

**34.3     Repairs/Normal Maintenance on Non-Conforming Uses Permitted**

Repairs and normal maintenance may be made to a non-conforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

**34.4     Change of Non-Conforming to Conforming Use**

Any non-conforming use may be changed to a conforming use and once such change is made, the use shall not thereafter be changed back to a non-conforming use.

**34.5     Abandonment/Discontinuation of Non-Conforming Use**

Whenever a non-conforming use is abandoned, all non-conforming rights shall cease and the use of the premises shall thenceforth be in conformity with this ordinance. Abandonment shall involve the intent of the user or owner to discontinue a non-conforming operation and the actual act of discontinuance. Discontinuance of a business or the vacancy of a building or premises occupied by a non-conforming use for a period of six (6) months shall be construed as conclusive proof of intent to abandon the non-conforming use. Any non-conforming use not involving a permanent type of structure which is moved from the premises shall be considered to have been abandoned.

**34.6     Accidental Destruction of Non-Conforming Use**

If a non-conforming structure **other than a residential structure** or a structure occupied by a non-conforming use is destroyed by fire, act of God or other cause, it may not be rebuilt except to the provisions of this ordinance. In the case of partial destruction of a non-conforming use not exceeding sixty percent (60%) of its reasonable value, reconstruction may be permitted after a hearing and favorable action by the City Council, but the size and function of the non-conforming use shall not be expanded. **However, a residential structure (other than a Manufactured house) existing on a tract when this ordinance was adopted can be rebuilt if partially or totally destroyed, or remodeled and expanded.**

**34.7     Replacement of Non-Conforming HUD-Code Manufactured Home**

A non-conforming HUD-Code manufactured home or mobile home may not be exchanged or replaced by another HUD-Code manufactured home or mobile home.

**34.8     Non Conforming structures**

All buildings that are Non Conforming and are being converted to a new conforming use shall meet all adopted building codes prior to issuance of a Certificate of Occupancy.

**SECTION 35     PLANNING AND ZONING COMMISSION****35.1     Organization and Appointment**

There is hereby created a Planning and Zoning Commission which shall be organized, appointed by the Mayor and confirmed by the City Council and function as follows:

**35.1.1     Membership:** The Planning and Zoning Commission shall consist of five (5) members who are residents of the City of Ladonia or its extraterritorial jurisdiction, however the majority shall be residents of the City of Ladonia, each to serve for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Appointees shall fill positions which shall be designated by place numbers (e.g., place 1, place 2, etc.). Vacancies shall be filled for the un-expired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The Mayor and City Council may appoint two (2) alternate members of the Planning and Zoning Commission, one from the City of Ladonia and one from the extraterritorial jurisdiction, who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the Planning and Zoning Commission.

**35.1.2     Terms:** The terms of members filling places 1, 3, and 5 shall expire on June 30 of each odd-numbered year and the terms of members filling places 2 and 4 shall expire on June 30 of each even-numbered year. Commission members may be appointed by the City council to successive terms. Vacancies shall be filled for un-expired terms, but no members shall be appointed for a term in excess of two (2) years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

35.1.3 Organization: The commission shall hold an organizational meeting in July of each year. The commission shall meet on-call and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent when the provisions of this ordinance and the requirements of law. The Planning and Zoning Commission shall elect a chairman from its own membership at its annual organizational meeting.

35.1.4 Quorum and Compensation: A quorum for the conduct of business shall consist of three members and/or alternate members of commission. The Chairperson counts towards the establishment of a quorum but can only vote when necessary to break a tie. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

35.2 Duties and Authority

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

35.2.1 Formulate and recommend to the City Council for its adoption a city plan for the orderly growth and development of the city and its environs and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.

35.2.2 Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as authorized under state law.

35.2.3 Exercise all powers of a commission as to approval or disapproval of plans, zoning requests, plats, or replats as authorized under state law.

35.2.4 Study and recommend the location, extension, and planning of public rights-of-way, parks, or other public places, and on the vacating or closing of same.

35.2.5 Study and make recommendations regarding the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances.

35.2.6 Initiate, in the name of the city, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.

35.2.7 Formulate and recommend to the City Council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the city.

35.2.8 Make regular reports to the City Council. In lieu of specific written reports, the minutes of meetings can constitute reports to the City Council for purposes of considering zoning changes and other actions of the Commission. Annual reports shall be given each May summarizing activities for the past year and a proposed work program for the coming year.

35.2.9 Hold public meetings and hearings as necessary in compliance with the Texas Open Meetings Act.

**SECTION 36 ZONING BOARD OF ADJUSTMENT**

36.1 Creation, Membership and Procedures:

36.1.1 Zoning Board of Adjustment Established: A Zoning Board of Adjustment is hereby reestablished in accordance with the provisions of Texas Local Government Code, § 211.008, as amended, regarding the zoning of cities and with the powers and duties as provided in said Code.

36.1.2 Membership: The Zoning Board of Adjustment shall consist of five (5) members, each to be appointed by the Mayor and confirmed 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 shall 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, shall serve until January 1 of even-numbered years, and thereafter each member re-appointed for

each new appointee shall serve for a full term of two (2) years unless removed as here in above provided. The City Council may also appoint four (4) alternate members of the board who shall 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, shall serve for the same period as the regular members, which is for a term of two (2) years, and any vacancy shall be filled in the same manner and they shall be subject to removal by the same means and under the same procedures as the regular members. If a Zoning Board of Adjustment is not appointed the City Council may serve as the board.

- 36.1.3 Hearings: The hearings of the Board shall be public. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any permit is pending, and shall also hear any other parties in interest. All hearings are to be heard by at least four (4) members of the Board.
- 36.1.4 Meetings: Regular meetings of the Board shall be held at such times as the Board may determine. Special meetings of the Board shall be held at the call of the chairman or at the written request of two regular members of the Board, or city staff, and said request to be submitted to the Chairman.
- 36.1.5 Rules and Regulations: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Secretary and shall be public record. The Board shall act by resolution in which four (4) members must occur. The Board shall 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 shall furnish a copy of the same to the Zoning Administrator and the Building Inspector in Ladonia, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

## 36.2 Powers and Duties of Board

- 36.2.1 Appeals Based on Error: The Board shall 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 of the enforcement of this ordinance.
- 36.2.2 Special Exceptions: Upon issuance of specific written findings of fact, the Board shall have the power to hear and decide special exceptions to the terms of this ordinance upon which the Board is required to pass as follows:
- 36.2.2.1 Permit the erection and use a building or the use of premises for railroads if such uses are in general conformity with the Master Plan and present no conflict or nuisance to adjacent properties.
- 36.2.2.2 Permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
- 36.2.2.3 Grant a permit for the extension of a use, height, or area regulation into an adjoining district where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
- 36.2.2.4 Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and primary purpose of continuing the nonconforming use is not to continue a monopoly.
- 36.2.2.5 Waive or reduce the parking and loading requirements of any of the districts, whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- 36.2.2.6 Determine whether an industry should be permitted within the M-1 -- Light Industrial District and M-2 -- Heavy Industrial District because the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

36.2.27 Rule on all applications on siting of manufactured homes in districts not so zoned. Approval shall only be allowed in cases of extreme hardship under guidelines established by the Board.

36.2.3 Limitation on 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 which have been withdrawn at or before the Board meeting may be resubmitted at any time for hearing before the Board.

36.2.4 Vote of Four Members Required: 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.

36.2.5 Vote of Four Members Required: The concurring vote of four members of the Board is necessary to:

36.2.6 Open Meetings Act: All meetings of the Zoning Board of Adjustments where a quorum is present are subject to the Open meetings Act.

36.2.7 Written Report: A permanent written report regarding the actions of the Board shall be filed with the City Secretary within 2 weeks from the date of the action.

### 36.3 Appeals

36.3.1 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 in the office of the City Secretary a written 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 from which the action appealed was taken.

36.3.2 Stay of Proceedings: 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 was taken.

36.3.3 Notice of Hearing on Appeal: 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.

36.3.4 Decision by Board: 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.

### 36.4 Variances

The Board shall have the power to authorize upon appeal in specific cases such variances 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:

36.4.1 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.

36.4.2 Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration 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.

- 36.4.3 The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the Building InspLadonia in the enforcement of this ordinance. Except as otherwise provided herein, the Board shall have, in addition, the following specific powers:
- 36.4.3.1 To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the Master Plan and present no conflict or nuisance to adjacent properties.
  - 36.4.3.2 To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
  - 36.4.3.3 To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
  - 36.4.3.4 To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (60%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use.
  - 36.4.3.5 To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The Board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.
  - 36.4.4 A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
    - a) that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
    - b) that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
    - c) that the special conditions and circumstances do not result from the actions of the applicant;
    - d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and
    - e) no non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

### 36.5 Changes

The Board shall have no authority to change any provisions of this ordinance and its jurisdiction is limited to hardship and borderline cases, which 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. The Board does not have the authority to grant use variances (i.e., to approve a use that is not allowed by ordinance).

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 37****RULES OF CONSTRUCTION AND SPECIAL DEFINITIONS****37.1 General Rules of Construction:**

The following rules of construction shall apply to the interpretation of words used in this ordinance:

- 37.1.1 words used in the present tense include the future tense;
- 37.1.2 words used in the singular number include the plural number;
- 37.1.3 words in the plural number include the singular number;
- 37.1.4 the words "building" and "structure" are synonymous;
- 37.1.5 the words "lot", "plot" and "tract" are synonymous; and
- 37.1.6 the word "shall" is mandatory and not discretionary.

**37.2 Special Definitions**

Except to the extent a particular provision specifies otherwise, the following definitions shall apply throughout this ordinance:

- 37.2.1 Abutting Property - Property abutting upon a street shall also be understood as abutting property on the other side of the street.
- 37.2.2 Accessory Use or Building - A use or building subordinate to and detached from the main building and used for purposes customarily incidental to the primary use of the premises.
- 37.2.3 Adjacent - Shall mean "next to" or "closest to" but shall not necessarily mean "touching".
- 37.2.4 Alley - A public space or thoroughfare which affords only secondary means of access to property abutting thereon.
- 37.2.5 Antenna/Microwave ReflLadonia - An apparatus constructed of solid, mesh, or perforated materials of any configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. This definition is meant to include but is not limited to what are commonly referred to as satellites which receive only earth stations.
- 37.2.6 Antenna, Radio or Television - The arrangement of wires or metal rods used in sending and/or receiving of electromagnetic waves.
- 37.2.7 Apartment - A room or suite of rooms in a multifamily dwelling or apartment house designed or occupied as a place of residence by a single family, individual or group of individuals.
- 37.2.8 Apartment House - Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as a home or place of residence by three (3) or more families living in independent dwelling units.
- 37.2.9 Area of the Lot or Building Site - The area shall be the net area of the lot or site and shall not include portions of streets and alleys.
- 37.2.10 Basement - A building story which is partly underground, but having a least one-half of its height above the average level of the adjoining ground. A basement shall not be counted as a story in computing building height.
- 37.2.12 Block - An area enclosed by streets and occupied by or intended for buildings; where this word is used a term of measurement, it shall mean the distance along a side of a street between the nearest two (2) streets which intersect said street on said side.
- 37.2.13 Board of Adjustment - The Zoning Board of Adjustment of the City of Ladonia.
- 37.2.14 Buildable Width - The width of the building site left to be built upon after the required side yards are provided.

- 37.2.15 Building - Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- 37.2.16 Building, Detached - A building surrounded by yard or open space on the same building lot.
- 37.2.17 Building Ends - Those sides of a building having the least dimension as compared to the front or rear of a building. As used in the building space regulations for multiple-family dwelling, the term "building end" shall mean the narrowest side of a building regardless of whether it front upon a street, faces the rear of the lot or adjoins the side lot line or another building.
- 37.2.18 Building, Front Of - The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.
- 37.2.19 Building InspLadonia - The Building Official or person charged with the enforcement of the zoning and building codes of the city.
- 37.2.20 Reserved.
- 37.2.21 Building Line - A line parallel or approximately parallel to the street line at a specified distance therefrom constituting the minimum distance from the street line that a building may be erected.
- 37.2.22 Building Lot - A single tract of land located within a single block which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may not coincide with a lot of record. A "building lot" may be subsequently subdivided into two (2) or more "building lots", and a number of "building lots" may be cumulated into one "building lot", subject to the provisions of this ordinance.
- 37.2.23 Building, Main or Primary - A building in which is conducted the principal use of the lot on which it is situated.
- 37.2.24 Building Official - The Building InspLadonia.
- 37.2.25 Canopy - Any structure of a permanent fixed nature attached to or independent of the main structure, built and designed for the purpose of shielding from the elements, persons or chattels or a roof-like structure of a permanent nature which is supported by or projects from the wall of a structure.
- 37.2.26 Cellar - A building story with more than one-half (½) its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.
- 37.2.27 Certificate of Occupancy and Compliance - An official certificate issued by the city through the enforcing official indicating conformance with or approved conditional waiver from the zoning regulations and authorizing legal use of the premises for which it is issued.
- 37.2.28 Contiguous - Shall mean "touching" or "in contact".
- 37.2.29 Court - An open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one (1) side open to a street, alley, yard or other permanent space.
- 37.2.30 Coverage - The percent of a lot or tract covered by the roof or first floor of a building.
- 37.2.31 Depth of Lot - The mean horizontal distance between the front and rear lot lines.
- 37.2.32 Depth of Rear Yard - The mean horizontal distance between the rear line of a building other than an accessory building and the rear lot line except as modified in the text of any section in this ordinance.
- 37.2.33 District - A section of the city for which the regulations governing the area, height or use of the land and buildings are uniform.
- 37.2.34 Duplex - A building designed for occupancy by two families living independently of each other within separate units which have a common wall and are under one roof.
- 37.2.35 Dwelling Unit - A building or portion thereof designed exclusively for residential occupancy, including one (1) family, two (2) family, and multiple family dwellings, except for buildings designed and used as hotels,

boarding houses, rooming houses, and motels.

- 37.2.36 Family - An individual or group of two or more persons related by blood, marriage, adoption or guardianship including foster children, exchange students, and servants together with not more than two (2) additional persons not related by blood, marriage or adoption to the previously identified individual or group, living together as a single housekeeping unit in a dwelling unit or a Family Home for the Disabled as defined by the Community Homes for Disabled Persons Location Act, Article 1011n of V.A.C.S., as it presently exists or may be amended in the future, but not including household care or rehabilitation care facilities.
- 37.2.37 Flood Plain - An area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the City of Ladonia. The term "flood plain" is interchangeable with the term "flood hazard area".
- 37.2.38 Floor Area - The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, carports, garages or porches.
- 37.2.39 Floor Area Ratio - The ratio of total building floor area to lot area.
- 37.2.40 Reserved.
- 37.2.41 Front Yard - See Yard, front (Section 37.2.104a).
- 37.2.42 Garage Sale - The sale of items normally accumulated by a household subject to compliance with each of the following conditions:
- a) No more than four (4) garage sales shall be allowed for the same location in any twelve (12) month period. The duration of the garage sale shall not exceed three (3) consecutive days.
  - b) For more details see Ordinance 94-1.
- 37.2.43 Gross Floor Area - The gross floor area of a building shall be measured by taking outside dimensions of the building at each floor level.
- 37.2.44 Heavy Load Vehicle (HLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.
- 37.2.45 Height - The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs, or (3) to the mean height level between eaves and edge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet. If the street grade has not been officially established, the average front yard grade shall be used for a base level.
- 37.2.46 Reserved.
- 37.2.47 Landscape Screen - Plant material of the evergreen variety, a minimum of six (6) feet in height at the time of installation and planted on four (4) foot centers. All such landscape screens shall be permanently maintained. Adequate facilities shall be provided for permanent watering at the time of installation.
- 37.2.48 Light Load Vehicles (LLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight not greater than 11,000 pounds, and having no more than two (2) axles, such as pick-up trucks, vans, recreational vehicles, campers and other similar vehicles, but not including automobiles and motorcycles.
- 37.2.49 Living Unit - The room or rooms occupied by a family and which includes cooking facilities.
- 37.2.50 Reserved.
- 37.2.51 Lot - An undivided tract or parcel of land under one (1) ownership having frontage upon a public street or officially approved place, either occupied or to be occupied by a building or building group, together with accessory buildings, and used together with such yards and other open spaces as are required by this ordinance, which parcel of land is designated as a separate and distinct tract and is identified by a tract or lot



number or symbol in a duly approved subdivision plat of record.

- 37.2.52 Lot, Corner - A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than 135 degrees. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspladonia.
- 37.2.53 Lot Coverage - The percentage of the total area of a lot occupied by the base (first story of floor) of a building located on the lot or the area determined as the maximum cross-sectional area of the building.
- 37.2.54 Reserved for future use.
- 37.2.55 Lot Line, Front - That boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as the front lot line providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.
- 37.2.56 Lot Line, Rear - That boundary of a building lot which is most distant from or is most nearly parallel to the front lot line.
- 37.2.57 Lot Line, Side - That boundary of a building lot which is not a front lot line or a rear lot line.
- 37.2.58 Lot Lines - The line bounding a lot as defined herein.
- 37.2.59 Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the office of the county clerk of Fannin County; or a parcel of land the deed for which is recorded in the office of the county clerk of Fannin County prior to the adoption of this ordinance.
- 37.2.60 Reserved.
- 37.2.61 Lot or Building Site - Land occupied or to be occupied by a building and its accessory building, and including such open spaces as are required under this ordinance, and having its principal frontage upon a public street or officially approved place.
- 37.2.62 Lot Width - The width of a lot at the front building lines.
- 37.2.63 Main Building - The building or buildings on a lot which are occupied by the primary use.
- 37.2.64 Manufactured Home (HUD Code) Park - Any tract of land, under single ownership, of not less than three (3) acres and not more than ten (10) acres, approved for occupancy by manufactured housing and accessory structures related thereto and designed and operated in accordance with standards herein set forth or as set forth in any other ordinance of the City of Ladonia relating to the location, use, construction, operation or maintenance of manufactured housing.
- 37.2.65 Manufactured Home (HUD Code) Subdivision - A tract of land of not less than two (2) acres to be used as a location primarily for owner-occupied HUD Code manufactured homes and which has been final platted of record in its entirety in accordance with the City of Ladonia Subdivision Regulations and in accordance with the Section 25 of this ordinance.
- 37.2.66 Manufactured Modular Homes - "Modular Home" means a structure or building module as defined by statute and under the jurisdiction and control of the Texas Department of Labor and Standards, installed and used as a residence by a consumer, transportable in one (1) or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined by statute; nor does it include building modules incorporating concrete or masonry as the primary structural component.
- 37.2.67 Manufacturing Processes - Uses restricted from other zoning districts but permitted in the M-1 and M-2 districts under this definition are manufacturing and industrial uses which do not emit dust, smoke, odor gas, fumes, or present a possible hazard beyond the bounding property lines of the lot or tract upon which the use or uses are located, and which do not generate noise or vibration at the boundary of the lot or tract which is generally perceptible in frequency or pressure above the ambient level of noise or vibration in the adjacent area.
- 37.2.68 Mobile Home Park - See Manufactured Home (HUD Code) Park.
- 37.2.69 Mobile Home Subdivision - See Manufactured Home (HUD Code) Subdivision.

- 37.2.70 Reserved.
- 37.2.71 Non-Conforming Building or Use - A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is located.
- 37.2.72 Occupancy - The use or intended use of the land or buildings by proprietors or tenants.
- 37.2.73 Off-Street Parking Incidental to Main Use - Off-street parking spaces provided in accordance with the requirements specified by this ordinance and located on the lot or tract occupied by the main use or within two hundred (200) feet of such lot or tract and located within the same zoning district as the main use or in an adjacent parking district.
- 37.2.74 Off-Street Parking Space - An area for the temporary storage of an automobile which shall be permanently reserved for such purpose and which shall not be within or on any public street, alley or other right-of-way. (See Section 29 for detailed descriptions and regulations.)
- 37.2.75 Open Space - Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches and plant material. Also see "Usable Open Space" (Section 37.2.101).
- 37.2.76 Open Storage - The storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level, for more than twenty-four (24) hours.
- 37.2.77 Parking Space - An all-weather surfaced area used for parking a vehicle, not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street, permitting free ingress and egress without encroachment on the street.
- 37.2.78 Planning and Zoning Commission - The duly appointed Planning and Zoning Commission of the City of Ladonia.
- 37.2.79 Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Ladonia and subject to approval by the Planning and Zoning Commission.
- 37.2.80 Reserved.
- 37.2.81 Radio, Television and Microwave Towers - Structures supporting antenna for transmitting or receiving any portion of the radio spectrum but excluding non-commercial antenna installations for home use of radio or television.
- 37.2.82 Residence - Same as dwelling; when used with district, an area of residential regulations.
- 37.2.83 Residential District - Any zoning district included in this ordinance in which residential use constitutes the primary permitted use classification, including the SF-E, SF-1, SF-2, MF, MH-1 and MH-2 district classification.
- 37.2.84 Room - A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.
- 37.2.85 Screening Device - See "Landscape Screen".
- 37.2.86 Setback - The minimum horizontal distance between the front wall of any projection of the building, excluding steps and unenclosed porch and the side street.
- 37.2.87 Sign - An outdoor advertising device that is a structure, or that is attached to or painted on a building, or that is leaned against a structure for display on premises.
- 37.2.88 Site Plan - A detailed line drawing, to scale, showing scale used, north arrow, date and title of project, clearly describing the project and showing the following information:
- a) Property lines, location and widths of all streets, alleys and easements.
  - b) Proper dimensions on all fundamental features such as lots, buildings, parking spaces and landscaped areas.

- c) The location of setback lines, driveway openings and sidewalks.
  - d) All proposed buildings, free-standing sign locations, parking areas and open spaces.
  - e) All required landscaping, together with a description of type of material to be used.
  - f) A cross section of any required or proposed screening.
  - g) Total square footage of the development lot; total square footage of proposed structures; total footage of landscaped areas; total percentage of coverage; density of floor area ratio where applicable; height of all structures; number of parking spaces; square footage and design features of all signs; and solid waste collection facilities.
  - h) Name, address and telephone number of the proponent.
- 37.2.89 Story - The height between the successive floors of a building from the top floor to the roof. The standard height for a story is eleven (11) feet, six (6) inches.
- 37.2.90 Street - Any thoroughfare or public driveway, other than an alley, more than thirty (30) feet in width, which has been dedicated or deeded to the public or public use.
- 37.2.91 Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street; the right-of-way.
- 37.2.92 Structural Alterations - Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.
- 37.2.93 Structure - (Same as Building.)
- 37.2.94 Swimming Pool (Private) - A swimming pool constructed for the exclusive use of the residents of a single family, two-family or apartment dwelling and located within the required side or rear yards; however, a pool shall not be located closer than eight (8) feet to any property line.
- 37.2.95 Tennis Court (Private) - A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for night play in residential areas except as may be otherwise provided or restricted by the Specific Use Permit.
- 37.2.96 Thoroughfare - (Same as Street.)
- 37.2.97 Two Family Dwelling - A building designed for occupancy by two families living independently of each other within separate units which have a common wall and are under one roof.
- 37.2.98 Usable Open Space - An open area which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding ten percent (10%), shall have no dimension of less than ten (10) feet, and may include landscaping, walks, water features and decorative objects. Usable open space shall not include rooftops, accessory buildings, parking areas, driveways, turn-around areas, or right-of-way or easement for streets or alleys.
- 37.2.99 Variance - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.
- 37.2.100 Wholesale - The sale of goods, merchandise, services and/or commodities for resale by the purchaser and does not offer retail sales to the general public.
- 37.2.101 Yard - An open space, other than a court, on the lot in which a building is situated and which is not obstructed from a point forty (40) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features and plant material.
- 37.2.101a Yard, Front - An open, unoccupied space on a lot facing a street extending across the front of a lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located.
- 37.2.101b Yard, Rear - An open, unoccupied space, except for accessory buildings placed at least five (5) feet off

the property line, as herein permitted extending across the rear of a lot from one (1) side lot line to the other side lot line.

- 37.2.101c Yard, Side - An open, unoccupied space or spaces on one (1) side or two (2) sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or front line shall be deemed a side line.
- 37.2.102 Zoning District Map - The official certified map upon which the boundaries of the various zoning districts are drawn.
- 37.2.103 Zoning Ordinance - This ordinance containing land use regulations for the City of Ladonia.

## **SECTION 38 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

### **38.1 General Requirements**

No permanent structure may be constructed, altered or otherwise located within the city limits prior to issuance of a Building Permit by the Building InspLadonia. No permanent structure constructed or otherwise located within the city limits may be occupied prior to issuance of a Certificate of Occupancy by the Building InspLadonia. No change in the existing conforming use of a permanent structure, or of land to a use of a different classification under this ordinance, and no change in the legally conforming use of a permanent structure or of land may take place prior to issuance of a Certificate of Occupancy by the Building InspLadonia.

### **38.2 Procedure for New or Altered Buildings**

Plans for any permanent structure to be constructed altered or otherwise located within the city limits must be approved by the Building InspLadonia who, upon approval, shall issue a Building Permit. A complete application for a Building Permit shall contain details of foundation and structure sufficient to determine compliance with applicable provisions of the Building Code. Upon submission of a complete application, the Building InspLadonia shall issue a Building Permit. After issuance of a Building Permit and prior to issuance of a Certificate of Occupancy, the Building InspLadonia shall conduct a foundation, plumbing, electrical and framing inspection. After such inspection, the Building InspLadonia shall issue a Certificate of Occupancy if the plans and the results of the inspection comply with the provisions of all applicable ordinances and regulations.

### **38.3 Procedure for Vacant Land or a Change in Use**

Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to said Building InspLadonia. If the proposed use is in conformity with the provisions of this ordinance, and all adopted building codes, the Certificate of Occupancy therefor shall be issued with ten (10) days after the application for same has been made.

### **38.4 Contents of Certificate of Occupancy**

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of the building and fire laws and ordinances. A record of all Certificates of Occupancy shall be kept on file in the Office of the Building InspLadonia or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

### **38.5 Temporary Certificate**

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building InspLadonia for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its completion. Issuance of a temporary certificate shall not be construed to alter the respective rights, duties, or obligations of the owner or of the City relating to the use occupancy of the premises or any other matter covered by this ordinance.

### **38.6 Certificates for Non-Conforming Uses**

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the Building InspLadonia by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of the effective date of this ordinance. It shall be the duty of the Building InspLadonia to issue a Certificate of Occupancy for a lawful non-conforming use, but failure to apply for such Certificate of Occupancy for a non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist at the



effective date of this ordinance.

**SECTION 39      CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND  
ADMINISTRATIVE PROCEDURES**

**39.1      Declaration of Policy**

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

39.1.1. To correct any error in the regulations or map.

39.1.2. To recognize changed or changing conditions or circumstances in a particular locality.

39.1.3 To recognize changes in technology, style of living, or manner of doing business.

**39.2      Authority to Amend Ordinance**

The City Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of the Zoning Ordinance and/or the zoning map any change in the classification or boundaries of the zoning districts may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, the City Council, or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

**39.2.1 Initiating Zoning Changes**

The City Council may from time to time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. Any Ordinance regulations or zoning district boundary amendment may be ordered for consideration by the City Council, be initiated by the Planning and Zoning Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property.

**39.2.2 Zoning Change Applications**

Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing, filed with the City Secretary, and shall be accompanied by payment of the appropriate fee as established by the City Council. The application shall also be accompanied by the following information: plans, maps, exhibits, legal description of property, information about proposed uses, and such other material as deemed necessary by the City of Ladonia.

**39.3      Public Hearing and Notice**

39.3.1 Upon filing of an application for an amendment to the zoning ordinance and map, the Planning and Zoning Commission and City Council shall hold a public hearing on said application. The City Council and Planning and Zoning Commission can choose to conduct joint hearings when necessary.

39.3.2 Written notice of such hearings shall be sent to the owner of the property or his agent and to all owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice, mailed first-class return receipt requested, to be given not less than ten (10) days before the date of such hearing, to all owners who have rendered their said property for City taxes as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the City Post Office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the City after the final date for making the renditions which are included on the last approved City tax roll, notice to such owners shall be given by one publication in the official newspaper at least fifteen (15) days before the time of the hearing. Also, the City Secretary shall have the property, lot or tract posted with a sign at least eighteen (18) by twenty-four (24) inches in size which shall state "Zoning change Requested for information call City Hall" and the telephone number shall be listed. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.

39.4 Action of the Planning and Zoning Commission

- 39.4.1 If, at the conclusion of the hearing, the Planning and Zoning Commission recommends amendment of this ordinance to the City Council, said recommendation shall be by resolution of the Planning and Zoning Commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
- 39.4.2 The Planning and Zoning Commission may recommend denial of an application with or without prejudice against the applicant to refile the application. If the Commission recommends denial of the application and fails to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being recommended for denial without prejudice against refiling. If it is later determined by the Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

39.5 Action of the City Council

- 39.5.1 If the Planning and Zoning Commission has recommended approval or denial of an application, the City Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all property owners of real property lying within two hundred (200) feet of the subject property pursuant to Section 39.3.2.
- 39.5.2 If the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be disapproved, the City Council may refuse to adopt the amendment by a simple majority vote of the Councilmen present and voting. However, in order to adopt the amendment which has been recommended for disapproval by the Planning and Zoning Commission, the amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Ladonia present and voting.
- 39.5.3 When the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be approved, the City Council may disapprove the petition or application for amendment by a simple majority vote of the City Councilmen present and voting. In the event of a tie vote of the City Councilmen present and voting, the Mayor may cast the deciding vote.
- 39.5.4 In the case of a protest against an amendment to the ordinance signed by the owners of twenty percent (20%) or more either of the area of the lots or land immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Ladonia.
- 39.5.5 In making its determination, the City Council shall consider the following factors:
- 39.5.5.1 Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.
- 39.5.5.2 Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.
- 39.5.5.3 The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.
- 39.5.5.4 The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.
- 39.5.5.5 The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.
- 39.5.5.6 Any other factors which will substantially affect the public health, safety, morals or general welfare.
- 39.5.6 In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the City

Council shall further consider whether said application shall be denied with or without prejudice against refiling. If the City Council shall deny the application and fail to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against refiling. If an application is denied with prejudice, no application may be filed for all or part of the subject tract of land for a period of one (1) year from the date of denial by the City Council. If it is determined by the Planning and Zoning Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

39.6 Effect of Denial of Petition

In case the application for an amendment to the Zoning Ordinance is denied by the City Council, said application shall not be eligible for reconsideration for one (1) year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning and Zoning Commission, to be eligible for consideration within one (1) year of the denial of the original application.

In the event of a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

39.7 Final approval and Ordinance Adoption

If the amending ordinance is not approved within six (6) months from the time of its original consideration, the zoning request, at the option of the City Council, may be recalled for a new public hearing.

39.8 Changes in Zoning Regulations

Amendments to the Zoning Ordinance not involving a particular property but involving change in the zoning regulations generally do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the city, stating the time and location of the public hearing, which time shall not be earlier than fifteen (15) days from the date of such publication.

**SECTION 40 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance. The schedule shall be posted in the office of the administration official and may be altered or amended only by the City Council.

No permits, certificates, special exception, or variance shall be issued unless and until such costs, charges, fees, or expenses have been paid in full, nor shall any action taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

The exact charge for the following services will be established by separate ordinance:

- a. For docketing a zoning petition with the Planning and Zoning Commission of the City of Ladonia.
- b. For docketing an application for relief with the Board of Adjustment of the City of Ladonia.

**SECTION 41 PENALTY FOR VIOLATIONS**

38.1 Civil and Criminal Penalties

City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

38.2 Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

38.3 Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- 38.3.1 injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- 38.3.2 a civil penalty up to one thousand dollars (\$1,000.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

**SECTION 42      VALIDITY, SEVERANCE AND CONFLICT**

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so dedicated to be invalid or unconstitutional. To the extent any provision of this ordinance conflicts with other ordinances of the City of Ladonia the terms of this ordinance shall control. This Ordinance repeals and replaces Chapter 21 of the General Ordinances of the City of Ladonia.



**SECTION 43**

**EFFECTIVE DATE**

This ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

**RECOMMENDED FOR ACCEPTANCE** by the Planning and Zoning Commission of the City of Ladonia, Texas, on the \_\_\_\_ day of \_\_\_\_, 2007.

ATTEST:

SIGNED:

\_\_\_\_\_  
Secretary, Planning & Zoning Commission

\_\_\_\_\_  
Chairman, Planning & Zoning Commission

**PASSED AND APPROVED** by \_\_\_\_ vote of the City Council of the City of Ladonia, Texas, on this the \_\_\_\_ day of \_\_\_\_, 2007.

ATTEST:

SIGNED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

## APPENDIX 1 (SEE NOTES TO APPENDIX I IN ADDITION TO THE FOLLOWING CHART)

## DISTRICT REGULATIONS

	A	SF-E	SF-1	SF-2	TF	TH	MF	MH-1	MH-2	C-1	C-2	C-3	M-1	M-2
MAXIMUM HEIGHT (feet)	35	35	35	35	30	30	45	35	45	45	50	30	50	50
SIDE YARD WIDTH (feet)	15	15	15	10	8	8	15	15	5	5 III	5	10	5	5
REAR YARD (feet)	30	30	25	20	15	15	15	5	5	5	5	10	5	5
FRONT YARD (feet)	35	35	30	25	20	20	20	20	20	20 IV	20	25	20	20
LOT AREA (square feet)	87,120	43,560	9,000	7,200	6,000	3,000	I	7,200	I	II	II	II	II	II
MINIMUM LOT WIDTH (feet)	100	100	70	60	60	25	70	60	II	II	II	II	II	II
MINIMUM LOT DEPTH (feet)	200	200	100	100	100	100	150	100	II	II	II	II	II	II
MAXIMUM LOT COVERAGE	10%	10%	40%	45%	60%	60%	50%	45%	II	II	II	II	II	II
MIN. SIZE DWELLING (EXCL. GARAGE)	1,000	1,000	1,000	1,000	1,000		V	1,500						
MIN. SIZE ENCLOSED GARAGE	400	400	400	400	240	240		400						
MASONRY % VI	75%	75%	75%	75%	75%	75%	75%	VII		50%	50%	50%	60%	60%

I - Total lot area shall not be less than 9,000 square feet for dwelling unit construction. For each dwelling unit over three (3) in number, no less than 1,500 square feet of additional lot area is required. A maximum of ten (10) units may be constructed per acre.

II- None required except where non-residential use abuts a residential lot in which case the requirements shall be as set forth in the notes to appendix 1.

III- The interior side setback may be zero (0) if within the Central Business District.

IV- The front setback may be zero (0) if within the Central Business District.

V - Minimum sq. ft. for each unit: 1-bedroom unit 600 sq. ft.; 2-bedroom unit – 700 sq. ft.; 3-bedroom unit - 900 sq. ft.

VI - Masonry requirements shall mean brick, stone, or stucco. All garages must have the same exterior finish as the main dwelling.

VII – Skirting shall be Masonry.

**NOTES TO APPENDIX 1 (SEE APPENDIX I CHART IN ADDITION TO THE FOLLOWING NOTES)**

- a. The minimum residential lot area for the various districts shall be in accordance with the regulations for each district, except that a lot having less area than required which was an official "lot of record" at the time of the adoption of this ordinance may be used for a one family dwelling.

No lot existing at the time of passage of this ordinance shall be reduced in area below the minimum requirements set forth in the respective district.

- b. The front yard setback shall be measured from the property line to the front face of the building, covered porch, covered terrace, or attached accessory buildings. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four (4) feet and subsurface structures, platforms, or slabs may not project into the front yard to a height greater than thirty (30) inches above the average grade of the yard.

On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets (unless shown specifically otherwise on a final plat).

Where a building line has been established by a plat approved by the City Council or by ordinance and such line requires a greater or lesser front yard setback than is prescribed by this ordinance for the district in which the building line is located, the required front yard shall comply with the building line so established by such ordinance or plat provided no such building line shall be less than twenty (20) feet, except as approved under a Planned Development (see Section 20).

Where the frontage on one side of a street between two (2) intersecting streets is divided by two (2) or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage.

Where lots have double frontage, running through from one street to another, a required front yard shall be provided on both streets unless a building line for accessory buildings has been established along one frontage on the plat or by ordinance, in which event only one required front yard need be observed.

On any corner lot for which front and side yards are required, no wall, fence, structure, sign, tree, or other planting or sloped terrace or embankment may be maintained higher than three (3) feet above the street grade so as to cause danger or hazard to traffic by obstructing the view of the intersection from a point thirty (30) feet back from the right-of-way corner. Visual clearance shall be provided in all zoning districts so that no fence, wall, vegetation, architectural screen, earth mounding, or landscaping obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection.

Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare upon which a lot abuts, the front or side yard shall be measured from the future right-of-way.

- c. Every part of a required side yard shall be open and unobstructed except for (a) accessory buildings as permitted in Section 30; (b) the ordinary projections of window sills, belt courses, cornices, and other architectural features not more than twelve (12) inches into the required side yard; and (c) roof eaves projecting not more than thirty-six (36) inches into the required side yard. Balconies shall not project into the required side yard.

Minimum side yard setbacks in the Original Town Plat shall be seven (7) feet for single family residential uses, regardless of other requirements listed here.

When a non-residentially zoned lot or tract abuts upon a zoning district boundary line dividing that lot or tract from a residentially zoned lot or tract, a minimum side yard of ten (10) feet shall be provided on the non-residential property. An opaque wood fence or masonry wall having a minimum height of six (6) feet above the average grade of the residential property shall be constructed on non-residential property adjacent to the common side or rear property line.

- d. The required rear yard shall be open and unobstructed from a point thirty (30) inches above the average elevation of the graded rear yard, except for accessory buildings as permitted herein. Eaves, covered porches, and roof extensions without structural support in the rear yard may extend into the rear yard a distance not to exceed four (4) feet. Balconies shall not project into the required rear yard.

- f. A one-story wing or extension may be built to within fifteen (15) feet of the rear lot line.
- g. No lot containing multifamily units shall contain less than nine thousand (9,000) square feet total or one thousand five hundred (1,500) square feet per dwelling unit, whichever is greater.
- Minimum lot sizes for townhouses and zero lot line houses shall be three thousand (3,000) square feet per dwelling unit. See Section 26.1.17.
- Minimum lot sizes for all other permitted uses shall be seventy five hundred (7,500) square feet or one thousand five hundred square feet per living unit, whichever is greater.
- h. Lot width for a lot containing multifamily, townhouse, or zero lot line units shall be twenty (20) feet per ground floor unit plus side yard requirements.
- Lot width for a lot containing other permitted uses shall be not less than sixty (60) feet.
- i. If a side yard or rear yard is adjacent to a single family residential district, there shall be a twenty five (25) foot setback and a sixty (60) foot setback from the adjacent property line for buildings in excess of one (1) story in height.
- If more than one building is located on the same lot, there shall be a ten (10) foot separation between buildings without openings (windows) and fifteen (15) feet between buildings with openings.
- j. The height of any multifamily building sited on a lot adjacent to an area zoned for single family dwellings or where single family dwellings of one story in height exist shall be limited to one story for a distance of sixty (60) feet from the single family district boundary or the land on which the single family dwelling is located.
- k. See Section 27.6.2 for additional open space for multi-family regulations.
- l. In a non-residential district the front yard setback shall be forty-five (45) feet where parking is allowed in front of the building. Accessory buildings shall have a sixty (60) foot front yard setback.
- m. In a non-residential district a side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a residential district even when separated by an alley. When adjacent to a residential district, even when separated by an alley, no windows shall be permitted above ten (10) feet on the building sides facing such residential district. In addition, a masonry or wood wall having a minimum height of six (6) feet above the average grade of the residential property shall be constructed on the non-residential property adjacent to the common side property line.
- n. In a non-residential district no building shall exceed fifty (50) feet in height, except cooling towers, roof gables, chimneys, vent stacks, or mechanical equipment rooms, which may project not more than twelve (12) feet beyond maximum building height.
- o. In a non-residential district a front yard of not less than fifty (50) feet shall be provided upon that portion of a lot abutting or across a street or alley from property in a residential or commercial district.
- p. In a non-residential district a side yard or a side street yard of not less than twenty-five (25) feet in width shall be provided on the side of the lot adjoining or across a street or alley from a residential or commercial district. In addition, a masonry or wood wall having a minimum height of six (6) feet above the average grade of the residential property shall be constructed on the non-residential property adjacent to the common side property line.
- q. In a non-residential district a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street or alley from a residential district, except that such rear yard requirement shall be twenty-five (25) feet in depth where the property in the residential district backs up to the rear street. In addition, a masonry or wood wall having a minimum height of six (6) feet above the average grade of the residential property shall be constructed on the non-residential property adjacent to the common side property line.
- r. In a non-residential district a building may be erected to a height of eighty (80) feet if set back from all required yard lines is increased a distance of one (1) foot for each two (2) feet of additional height above fifty (50) feet. This requirement is in addition to all other relevant setback requirements.
- s. An industrial use side yard requirements shall be not less than fifty (50) feet in width and provided for on the side of the lot adjoining or across the street from a residential or commercial district.



**Prohibited Plant List.**

The plants on the following list shall not be used in order to fulfill the planting requirements of this ordinance. However, they may be used to supplement the requirements, if desired.

## 1. Trees

<u>Common Name</u>	<u>Scientific Name</u>
Arizona Ash	Fraxinus velutina "Arizonia"
Bois D'arc	Maclura pomifera
Cottonwood	Populus deltoides
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Mimosa	Albizzia julibrissen
Mulberry	Morus alba
Lombardy Poplar	Populus nigra italica
Chinese Tallow	Sapium sebiferum
Arborvitae	Thuja occidentalis
Weeping Willow	Salix babylonica

## 2. Shrubs

<u>Common Name</u>	<u>Scientific Name</u>
Euonymus	Euonymus japonicus
Ligustrum	Ligustrum japonicum
Pittosporum	Pittosporum tobira
Loquat	Eriobotrya japonica
Oleander	Nerium oleander