need to be located under the Planning and Zoning Commission." Also, the Board of Adjustment does not need approval from P&Z. According to the Texas Local Government Code 211.008-.009, "Authority of the Board" mentions nothing about approval from P&Z.

Original: (7) *Public Hearing and Notice Requirements.* A public hearing is required for all requests for a zoning district change, zoning text amendment, future land use plan change, Conditional use permit, annexation, and initial zoning. Whenever such request is proposed, notice of the public hearing shall be sent certified mail to all property owners, as shown by the records of the country assessor, within the proposed area of the change and within at least three hundred (300)feet of the area of the proposed change or request, excluding streets, alleys, channels, canals, other public rights-of-way, and railroad rights-of-way: Notice to said property owners shall be mailed at least ten (10) days prior to the required public hearing notice of the time and place of the public hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation in the city.

Revision: 6.2.3 PUBLIC HEARING AND NOTICE REQUIREMENTS. Upon receiving an application for a zoning district change, zoning text amendment, future land use plan change, conditional use permit, annexation, or initial zoning, the plan commission shall review the application in conjunction with the standards set forth in this section. After due investigation and review, if the application is tentatively approved, a public hearing shall be authorized and conducted in the following manner: The plan commission shall hold a public hearing on the application within 60 days after its receipt. Written notice of the hearing shall be given to the applicant and to all persons who own property with in 200 feet of the proposed conditional use. A notice of the hearing shall be published at least 15 days prior to the hearing in a newspaper of general circulation in the city. All notices shall be at the applicant's expense. Within 30 days after the public hearing, the conditional use permit shall be

granted or denied. In granting the conditional permit, the plan commission shall be authorized to permit the use applied for subject to such reasonable conditions as it may impose. These conditions may contain such requirements for improving, maintaining, operating, and screening the conditional use as will protect the character of the surrounding property. City Council has final permit approval authority, and may use the recommendation of the planning and zoning commission to determine whether to approve or deny the application.

Commentary: Replace special use permit with conditional use permit for uniformity throughout the ordinance, because the two terms were improperly interchanged. Changes had to be made in some of the requirements in this section, to be in accordance with the enabling acts. The following are the relevant sections of the local government code.

"§ 211.007 Zoning Commission (c) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Section 2 1 1.006(a)."

"211.006 (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality."

Original: (6) Planning and Zoning Composition, Organization and Powers. The number of members, length of terms, and appointments to the Planning and Zoning Commission shall be set by ordinance by the City Council. Organizational structure of the Commission, powers, etc., shall also be set by separate ordinance by the city council.

Revision: 6.2.4. COMPOSITION, ORGANIZATION AND POWERS. The mayor, with the approval of the city council, may appoint members to the planning and zoning commission. The planning and zoning commission must be composed of at least five citizens who reside in the city zoning area. A zoning commission member is appointed for a renewable term of two years.

Commentary: Guidelines should be listed in this section. This section deals with "Planning and Zoning Composition, Organization and Powers," and therefore I feel should specify what those terms and definitions are. The revision gives a suggested definition, which is based on the Local Government Code's listing of a neighborhood advisory zoning council.

6.2.5. RESUBMITAL OF APPLICATION. An application for a zoning change or conditional use permit on a parcel of land shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon at a public hearing of the planning and zoning commission, except application may be made for a different zoning change or conditional use permit on a parcel of land six (6) months after such a previous action has been taken. In addition, any reapplication for a different zoning district change shall be permitted if an additional double fee is charged.

Commentary: Replaced special use permit with conditional use permit for uniformity throughout the ordinance.

Section 6.3: Zoning Board of Adjustment (ZBA)

Commentary: The current ordinance names the members of P&Z Commission as the members of the ZBA. This seems unusual since the ZBA should be in the position to hear appeals of administrative decisions. Also, in the current Section 3-5 Variances: the ZBA recommends variances and the P&Z approves them. Legally it is best if the ZBA is a separate body, and the P&Z Commission has no power to overrule the ZBA's variance decisions.

Having examined the current zoning board of adjustment ordinance for the City of Fort Hancock have determined that a rewrite is necessary. The reasons are as follows:

The membership of and the organization of the board do not comply with the Texas Local Government Code.

The membership of the board and its proceedings need to be spelled out more clearly and specifically.

The powers of the board need to be spelled out more thoroughly.

The procedures, standards, and circumstances for granting appeals and special exceptions need to be spelled out.

Given the reasons above, the current zoning board of adjustment section needs to be rewritten in its entirety. I have consulted many examples of current zoning board of adjustment ordinances and model ordinances. The following is the adaptation of ordinances that have made for the City of Fort Hancock.

6.3.1. ESTABLISHMENT: A Zoning Board of Adjustment is hereby reestablished in accordance with the provisions of Texas Local Government Code, 21 1.008, regarding the zoning of cities and with the powers and duties as provided in said Code. The Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, is authorized to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

The Zoning Board of Adjustment shall consist of five (5) members, each to be appointed by the City Council for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies will

be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. Three (3) members shall serve until January 1 of odd-numbered years. as heretofore appointed, and two (2) members, as heretofore-appointed, will serve until January 1 of even-numbered years, and thereafter each member reappointed or each new appointee will serve for a full term of two (2) years unless removed as hereinabove provided. The City Council may also appoint four (4) alternate members of the Board who will serve in the absence of one or more of the regular members when requested to do so by the chairman of the Board, so that all cases to be heard by the Board will always be heard by a minimum number of four (4) members. These alternate members, when appointed, will serve for the same period as the regular members which is for a term of two (2) years, and any vacancy will be filled in the same manner and they will be subject to removal by the same means and under the same procedures as the regular members.

6.3.2. HEARINGS: The hearings of the Board will be public. Public notice will be given, including mail notice to all identified parties and interests listed below, no less than 10 days before the hearing. The Board will hear the testimony of any owner of property adjacent to, in the rear of, across the street, or within 200 feet from a lot as to which the granting of any permit is pending, and will also hear any other parties that are on the current tax rolls of the city. All hearings are to be heard by at least four (4) members of the Board.

6.3.3. MEETINGS: Regular meetings of the Board will be held at such times as the Board may determine. Special meetings of the Board will be held at the call of the chairman or at the written request of two regular members of the Board, said request to be submitted to the Chairman.

6.3.4. RULES AND REGULATIONS: The Board will keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and will keep records of its examinations and other official actions, all of which will be immediately filed in the office of the Board and will be public record. The Board shall act by resolution in which four (4) members must concur. The Board will adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the ordinance, and will furnish a copy of the same to the Zoning Administrator and the Building Inspector, all of which rules and regulations will operate uniformly in all cases. All of its resolutions and orders will be in accordance therewith.

Each member of the Board will attend no less than 75% of the regular meetings called by the officers of the Board. The secretary of the Board will make a quarterly report to the Mayor and City Council showing the attendance of each member of the Board. Any representative failing to attend 75% of the regular meetings legally called during any calendar year without an excused absence, as determined by a majority vote of the Board members, will be automatically disqualified for service on the Board and shall be replaced with a new Board member, by vote of the City Council. Should any member of the Board move from the City or otherwise become disqualified for any reason, he/she will be deemed to have vacated the office.

There shall be no limit on the number of terms a member may serve, provided the

member is reappointed by the City Council.

6.3.5. POWERS AND DUTIES: The Board will have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official of the city in the enforcement of this ordinance.

Commentary: The section dealing with special exceptions has been deleted because all the cases listed as needing special exceptions have either been dealt with elsewhere (for example, construction of carports or porches in front yard setbacks), or should be handled in another manner (for example, allowing mobile homes or railroad structures in zones where they are not permitted or conditional uses should be handled via a rezoning request), or should not be allowed (for example, rebuilding a nonconforming use that was more than 50% destroyed). As written, this section gives too much discretion to the ZBA and may well be responsible for some of the enforcement and appearance problems that Fort Hancock is experiencing.

The concurring vote of four members of the board is necessary to:

- (a) reverse an order, requirement, decision or determination of an administrative official;
- (b) decide in favor of an applicant on a matter on which the board is required to pass; or
- (c) authorize a variation from the terms of a zoning ordinance.

6.3.6. PROCEDURE: Appeals may be taken to and before the Zoning Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau in the City. Such appeal shall be made by filing with the office of the Board a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Zoning Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal is taken.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the City. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

6.3.7. REAPPLICATIONS: When the Board has denied a proposal no new applications of similar nature shall be accepted by the Board or scheduled for twelve (12) months after the date of Board denial. Applications that have been withdrawn at or before the Board meeting may be resubmitted at any time for hearing before the Board.

6.3.8. CHANGES: The Board shall have no authority to change any provisions of this ordinance and its jurisdiction is limited to hardship cases that may arise from time to time. The Board may not change the district designation of any land either to a more or less restrictive zone.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, that such questions shall be presented to the Board only on appeal from the decision of the Building Official and that recourse from the decisions of the Zoning Board of Adjustment shall be to the courts as provided by the laws of the State of Texas.

Section 6.4: Variances

6.4.1. POWERS: The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

(a) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions provided such variance will not seriously affect any adjoining property or the general welfare.

(b) Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alterations of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the Board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship, or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and at the same time, the surrounding property will be properly protected.

(c) Carry out all duties assigned to it in the section on Nonconformities, below.

Section 6.5: Nonconformities

6.5.1. NONCONFORMING LOTS, STRUCTURES, USES AND

CHARACTERISTICS OF USES. Within the districts established by this ordinance or amendments that may later be adopted there exist:

- (a) Lots,
- (b) Structures,
- (c) Uses of land and structures, *or*
- (d) Characteristics of use

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. It is not the intent of this ordinance to authorize, and this ordinance shall not be construed to authorize, uses that constitute public or private nuisances or are otherwise prohibited by law or regulations.

Nonconforming uses are declared by this ordinance to be incompatible with, or not within the meaning of, permitted uses in the district in which they are located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment or additions on a building or premises or by placement of additional signs intended to be seen from off premises or by the addition of other uses, of a nature which would not be permitted generally in the district involved.

Commentary: The section below refers to hardship related to ongoing construction when the ordinance is passed. The ordinance clearly defines "actual construction," but it does not define "diligently," the restriction placed on how the construction is being conducted. See the following underlined changes -that have been made for clarity, especially important in Fort Hancock.

6.5.2. CONSTRUCTION ACTIVITIES. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently according to the city's building inspector and within the timeframe outline in the required permits.

Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently as determined by the city's building inspector.

Commentary: There is no requirement to register nonconforming situations. Recommend Certificates of Occupancy be required for nonconformities to establish

*the date a structure, use or characteristic of use becomes nonconformity.
Recommend this fourth paragraph be added to the end of Subsection1:*

All nonconforming lots, structures and uses must apply for a Certificate of Occupancy within 60 days of the passage of this ordinance.

6.5.3: NONCONFORMING LOTS OF RECORD. In any district in which single- family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of this ordinance. Such lots must be in separate ownership. This provision shall apply even though such lots fail to meet the requirements for the area, width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area, width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

NONCONFORMING USES OF LAND WITH MINOR STRUCTURES

Commentary: This section includes a \$7,000 price limit on structures, probably (according to the APA Model Zoning Ordinance, from which this section was taken) to avert problems that might be raised by the existence of a shed or shack on (otherwise vacant) premises. This is not a critical part of Fort Hancock's current situation; in fact, the opposite is true: Fort Hancock needs ways to legally remove structures that are not in compliance. Thus we recommend this section be deleted from the ordinance and that the city implement an amortization schedule to remove nonconformities as soon as possible. (See next entry.)

6.5.4: NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures, or structures and premises in combination; exists at the effective date of adoption or amendment of terms of this ordinance, the lawful use may be continued until the compliance date as established by the Board of Adjustment. The use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.

The Board of Adjustment shall, in accordance with the law, provide a compliance date for the nonconformity under a plan whereby the owner's actual investment before the time that the nonconformity was created can be amortized within a definite time period. The board will consider the following factors in determining a reasonable amortization period:

(a) The owner's capital investment in nonconforming structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the nonconformity was created by passage of this ordinance or an amendment to it.

(b) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(c) Any return on investment since inception of the use, including net income and depreciation.

(d) The anticipated annual recovery of investment, including net income and depreciation.

Commentary: Recommend the price reference for structures be removed (see above) and that amortization be implemented to eliminate all non-conforming uses as soon as possible.

6.5.5. CONTINUANCE OF NONCONFORMITIES: Until the compliance date, the nonconformity may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(b) Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption of this ordinance, but no such use shall be extended to occupy any land outside such building.

(c) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(e) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction.

Commentary: In the original paragraph c of this section, the Board of Adjustment is given the authority to grant a Special Exception to approve the change of one non-conforming use to another non-conforming use. Recommend this paragraph be

deleted so that substitution non-conforming uses cannot occur in any form, Special Exception or not. While a substitution non-conforming use may be more appropriate in a zoning district than a current non-conforming use, allowing the substitution serves to encourage further non-conforming uses, which defeats the purpose of the section.

6.5.6. REPAIRS AND MAINTENANCE: On any nonconforming structure or portion of a structure, or conforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on repairs to an extent not exceeding twenty-five percent of the current replacement cost of the nonconforming structure or portion of the structure, provided that the enclosed area existing when it became nonconforming shall not be increased.

Commentary: The language has been clarified, restrictions on types of repairs have been removed (including the second and third paragraphs of the current section) and the dollar amount allowed for repairs has been increased. The purpose of these changes is to allow property owners to keep their property in good repair. Restrictions such as those in the current ordinance sometimes prevent owners from maintaining their properties, thus contributing to poor neighborhood appearance and eventual decline.

6.5.7. OTHER USES NOT NONCONFORMING USES: Any use which is permitted as a conditional use or a variance from the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

Commentary: To make the language within the zoning ordinance consistent, references to Special Exception in this section have been changed to Conditional Use. An additional change is to delete the text about substitution of nonconforming uses.

Section 6.6 Building Permits and Certificates of Occupancy

6.6.1. BUILDING PERMITS REQUIRED: No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this ordinance, unless he receives a written order from the Board of Adjustment in the form of an administrative review or variance as provided by this ordinance.

6.6.2. APPLICATIONS: Applications for building permits must be in strict compliance with the provisions set forth in the ordinances of the City of Fort Hancock, Texas. All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of all structures already existing, if any, and the location and dimensions of the proposed structure or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and

provide for the enforcement of this Ordinance.

The application shall be accompanied by a site plan that should provide the following information:

- (a) Boundaries of the area covered by the site plan;
- (b) Location of each existing and proposed building and structure in the area;
- (c) The location of existing drainage ways and significant natural features;
- (d) Proposed landscaping and screening buffers;
- (e) The location and dimensions of all curb cuts, public and private streets, parking and loading areas, pedestrian walks, lighting facilities, and outside storage facilities;
- (f) The location, height and type of each wall, fence and all other types of screening; and
- (g) The location, height and size of all proposed signs.

One copy of the plans shall be returned to the applicant by the administrative official, after he or she shall have marked such copy either as approved or disapproved and attested to it by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the administrative official.

6.6.3. CERTIFICATES FOR NEW, ALTERED, OR NON-CONFORMING USES: It shall be unlawful to use or occupy or permit the use or occupancy of any structure, land, or part thereof hereafter created, erected, converted, altered or enlarged in its use or dimensions until a certificate of occupancy shall have been issued by the administrative official stating that the proposed use of the structure or land conforms to the requirements of this ordinance.

No nonconforming structure or use shall be maintained, renewed, or changed until the administrative official shall have issued a certificate of occupancy. The certificate of occupancy shall state specifically how the nonconformity differs from the provisions of this ordinance, provided that upon enactment of this ordinance, owners or occupants of nonconformities shall have 90 days to apply for certificates of occupancy. Failure to make such application within 90 days shall be presumptive evidence that the property was an illegal nonconformity at the time of enactment or amendment of this ordinance.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of occupancy, and the certificate shall be issued in conformance with the provisions of this ordinance upon completion of the work.

The administrative official may issue a temporary certificate of occupancy for a period not to exceed six months during alterations or partial occupancy of a

building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

The administrative official shall maintain a record of all certificates of occupancy, and a copy shall be furnished upon request to any person.

Failure to obtain a certificate of occupancy shall be a violation of this ordinance and punishable under the Penalty section of this ordinance.

Commentary: Some cities use a separate Certificate of Zoning Compliance for nonconformities. Since Fort Hancock is a small city we thought the Occupancy Certificate could serve in this role, but if the city prefers to use a separate Zoning Compliance Certificate that is fine too.

6.6.4. EXPIRATION OF BUILDING PERMIT. If the work described in any building permit has not begun with 90 days from the date of issuance thereof, said permit shall expire; the administrative official shall cancel it, and written notice thereof shall be given to the persons affected.

If work described in any building permit has not been substantially completed within two years of the date of issuance, said permit shall be cancelled by the administrative official, and written notice shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

6.6.5. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS, PERMITS AND CERTIFICATES: Building permits or certificates of occupancy issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction, as further stipulated in ordinances adopted by the City of Fort Hancock. Use, arrangement, or construction at variance with that authorized shall be a violation of this ordinance, and punishable as provided the Penalties section below.

6.6.6. FEES: Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for building permits, sign permits, conditional use permits, variances and other administrative relief. The amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the city council filed in the office of the city clerk.

Fees established in accordance with the above paragraph shall be aid upon submission of a signed application or notice of appeal.

Section 6.7: Penalty-Continuing Violations

Any violation of this ordinance in addition to any other remedy or punishment provided by law or ordinance is punishable by a fine of not more than \$500.00.

Every day that any such violation continues constitutes a separate offense.

Section 6.8: Severability

If any portion of this ordinance is found to be invalid, all remaining parts of this ordinance shall remain in force; the provisions of this ordinance are severable.

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