

ORDINANCE NUMBER 2001 - 17

ENTITLED AN ORDINANCE REPEALING ORDINANCE 2000 - 17 OF ORDINANCES OF THE CITY OF NEDERLAND INCLUDING THE MAP WHICH IT INCORPORATES AND TO WHICH IT REFERS; ENACTING A NEW APPENDIX "A" TO THE CODE OF ORDINANCE, TO BE NUMBERED AS HEREINAFTER PROVIDED; ADOPTING TEXAS STATUTORY PROVISIONS; STATING A PURPOSE; DEFINING TERMS; ESTABLISHING ZONING DISTRICTS; PROVIDING ZONING DISTRICT REGULATIONS; PROVIDING FOR SPECIFIC USE PERMITS UNDER CERTAIN CONDITIONS; PROVIDING OFF-STREET PARKING AND LOADING REGULATIONS; PROVIDING FOR NON-CONFORMING BUILDINGS, STRUCTURES, AND USES OF LAND AND REGULATIONS RELATING THERETO; PROVIDING CERTAIN LANDSCAPING AND SCREENING REQUIREMENTS; ESTABLISHING CERTAIN PERFORMANCE STANDARDS; PROVIDING FOR ENFORCEMENT; CREATING A BOARD OF APPEALS AND PROCEDURES RELATING THERETO; CREATING A PLANNING AND ZONING COMMISSION AND REGULATIONS AND PROCEDURES RELATING THERETO; ESTABLISHING A PROCEDURE FOR CHANGES, AMENDMENTS, AND SPECIFIC USE PERMITS; PROVIDING FOR SEVERABILITY, PROVIDING FOR A PENALTY, PROVIDING FOR REPEAL.

WHEREAS, the City Council of the City of Nederland requested the Planing and Zoning Commission to study and evaluate the zoning ordinances of the City of Nederland; and,

WHEREAS, said commission was additionally charged with the responsibility of recommending to the City Council a comprehensive revision of said ordinances; and,

WHEREAS, a public hearing before said Commission was held on October 22, 2001, pursuant to V.T.C.A. Local Government Code, Section 211.007, at which hearing the views of the public were heard; and,

WHEREAS, the City Council after receipt of said Ordinance from said Commission, considered and evaluated the recommended Ordinance, and,

WHEREAS, the City Council solicited comment, critique, advice and recommendation from the real estate development and building community as well as City staff members; and,

WHEREAS, a public hearing before the City Council was held on October 22, 2001, pursuant to V.T.C.A., Local Government Code, Section 211.006, at which hearing the views of the public were heard; and,

WHEREAS, further changes and amendments to the Ordinance as recommended by the Planning and Zoning Commission were made as a result of collective recommendations, suggestions and criticisms voiced during the aforementioned process; and,

WHEREAS, the City Council believes that the following Ordinance will serve to protect and preserve the health, safety, and welfare, and morals of the community as well as promote the orderly development and growth of the City of Nederland; and,

WHEREAS, the City Council supports regular review of the Ordinance herein in order to insure that it will continue to accomplish the desired objectives and still remain a viable planning document in future years; and,

WHEREAS, the City Council supports the planning and careful rezoning of the City of Nederland to better reflect existing land use and future needs of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEDERLAND:

THAT Appendix A of the Code of Ordinance of the City of Nederland, including the zoning map which it incorporates and to and to which it refers, is hereby repealed, and a new Appendix A is hereby enacted to read as follows:

GENERAL PROVISIONS

SECTION 1. PURPOSE.

That the City, hereby adopts the provisions of V.T.C.A., Local Government Code, Subtitle A, Chapter 211.

The zoning map and zoning regulations as herein established have been prepared for the purpose of promoting the health, safety, morals and general welfare of the City. They have been prepared with careful consideration for particular uses, the conservation of the value of both land and improvements and the encouragement of the most appropriate use of property throughout the City.

SECTION 2. DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

When using the term “shall” means that it is mandatory.

When using the term “may” means that it is discretionary.

When using the term “and” indicates that all items being referred to are connected and inclusive.

When using the term “or” indicates that one or more of the items being referred to shall or may apply.

ACCESSORY BUILDING AND USE. A subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

ACCESS STREET. A main public service road with access to a townhouse project.

ADULT BOOKSTORE. Any establishment which has a substantial portion of its stock in trade books, magazines or periodicals that contain material which, under the Penal Code of the State of Texas, may not be displayed or sold to a minor unless such minor is accompanied by a consenting parent, guardian or spouse.

ALLEY. A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

ALTERNATIVE REHABILITATION FACILITY. A facility that houses persons who are under supervision or treatment connected with the commission of a criminal act. This would include overnight short or long term residence or day facility treatment or supervision.

APARTMENT. A room or suite of rooms in a multiple dwelling, or in a building in which more than one living unit is established above or on the same floor as non-residential uses, which room or suite is intended or designed for use as a residence by one family and which includes culinary accommodations.

APARTMENT HOUSE. A building or portion thereof used or designed as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartments and apartment hotels.

BOARDING HOUSE. A building, other than a hotel, where for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for four or more persons, but not exceeding 20 persons.

BUILDING. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property.

CLINIC. An office or group of offices for one or more physicians, veterinarians, surgeons or dentists, or other professionals, engaged in treating the sick or injured, but not including rooms for the abiding of patients.

COMMON AREA. Private property owned in common by, and designated for the private use of the owners or occupants of townhouse in a particular project or subdivision. The Common Area does not include public streets, alleys, required building setbacks or utility easements.

DESIGNATED ENCLOSED AREA. An area of land to be used for recreation only. The enclosure can consist of the building in combination with the fence. The size of the playground shall be determined by the number of units in a multiple family dwelling.

DISTRICT. A section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

DWELLING. Any building or portion thereof which is designed and used exclusively for residential purposes.

DWELLING, SINGLE FAMILY. A building having accommodations for and occupied exclusively by one family which constitutes a single dwelling unit.

DWELLING, TWO FAMILY OR DUPLEX. A building having accommodations for and occupied exclusively by two families which constitutes two dwelling units..

DWELLING, MULTIPLE. A building having accommodations for and occupied by more

than two families which constitutes multiple dwelling units.

FAMILY. One or more persons related by blood, marriage or adoption, without exception, and occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.

FILLING STATION OR SERVICE STATION. Any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale, or offering for sale is incidental to the conduct of a public garage, or retail store, the premises are classified as a public garage or retail store.

FRONTAGE. All the property on one side of a street between two intersecting streets (crossing or terminated), measured along the line of the street, or if the street is dead-ended then all the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PRIVATE. An accessory building or portion of the main use building, designed for or used for the housing of motor driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than one of the vehicles may be a commercial vehicle and of not more than one and one-half tons capacity.

GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling, or storing motor driven vehicles.

GARAGE, STORAGE or PARKING. A building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles as distinguished from daily storage furnished transients, and within which motor fuels and oils may be sold, but no motor-driven vehicles are equipped, repaired, hired or sold.

HOME OCCUPATION. Any occupation or activity conducted within a dwelling unit which is clearly incidental and subordinate to the use of the premises for dwelling purposes provided that:

- A. No retail business of any sort is involved.
 - B. No stock in trade is kept nor commodities sold except those made or used on the premises.
 - C. Only members of the family residing on the premises are employed.
 - D. No internal or external alterations, special construction, or features are involved.
 - E. There is no on-premise advertising or any other display to storage of materials or exterior identification of the home occupation or variation from the residential character of the main building or any accessory buildings.
 - F. No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odors, heat, glare, x-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist's studio; dressmaking and millinery; limited professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than two (2) pupils at one time; the keeping of up to five (5) children under the age of sixteen (16) years at any one time apart from their parents, guardians, or custodians for compensation, provided that the total number of children under the age of sixteen (16) years on the premises at any one time, including those kept without compensation and those who reside on the premises, shall not exceed eight (8).
- The Permitted Use Table does not apply to the uses allowed under this definition.**

HOTEL. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is usually made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boardinghouse, a lodging house or an apartment which are herein separately defined. (See def. for Motel for outside ingress-egress)

HUD-CODE MANUFACTURED HOME. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected or 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.

LIVING AREA. Shall mean the dwelling unit proper, exclusive of porches, unenclosed breeze way or carport or garage.

LOT. A parcel of land occupied or intended for occupancy by use permitted in this chapter, including one main building with its accessory buildings, the open spaces and parking spaces required by this chapter and having its principal frontage upon a street or upon an officially approved place. It is intended that one platted lot have only one owner and that the subdivision of any lot must follow appropriate ordinances.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT LINES. The lines bounding a lot as defined herein:

MANUFACTURED HOUSE or MANUFACTURED HOME. A HUD-code manufactured home.

MANUFACTURED HOME PARK, MOBILE HOME PARK, TRAILER PARK, TRAILER CAMP OR TRAILER COACH PARK. A lot or tract of land where facilities and accommodations are provided by the day, week, month or for a longer period of time, for or without compensation, for two or more trailers when such trailers are being used for human habitation and meeting all of the requirements of Ordinance No. 259.

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 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 unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing,

heating, air-conditioning, and electrical systems. The following shall not be included in this definition:

A. Travel trailers, pick-up coaches, motor homes, camping trailers, or other recreational vehicles.

B. Modular homes.

MOTEL. An establishment which provides lodging and parking and in which the rooms are usually accessible from an outdoor parking area.

NON-CONFORMING USE. The use of land or a building, or portion thereof, which use does not conform with the use regulations of the district in which it is situated.

OFF-STREET PARKING SPACE. A paved parking space of not less than 180 square feet with vehicular access to a street or an alley

ONE-FAMILY GARAGE APARTMENT. A site-built building having accommodations for and occupied by only one family having a private garage as a part thereof, and containing not less than 400 square feet of living area.

ONE-FAMILY RESIDENCE. A site-built detached building having accommodations for and occupied by only one family and containing not less than 600 square feet of living area.

PARKING SPACE. A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

PERSONAL CARE FACILITY. A facility that conforms to the definition of a Personal Care Facility as defined in the Texas Administrative Code, Title 40, Part I, Chapter 92.

PROJECT STREET. A secondary street which affords occupants access to townhouse lots and not designed as a through street.

PUBLIC GARAGE. Any premise used for the storage of, housing or care of motor vehicles, where such is equipped for operation, repaired or kept for remuneration, hire or sale.

RESIDENTIAL CARE FACILITY. A facility located in a dwelling or other existing structure situated in a residential zoned area that provides, to six (6) or fewer persons who are unrelated to the owner of the residence, food and shelter, personal care services, minor treatment, or some need beyond the basic provisions of food shelter and laundry.

SCREENING. Landscaping, fencing, or other material erected to a height not less than six feet to provide a visual barrier from adjacent properties and streets. Such screening shall be permanently and adequately maintained by the owner of the property on which the screening is required. Except for the landscape buffer, no screening fence or wall shall have more than 40 square inches of openings over any one square foot of fence or wall surface.

SEPARATION FENCE, SCREENING WALL OR SEPARATION WALL. A fence or wall constructed of wood, concrete, concrete blocks, brick, stone or other permanent material which provides a solid area of at least 75 percent of the wall surface. Separation fences or walls for private yards shall be no less than six feet nor more than seven feet from the ground.

SITE BUILT. Residences which are constructed from primarily new construction materials, delivered to and constructed on the lot or property for permanent occupancy.

STORY. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of the story, except that any partial story used for residence purposes shall be deemed a full story.

STRUCTURES. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including, but without limiting the general inclusiveness of the foregoing, advertising signs,

billboards, poster boards, and pergolas.

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

SPOT ZONING. A term which is applied to zoning changes involving only small parcels. It is defined as amending the basic zoning ordinance, reclassifying one or more tracts or lots for a use prohibited by the original zoning ordinance and out of harmony therewith.

STREET. A public thoroughfare which affords the principal means of access to abutting property.

TOWNHOUSE. A single dwelling unit on a separate lot having a common wall or abutting wall with one or more adjoining dwelling unit structures.

TOWNHOUSE GROUP. Two or more contiguous townhouses connected by a single wall.

TOWNHOUSE PROJECT. A townhouse development or plan with no less than 5,000 square feet which is submitted and approved by a single special permit. The Project must be laid out on contiguous land, all uninterrupted by intervening public streets and not less than four townhouse units.

TRAILER COACH. A transportable, single-family dwelling unit which is or may be mounted on wheels suitable for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing. As it applies to Trailer Park Ordinance No. 259 includes HUD-code Manufactured Homes.

TWO-FAMILY GARAGE APARTMENT. A site-built building having separate accommodations for and occupied by two families, having a private garage as a part thereof, and containing not less than 650 square feet of living area per family unit.

TWO-FAMILY RESIDENCE. A site-built detached building having separate accommodations for and occupied by two families and containing not less than 650 square feet of living area per family unit.

YARD. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front

yard, or the depth of a rear yard, the horizontal distance between the lot line and the main building shall be used.

YARD, FRONT. A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projection of the usual steps, unenclosed balconies or open porch.

YARD, REAR. A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of a lot from the front yard line.

SECTION 3. CONFORMANCE WITH DISTRICT REGULATIONS REQUIRED.

Except as hereinafter provided:

- A. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, and no building or land shall be used for any purpose that is not permitted in the district in which the building or land is situated.
- B. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is situated.
- C. The minimum yards and other open spaces, including lot area per family, required by this chapter for each and every building existing at the time of the passage of this chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced to an area less than the district requirements of this chapter.
- D. Every building hereafter erected or structurally altered shall be on a lot as herein defined, and in no case shall there be more than one main building on one lot except as otherwise provided in this chapter.
- E. Mobile/manufactured/modular homes as used herein shall be as defined within the Texas Manufactured Housing Standards Act, Article 5221f, or its successor legislation. Non-HUD approved mobile/manufactured/modular housing shall be prohibited from entering the corporate limits of the City for other than through transportation purposes. Additionally, Non-HUD approved mobile/manufactured/modular housing shall not be permitted to relocate within the City.

SECTION 4. INTERPRETATION OF ZONING DISTRICT BOUNDARIES AND LAND USES.

When the physical features existing on the ground are in conflict with those shown on the zoning map the Planning and Zoning Commission shall interpret the district boundaries, after consideration of a recommendation by the Building Official.

The Building Official shall have the authority to determine the classification of a land use not specifically identified in this Ordinance, based on the land use which it is most closely associated with.

SECTION 5. APPLICATION OF AND COMPLIANCE WITH THE ZONING ORDINANCE.

The Nederland Zoning Ordinance shall be applicable to all property within the City limits of the City of Nederland, including property which is subject to private deed restrictions.

Sec. 5.1. Relationship of the Zoning Ordinance to Deed Restrictions and Restrictions on a Recorded Subdivision Plat

The Nederland Zoning Ordinance does not replace nor override deed restrictions which exist

for a recorded subdivision plat. Deed restrictions are not enforced by the City.

Sec. 5.2. Zoning Ordinance Conflict with other Development Regulations

If any portion of this Zoning Ordinance conflicts with any other City development regulations, the more restrictive regulation shall apply as determined by the Building Official.

SECTION 6. ZONING BOARD OF APPEALS.

A. The Zoning Board of Appeals is hereby created. The word "Board" when used in this ordinance shall be construed to mean the Zoning Board of Appeals.

B. The Zoning Board of Appeals shall consist of five members appointed by the City Council, two for a term of one year, two for a term of two years, and one for a term of three years, and thereafter for a term of four years. Any vacancies shall be filled immediately for the unexpired term by appointment by the City Council. Each member of the Board shall be

a resident of the City for at least twelve months. The Board shall elect a Chairman from among its members who shall serve for a period of one year, or until his successor is elected. Meetings of the Board shall be held at the request of the Chairman or at such other times as the Board may determine. All meetings shall be subject to the provisions of the Texas Open Meetings Act. The Board shall comply with recognized rules of parliamentary procedure and keep a record of its proceedings showing action of the Board and the vote upon each question considered. A quorum of three members of the board shall be necessary to conduct business. City staff will assist the Board in taking minutes of the meeting.

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Building Official concerning the enforcement of the provisions of this ordinance. Such appeal shall be taken within thirty days from the date that the person making the appeal receives notice from the Building Official advising of his or her decision concerning the enforcement of the provisions of this ordinance and such appeal may be taken by filing with the Building Official and with the Board a notice of appeal and specifying the specific grounds on which the appeal is made. In addition to the foregoing requirements for appeal, any person appealing a decision of this Building Official on matters pertaining to a request for a variance from easements, right-of-ways, setback lines and/or other encroachments shall pay an administrative fee of \$75.00 to the City within the thirty days allowed to perfect the appeal. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

D. The Board shall fix a reasonable time for the hearing of the appeal, give notice to the parties interested, and decide the same within 30 days.

E. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this ordinance.

2. To hear and decide special exceptions to the regulations of this ordinance will result in unnecessary hardship to the individual and the public convenience and welfare will not be substantially or permanently injured.

SECTION 7. COMPLETION OF EXISTING BUILDINGS.

Nothing herein contained shall cause any change in the plans, specifications construction or intended use of a building under construction at the time of the passage of this ordinance.

SECTION 8. MOVING.

STRUCTURES

SECTION 8.1. Residential Structures.

A. Any one-family or two-family residence moved into the City or moved from one location to another within the City shall have a minimum of 900 square feet of living area.

B. If a one-family or two-family residence has less than 900 square feet of living area, a moving permit shall be issued if the mover or owner purchases a building permit for increasing the house size to or greater than the minimum requirement and furnishes a performance bond guaranteeing that the improvements will be completed in six months or less from the time of relocation and the owner agrees to all of the requirements of Section 8.1.

C. A minimum of one coat of paint shall be applied to the exterior painted surface of a relocated house. A minimum of two coats of paint shall be applied to new exterior wood added to a relocated house.

D. A one-family or two-family residence being moved to a new site shall have a market value equivalent to the average market value of all homes within a 500-foot radius

E. Structures on piers shall be anchored in accordance with the Standard Building Code.

F. Both wiring and plumbing shall be brought up to the most recently adopted code standards. This requirement is to be done by licensed and bonded electricians and plumbers if the structure is not being homesteaded by the owner and not being moved in to sale or rent.

G. Any and all ordinances of the City, which conflict with any of the provisions of this amendment are hereby expressly repealed. (Ord. No. 146A, 11-20-61)

H. Structures being moved within the City or into the City of Nederland shall be allowed in Commercial and Industrial Districts only.

SECTION 8.2. Commercial Structures.

A. Any commercial structure moved into the City or moved from one location to another within the City shall have a minimum of 900 square feet of living area.

B. If a commercial structure has less than 900 square feet of living area, a moving permit shall be issued if the mover or owner purchases a building permit for increasing the house size to or greater than the minimum requirement and furnishes a performance bond guaranteeing that the improvements will be completed in six months or less from the time of relocation and the owner agrees to meet all of the requirements of Section 8.2.

C. A minimum of one coat of paint shall be applied to the exterior painted surface of a relocated structure. A minimum of two coats of paint shall be applied to new exterior wood added to a relocated commercial structure.

D. Structures on piers shall be anchored in accordance with the current Standard Building Code.

E. Both wiring and plumbing shall be brought up to the most recently adopted code standards. This requirement is to be done by licensed and bonded electricians and plumbers. Romex wiring in commercial structures is not allowed.

F. Any and all ordinances of the City, which conflict with any of the provisions of this ordinance are hereby expressly repealed.

G. Structures being moved within the City or into the City of Nederland shall be allowed in Commercial or Industrial Districts only.

SECTION 9. OFF-STREET PARKING.

A. **Off-street parking and loading requirements.** In all districts there shall be provided at the time any building or structure is erected, structurally altered (except as otherwise provided in this section), or when there is an occupancy change, off-street parking spaces in accordance with the requirements of the Off-Street Parking and Loading Requirements Chart as set forth in the Permitted Use Table.

PARKING SPACE is defined as and enclosed or unenclosed concrete or asphalt surfaced area of not less than 180 square feet (measuring approximately nine feet by 20 feet) not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street or alley permitting free ingress and egress to the street or alley.

All parking areas within the city limits of Nederland (except single-family residential) shall be surfaced with concrete or asphalt and shall be kept in a state of repair so as not to create dust.

B. Computation of parking spaces. In computing the number of such parking spaces required, the following rules shall govern:

1. Floor area shall mean the gross floor area of the specific use.
2. Where fractional spaces result, the parking space required shall be the next higher whole number.
3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning and Zoning Commission.
 1. Whenever a building is changed in occupancy type, or enlarged in floor area, which creates a need for an increase in the number of existing parking spaces such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of 50 percent or more in floor area or in area used, the entire building shall then and thereafter comply with the parking requirements set forth herein.
5. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

C. Location of parking spaces. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other commercial building served.

D. Up to 50 percent of the parking spaces required for (a) theaters, public auditoriums, bowling alleys, night clubs, cafes, restaurants and similar business that are open primarily at night and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that written agreement thereto is properly executed and filed as specified below.

1. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form, and executed by the city attorney; and shall be filed with the application for a building permit.
1. Off-street parking spaces may be located within the required front yard of any business or industrial district, provided that entrances to these spaces are approved by the director of public works; but no off-street parking shall be permitted in the required front yard of any residential district, except upon a driveway providing access to a garage, carport or parking space for a dwelling.
4. No off street parking space shall be designed which would require a vehicle to back onto a public street or across a public sidewalk, except for residential parking spaces.

SECTION 10. SIDEWALKS.

Sidewalks constructed of reinforced concrete, nonskid brushed surface, five feet minimum with four inches minimum thickness, with expansion joints on not more than 60 feet centers, contraction surface joints on not more than five feet centers shall be constructed along the entire front property line of all commercial buildings, however, sidewalks are not required if a parking area is considered which will serve as a walk area. Sidewalks in front of a business shall be maintained by the property owner whether on the property or in the street right-of-way.

SECTION 11. Reserve.

SECTION 12. RESTRICTIONS IN RESIDENTIAL DISTRICTS .

The following restrictions shall prevail in residential districts:

A. Accessory buildings: Accessory buildings, including private garages, shall be located not less than 20 feet back from the front lot line, and not less than five feet back from any side lot line not a street line; provided, however, that a private garage may be constructed as part of the main building or attached to it by a covered passage. In the residential district there shall be a front yard having a depth or not less than 20 feet from the front property line to the front line of the building, covered porch or covered terrace, or attached accessory building, except in the case of a new home being built in an established addition, the front line of the building, covered porch or covered terrace, or attached accessory building, shall conform to the existing front line. The accessory building shall be located no closer than six (6) feet from the main structure.

B. Corner lots: On corner lots the side yard regulations shall be the same as the interior lots, except in the case of reverse frontage, when the corner lot faces an intersecting street, in which case there shall be a side yard on the street side equal to the front yard on the lots in the rear. No accessory buildings on such corner lot shall project beyond the front building lines on the lots in the rear. The regulation shall not be interpreted as to reduce the buildable width of a corner lot facing an intersecting street, and of record at the time of passage of this Ordinance, to less than 25 feet not to prohibit the erection of an accessory building where this regulation cannot reasonably be complied with.

C. Rear yard - side yard: There shall be a rear yard along the rear line of each lot. The minimum depth of such yard shall be 20 feet. There shall be a side yard along each line of each lot, other than the front lot line or the rear lot line, having a depth of not less than five (5) feet.

D. Minimum street frontage required for residential use: Except as permitted in this ordinance, no lot shall contain any building used in whole or in part for residential purposes unless such lot abuts for at least thirty (30) feet on an improved dedicated street accepted by the City.

E. Carports: Only an open carport may be located not less than five feet from the front and side property line. Such open carport shall not be enclosed (including screening, slatting, etc.) on either side and shall not obscure visibility at corners or intersecting streets and shall be used primarily for the purpose of a shelter for the owners or occupants private vehicles.

F. Personal Care Facilities: Personal Care Facilities are allowed in all residential districts with the following stipulations:

1. The Personal Care Facility shall meet all State requirements pertaining to the operation of such a facility.
2. The distance between each Personal Care Facility shall be no less than 1,500 linear feet from the closest point on either property line. This distance limitation shall also be applicable between Personal Care Facilities and Residential Care Facilities.
3. The Personal Care Facility shall register with the City and acquire a permit prior to providing any type of care. An issued permit is subject to renewal requirements on an annual basis based upon the initial date of issuance.

G. Residential Care Facilities: Residential Care Facilities are allowed in residential zoning districts subject to the following stipulations:

4. The total number of persons unrelated to the owner shall be limited to no more than two (2) per bedroom and no more than six (6) per residence.
5. The distance between each Residential Care Facility shall be no less than 1,500 linear feet from the closest point on either property line. This distance limitation

shall also be applicable between Residential Care Facilities and Personal Care Facilities.

1. The Residential Care Facility shall register with the City and acquire a permit prior to providing any type of care. An issued permit is subject to renewal requirements on an annual basis based upon the initial date of issuance.

SECTION 13. ALLEYWAYS, STREET RIGHTS-OF-WAYS, EASEMENTS AND LICENSE TO ENCROACH.

No person, firm, or corporation, without first obtaining a variance from the City of Nederland or its Zoning Board of Appeals and if required, a License to Encroach, shall intentionally, knowingly, or recklessly construct or cause to be constructed any structure, including but not limited to, residential dwellings, apartments, swimming pools, decks, concrete slabs, building accessories or other fixtures within, into, or upon a public right-of-way, alleyway, easement or setback line established within the City of Nederland. If the Zoning Board of Appeals grants a variance to a property owner of an encroachment within, into, or upon a public easement, right-of-way, or setback line, but makes the variance conditional upon the property owner(s) obtaining a written License to Encroach from the City of Nederland, the variance shall not be effective until the property owner(s) executes the required License to Encroach prescribed by the City and pays an administrative fee in the amount \$200.00 to the City of Nederland.

SECTION 14. NONCONFORMING USES.

Any use of property existing at the time of the passage of this Ordinance, which does not conform to the regulations herein before enumerated, shall be deemed a nonconforming use and may be continued and maintained for the purpose heretofore used, but such property shall not be structurally altered or enlarged, and such nonconforming use shall not be changed to any other nonconforming use. The privilege of continuing nonconforming uses of property, existing at the time of the passage of this Ordinance, shall be granted only to the person, firm or corporation actively engaged in the nonconforming use at the time of the passage of this ordinance. The privilege of reestablishing a nonconforming use of property is denied to any person, firm or corporation.

SECTION 15. ENFORCEMENT.

The provisions of this ordinance shall be enforced by a duly appointed or designated official of the City under the direction of the City Manager in accordance with the provisions of the City Charter. When required by the Building Official, a current property survey reflecting all public easements, restrictions, right-of-ways, and setback lines on, adjoining or affecting the property shall accompany the application for the building permit. Applications for building permits shall be made upon a prescribed form. Upon receipt of an application for a building permit, the duly appointed designated official, hereinafter referred to as the Building Official, shall, as soon as practical, check the application for compliance with the terms hereof. In the event that the specifications set forth in the application are in accordance with this Ordinance, and such amendments as may be made thereto from time to time, the official shall issue a building permit and set the fee therefor. In the event that the application does not meet such requirements as set forth heretofore, the Building Official shall endorse his reasons for refusal thereon, and file same with the records of his office. In case the applicant for a building permit desires to appeal the decision of the Official to issue such permit, the Official may assist the applicant in the preparation of an appeal to the Zoning Board of Appeals as hereinafter provided. When requested, the Building Official shall furnish to the applicant a true copy of the application together with all endorsements thereto setting forth the reasons for his refusal to issue the permit.

SECTION 16. ZONING DISTRICT ESTABLISHMENT.

A. Enumeration: In order to uniformly regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land, the City of Nederland is hereby divided into the following districts or classifications:

1. R-1, Single Family Residential

2. R-2, Multi-Family Residential
3. R-3, Apartment
4. R-4, Trailer Home Park
5. C-1, Office Commercial
6. C-2, Neighborhood Retail Commercial
7. C-3, Highway Retail Commercial
8. I -1, Light Industrial
9. I -2, Medium Industrial
10. I -3, Heavy Industrial

B. Zoning Map Adopted: The Zoning Map of the City of Nederland which is made a part hereof for all purposes, is hereby adopted and shall be filed with the City Secretary of the City of Nederland. The boundaries of the various districts are hereby established as identified on said map. All notations, references, legends, scales, and every detail shown on said map are incorporated into and made a part of this chapter. In interpreting the Zoning Map, the following rules shall apply:

1. The district boundaries are the center lines of either streets or alleys unless otherwise shown, and where the district designated on the Zoning Map is bounded approximately by a street or alley, the center line of a street or alley shall be construed to the boundary of the district.
 2. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the district designated on the Zoning Map is bound approximately by lot lines, the lot lines shall be the boundary of the district.
 3. In unsubdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the map.
 4. Any property on the Zoning Map which does not have a zoning district designation shall be classified as R1, Single-Family Residential District except as authorized in Section 17 of this Ordinance.

C. District Boundary Uncertainty: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the conflict shall be resolved by utilizing the power of the Planning and Zoning Commission as set forth this Ordinance.

D General Restrictions: Except as hereinafter otherwise provided, no land or building shall be used, and no building, structure or improvement shall be made, erected, constructed, moved, altered, enlarged or repaired, for any purpose or in any manner except in accordance with the requirements established in the district in which such land, building, structure, or improvement is located, and in accordance with provisions of this chapter.

E. Residential Use Restrictions: Whenever the specific district regulations pertaining to one district permit residential uses of a more restricted district, such residential uses shall be subject to the conditions as set forth in the regulations of the more restricted district unless otherwise specifically stated.

SECTION 17. ANNEXATION ZONING POLICY.

A. Temporary designation, proceeding to give permanent designation: All territory annexed to the City hereafter shall be temporarily designated as R1, Single Family Residential District, until permanently zoned by the city council. The Planning and Zoning Commission shall, as soon as practicable after annexation of any territory to the City, institute proceedings on its own motion to give the newly annexed territory a permanent zoning classification, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations. Land uses in effect at the time of annexation shall be governed in accordance with state law.

B. Building Permits: In an annexed area temporarily classified as R1, Single Family Residential District, no permit for the construction of a building other than those permitted in an R1, Single Family Residential District, shall be issued by the Building Official unless such permit has been specifically authorized by the City Council. Permits for the construction of buildings in newly annexed areas prior to permanent zoning may be authorized by the City Council under the following conditions: An application for any use shall be made to the Building Official in accordance with the provisions of the building code, and if such application is for a building other than one permitted in an R1, Single Family Residential District, it shall be referred by the Building Official to the Planning and Zoning Commission for consideration, and a recommendation is filed with the City Council, it shall be advisory only, and the City Council may grant or deny the application as the facts may justify.

SECTION 18. DISTRICT REGULATIONS.

Sec. 18.1. R-1, Single Family Residential District Regulations.

A. General Purpose and Description:

The R-1, Single-Family Residential District, is the most restrictive residential district. The principal use of land in this district is for low density single-family dwellings.

B. Permitted Uses.

Uses permitted in R-1, Single-Family Residential District, are set forth in the Permitted Use Table.

C. Lot Size.

Minimum lot size is 6000 square feet.

Minimum lot width is 50 linear feet fronting and adjoining a dedicated street right-of-way.

Minimum lot depth is 100 linear feet.

D. Building Setback Lines.

Front- 20 feet
Rear- 20 feet
Side- 5 feet
Corner Side- 10 feet

E. Height.

Not to exceed thirty-five (35) feet, with the exception of normal appurtenances usually

required to be placed above the roof level and not intended for occupancy.

F. Living Area.

Minimum living area for R-1, Single Family Residential is 850 square feet.

G. Density.

One (1) primary site built dwelling per lot.

H. Fence Requirement.

A maximum six (6) foot high fence allowed in back yard and three (3) foot fence allowed in front yard.

I. Accessory Buildings.

Accessory buildings are limited to one-story structures with a maximum ceiling height of twelve (12) feet. The addition of an accessory building shall not generate any more traffic than is normally associated with a residential use.

J. In addition to the regulations contained in this section, see the Site Design Regulations and Supplemental Regulations (Section 20 and Section 21 of this Ordinance).

Sec. 18.2. R-2, Multiple-Family Residential District Regulations.

A. General Purpose and Description.

The R-2, Multiple-Family Residential District is intended to provide medium density multiple-family dwellings. The principal use of land may be one or several dwelling types limited to a single family residence, or a duplex, tri-plex, or four-plex.

B. Permitted Uses.

Uses permitted in an R-2, Multiple-Family Residential District are set forth in the Permitted Use Table.

C. Lot Size.

Minimum lot size is 6000 square feet.
Minimum lot width is 50 linear feet fronting and adjoining a dedicated street
right-of-way.
Minimum lot depth is 100 linear feet.

D. Building Setback Lines.

Front - 20 feet
Rear - 20 feet - to be fenced in as a designated enclosed area.
Side - 5 feet
Corner Side - 10 feet

E. Height.

Not to exceed thirty-five (35) feet, with the exception of normal appurtenances usually required to be placed above the roof level and not intended for occupancy.

F. Living Area.

Minimum living area per family unit is 650 square feet (i.e. a fourplex would require 2600 square feet of living area)

G. Density.

One (1) primary site built dwelling per lot.

H. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

I. Fence Requirement.

A maximum six (6) foot fence allowed in the back yard and three (3) foot fence allowed in the front yard.

J. Off-street Parking Requirements.

Two 9 feet by 20 feet concrete parking spaces for each dwelling unit.

Sec. 18.3. R-3, Apartment District Regulations.

A. General Purpose and Description.

The R-3, Apartment District, is a residential district intended to provide for the highest residential density ranging up to twenty-nine (29) dwelling units per acre.

B. Permitted Uses.

Uses permitted in an R-3, Apartment District are set forth in the Permitted Use Table.

C. Lot Size.

Minimum lot size is 1000 square feet per family for multi-story units and 1,500 square feet per family for single-story units.

Minimum lot width is 50 linear feet fronting and adjoining a dedicated street right-of-way.

D. Building Setback Lines.

Front - 15 feet

Rear - 10 feet for single story dwellings and 30 feet for multi-story dwelling "backing up" to a residential zone. Half the width of an alley may be included as rear yard.

Side - 5 feet

Corner side- 10 feet

E. Height.

Not to exceed thirty-five(35) feet, with the exception of normal appurtenances usually required to be placed above the roof level and not intended for occupancy.

F. Density.

Density will be determined by current Standard Building Code requirements and requirements of this ordinance.

G. Living Area.

Minimum living area per unit is 650 square feet.

H. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

I. Designated Enclosed Area.

Any multiple family dwelling (apartment) shall include a designated enclosed area of land to be used for recreation only. The building wall may be used as part of the enclosure along with the remaining sides to be fenced. Size of playground and/or pool area will be a minimum of 100 square feet per each single family dwelling unit and not less than 1,200 square feet overall. The width of the enclosed area shall be a minimum of 30 feet and the depth shall be a minimum of 40 feet.

J. Off-street Parking.

Two 9 feet by 20 feet concrete parking spaces for each apartment unit.

K. Requirements For Permit.

1. A plot plan of the improvements proposed, on which is shown the location of existing water, sanitary sewer, and drainage facilities, and on which is shown the proposed water, sewer, drainage facilities; and six-foot high solid fencing along adjacent residential areas, plans for “non-dusting” type parking areas and designated enclosed areas shall be required and submitted to the Building Official including easement dedications to the City, if required, and a performance bond in an amount of one and one-half times the estimated cost of such water, sewer, drainage, fencing and parking facilities, providing and securing to the City the actual construction and installation of such improvements within a three year period of time from date of issuance of permit.
2. Plans of the proposed installation, estimated value and type of construction shall also be submitted to the Building Official with the application for the building permit.

Sec. 18.4. R-4, Trailer Park District Regulations.

A. General Purpose and Description.

The R-4, Trailer Park District is intended to provide an area for manufactured housing within the city limits.

B. Permitted Uses.

Uses permitted in an R-4, Trailer Park District are limited to HUD-code Manufactured homes and, unlike other categories, “manufactured homes” will not be permitted in any other designations.

C. Lot Size.

Must conform to the Trailer Park Ordinance No. 259.

D. Building Setback Lines.

Must conform to the Trailer Park Ordinance No. 259.

E. Height.

Must conform to the Trailer Park Ordinance No. 259.

F. Density.

Must conform to the Trailer Park Ordinance No. 259.

G. Off-street Parking.

Must conform to the Trailer Park Ordinance No. 259.

Sec. 18.5. C-1, Office Commercial District Regulations.

A. General Purpose and Description.

This category is for business establishments other than retail and industrial. These businesses are principally occupied by office workers and require limited visitor and supplier access.

B. Permitted Uses.

Uses permitted in C-1, Office Commercial, are set forth in the Permitted Use Table of this Ordinance.

C. Lot Size.

Minimum lot size is 5000 square feet.
Minimum lot width is 50 linear feet fronting and adjoining a dedicated street
right-of-way.
Minimum lot depth is 100 linear feet.

D. Building Setback Lines.

Front - 30 feet
Rear - 10 feet
Side - determined by the Fire Resistance Ratings Table of the Standard Building
Code
Corner Side - 10 feet

E. Height.

Not to exceed thirty-five (35) feet, with the exception of normal appurtenances usually required to be placed above the roof level and not intended for occupancy.

F. Density and Size.

One (1) primary building consisting of a minimum 1000 square foot structure per lot.

G. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

H. Off-street Parking.

The number of required parking spaces is determined by the Off-Street Parking

and Loading Requirements Chart as it applies in the Permitted Use Table of this Ordinance.

Sec. 18.6. C-2, Neighborhood Retail Commercial District Regulations.

A. General Purpose and Description.

Retail commercial facilities are those that appeal to and require more access by customers. Shoppers or clients generally arrive by automobile, requiring a high ratio of parking to building area.

B. Permitted Uses.

Uses permitted in C-2, Neighborhood Retail commercial District, are set forth in the Permitted Use Table of this Ordinance.

C. Lot Size.

Minimum lot size - 5000 square feet
Minimum lot width - 50 linear feet
Minimum lot depth - 100 linear feet

D. Building Setback Lines.

Front - 30 feet
Rear - 10 feet
Side - determined by the Fire Resistance Ratings Table of the Standard Building Code
Corner Side - 10 feet

E. Height.

Not to exceed 35 feet, with the exception of normal appurtenances usually required to be placed above the roof level and not intended for occupancy.

F. Density and Size.

One (1) primary building of a minimum 1000 square foot structure per lot.

G. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

H. Off-street Parking.

The number of required parking spaces is determined by the Off-Street Parking and Loading Requirements Chart as it applies in the Permitted Use Table of this Ordinance.

1. Area of Exclusion from Front Building Setback and Off-Street Parking Requirements.

The property that fronts both sides of Boston Avenue from Highway 347 to 17th Street shall not be required to meet the front building setback requirement and the off-street parking requirements for this section. A 20' rear (in lieu of the required 10') setback shall be required for new construction in order to provide parking for the employees for that specific business.

Sec. 18.7. C-3, Highway Retail Commercial District Regulations.

A. General Purpose and Description.

This designation contains retail uses typically located on major thoroughfares.

B. Permitted Uses.

Uses permitted in C-3, Highway Retail Commercial, are set forth in the Permitted Use Table of this Ordinance.

C. Lot Size.

Minimum lot size is 5000 square feet.

Minimum lot width is 50 linear feet fronting and adjoining a dedicated street right-of-way.

Minimum lot depth is 100 linear feet.

D. Building Setback Lines.

Front - 30 feet

Rear - 10 feet

Side - determined by the Fire Resistance Ratings Table of the Standard Building Code

Corner Side - 10 feet.

E. Height.

Determined by the Allowable Heights and Building Areas Table of the Standard Building Code.

F. Density.

One (1) primary building of a minimum 1000 square foot structure per lot.

G. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulation (Section 20 and Section 21 of this Ordinance).

H. Off-street Parking.

The number of required parking spaces is determined by the Off-Street parking and Loading Requirements Chart as it applies in the Permitted Use Table of this Ordinance.

Sec. 18.8. I-1, Light Industrial District Regulations.

A. General Purpose and Description.

This designation contains warehouse, distribution, and smaller light fabrication and assembly facilities that produce no emissions, noise, or effluents.

B. Permitted Uses.

Uses permitted in I-1, Light Industrial, are set forth in the Permitted Use Table of this Ordinance.

C. Lot Size.

No requirements

D. Building Setback Lines.

Front - 30 feet

Rear - 10 feet

Side - determined by the Fire Resistance Ratings Table of the Standard Building Code.

Corner Side - 10 feet.

E. Height.

Height restriction is governed by the Allowable Heights and Building Areas Table of the Standard Building Code. Also, any structure which exceeds 100 feet in height shall be set back an additional one (1) foot for each additional four (4) feet of height over 100 feet.

F. Density and Size.

One (1) primary building consisting of a minimum 1000 square foot structure per lot.

G. Off-street Parking.

The number of required parking spaces is determined by the Off-Street Parking and Loading Requirements Chart as it applies in the Permitted Use Table of this Ordinance.

Sec. 18.9. I-2, Medium Industrial District Regulations.

A. General Purpose and Description.

This designation is for medium sized manufacturing and assembly facilities.

B. Permitted Uses.

Uses permitted in I-2, Medium Industrial District, are set forth in the Permitted Use Table.

C. Lot Size.

No minimum lot size required

D. Building Setback Lines.

Front - 30 feet

Rear - 10 feet

Side - determined by the Fire Resistance Ratings Table of the Standard Building Code.

Corner Side - 10 feet

E. Height.

Height restriction is governed by the Allowable Heights and Building Areas Table of the Standard Building Code. Also, any structure which exceeds 100 feet in height shall be set back an additional one (1) foot for each additional four (4) feet in height.

F. Density and Size.

One (1) primary building consisting of a minimum 1000 square foot structure par lot.

G. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

H. Off-street Parking.

The number of required parking spaces is determined by the Off-Street Parking and Loading Requirements Chart as it applies in the Permitted Use Table of this Ordinance.

Sec. 18.10. I-3, Heavy Industrial District Regulations.

A. General Purpose and Description.

This designation contains large process-related facilities with a variety of special requirements.

B. Permitted Uses.

Uses permitted in I-3, Heavy Industrial, are set forth in the Permitted Use Table of this Ordinance.

C. Lot Size.

No minimum lot size

D. Building Setback Lines.

Front-30 feet
Rear - 10 feet
Side - Determined by the Fire Resistance Ratings Table of the Standard Building Code.
Corner Side - 10

E. Height.

Height restriction is governed by the Allowable Heights and Building Areas Table of the Standard Building Code. Also, any structure which exceeds 100 feet in height shall be set back an additional one (1) foot for each additional four (4) feet in height.

F. Density and Size.

One primary building consisting of a minimum 1000 square foot structure per lot.

G. In addition to the regulations contained in this section, see the Site Design Regulations and Supplementary Regulations (Section 20 and Section 21 of this Ordinance).

H. Off-street Parking.

The number of required parking spaces is determined by the Off-Street Parking and loading requirements chart as it applies in the Permitted Use Table of this Ordinance.

SECTION 19. TOWNHOUSE AND TOWNHOUSE PROJECT REGULATION.

Sec. 19.1. Definitions.

ACCESS STREET: A main public service road with access to townhouse project.

ALLEY: A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

COMMON AREA: Private property owned in common by, and designated for the private use of the owners or occupants of townhouse in a particular project or subdivision. The Common Area does not include public streets, alleys, required building setbacks or utility easements.

OFF-STREET PARKING SPACE: A paved parking space of not less than 180 square feet with vehicular access to a street or an alley.

PROJECT STREET: A secondary street which affords occupants access to townhouse lots and not designed as a through street.

SEPARATION FENCE: A fence constructed of wood, concrete, concrete blocks, brick, stone or other permanent material which provides a solid area of at least 75 percent of the wall surface. Separation fence for private yards shall be no less than six feet nor more than seven feet from the ground.

TOWNHOUSE: A single dwelling unit, on a separate lot having a common wall or abutting wall with one or more adjoining dwelling unit structures.

TOWNHOUSE GROUP: Two or more contiguous townhouses connected by a single wall.

TOWNHOUSE PROJECT: A townhouse development or plan with no less than 5,000 square feet which is submitted and approved by a single special permit. Project must be laid out on contiguous land, all uninterrupted by intervening public streets and not less than four townhouse units.

Sec. 19.2. Intent and Effect of Amendment.

Hereinafter, any person wishing to develop a townhouse project within the corporate limits of the City shall first submit preliminary and final plats in accordance with the subdivision ordinance, dedication instruments and deed restrictions of the project to and for the approval of the Planning and Zoning Commission and City Council, following the procedures for same as described in the subdivision ordinance. Upon recordation of the approved final plat or declaration of townhouse project, as the case may be, with the County Clerk of Jefferson County, Texas, the project shall constitute a special use in the zoning district in which it is permitted. In approving a townhouse project, the Planning Commission shall assure itself that the project meets the following conditions that:

A. Property adjacent to the area included in the project shall not be adversely affected. The restriction of natural drainage across the project property from the adjacent property and drainage of the developed project property onto the adjacent property is strictly prohibited.

B. The lots or area within the project shall be used only for single-family dwellings and uses commonly accessory thereto such as garages, carports or storage areas.

C. The project is consistent with the intent and purpose of this Ordinance to promote health, safety, morals and general welfare.

Sec. 19.3. Standards and Specifications.

The standards and specifications for townhouse projects shall be those prescribed under Subdivision Ordinance No. 121 and this Zoning Ordinance, subject to the following exceptions:

A. Access.

1. All townhouse projects shall have direct access from at least one dedicated, improved and accessible access street having minimum pavement width of not less than 27 feet.

2. All townhouses shall immediately abut and have direct access to an access street, project street or alley.

3. Project streets shall have a minimum right-of-way width of 55 feet and shall be developed with a minimum 35 feet wide concrete paving section constructed with concrete curbs and gutters in accordance with Subdivision Ordinance No. 121.

4. Private alleys shall have a right-of-way width of at least 25 feet and shall have a minimum concrete paving section of at least 20 feet in width in accordance with Subdivision Ordinance No. 121. A townhouse alley shall not serve over 22 townhouse units.

B. Density.

No townhouse project shall have a greater density than 15 lots per gross acre.

C. Area.

1. Each lot shall have a minimum width of not less than 18 feet, except that lots siding on an access street or upon a plat boundary of the project shall not be less than 28 feet wide.

2. Each townhouse lot shall provide a minimum land area of 1,600 square feet and in addition shall meet the required building set back lines as set forth in the following section.

D. Building Setback Lines.

1. A front building setback line of 20 feet shall be required for all lots and townhouse structures fronting on an access street.

2. A front building setback line of ten feet shall be required for all lots and townhouse structures fronting a project street. However, the Planning and Zoning Commission may approve reductions to an average five foot setback if staggered front setbacks are used. Such average is to be determined across the frontage of a minimum of five adjoining lots. The differential in front setbacks shall not exceed ten feet for adjoining lots.

3. A rear building setback line of 20 feet shall be required for all lots and townhouse structures backing on an access street and such lots or structures shall be denied direct driveway access to the access street.

4. A rear building setback line of 20 feet shall be required for all lots and townhouse structures abutting a recorded plat used or intended to be used for single-family detached dwelling units.

5. A side building setback line of 20 feet shall be required on the side for all lots and townhouse structures siding on an access street or siding upon a plat boundary of the project.

6. No building setback line shall be required on the sides of a lot or townhouse structure abutting project streets, except where, in the opinion of the Planning and Zoning Commission, traffic safety necessitates the establishment of such setback.

7. All lots and townhouse structures without rear access will have a minimum rear setback of ten feet, or the width of any required easement, whichever is greater.

E. Common Area Space.

1. A minimum of 200 square feet of common area space per lot or townhouse shall be provided within the project.

2. Where townhouse lots and dwelling units are designed to face or front each other across common area space rather than fronting upon a public street, such common area space shall be at least 40 feet wide. However, in no case shall common area space be less than 25 feet wide where any dwelling units are side by side and not facing each other.

3. In computing the required common area space, required front or side setbacks, streets, alleys or other public rights -of-way of any kind, vehicular drives or parking areas, drainage easements and utility easements containing or permitting overhead pole carried service, shall not be included.

F. Separation Fence or Screening or Enclosure Wall.

Where townhouse lots or units are backing on a public street or backing or siding on lots in a recorded plat used or intended to be used for single-family detached dwelling units, or backing or siding on undeveloped property in a residential zoned district, a two foot wide easement shall be provided abutting the street or common lot lines and a separation fence or a screening or enclosure wall as defined herein shall be constructed in conformance with City standards and permanently maintained by the homeowners association upon the easement to provide a visual screen. The construction of separation fences or screening or enclosure walls shall conform to specifications and standards as defined herein.

G. Parking.

In general, there shall be three parking spaces per townhouse lot.

1. At least two off-street parking spaces for each townhouse lot shall be provided within the project.

2. One additional parking space per lot shall be provided either off-street within the project or on an abutting public street with not less than 35 foot wide paving section.

H. Easements.

1. The Department of Public Works shall determine the width of the public easements for utilities and other purposes on an individual basis for each project in accordance with requirements of the water and sewer system of Ordinance No. 121.

2. Aerial easements, if any, may not be located along the frontage of lots or structures.

I. Height.

No building or structure within a townhouse project shall have a height greater than two and one-half stories or 35 feet. However, no such building structure adjacent to a plat boundary that is coincident with the side lot line of a lot upon which a single-family detached dwelling unit exists shall have a height greater than the adjoining single-family detached dwelling unit.

J. Sidewalks.

A sidewalk of concrete or other permanent material having a width of at least four feet shall be constructed along the front of each lot or structure. If the required sidewalk is constructed within public street right-of-way, it shall be constructed to City standards.

K. Variances.

When a developer shows that a provision of the regulations would cause unnecessary hardship if strictly adhered to; and where, in the opinion of the Zoning Board of Appeals, a departure may be made without destroying the spirit of the regulations

SECTION 20. SUBMISSION OF SITE PLAN/DESIGN REGULATION REQUIREMENTS.

Site plans submitted to the Inspection Department shall have the following information at a minimum, as applicable:

Scale and all dimensions to scale
North arrow
Description of project: example: A 500 square foot master bedroom addition to an existing 1,500 square foot one-story residence
Property lines with dimensions
Existing/Proposed structures with floor area
Distance of structures to property lines (setbacks)
Existing/Proposed fences
Existing/Proposed signs with area, height
Existing/Proposed landscaping
Existing easements
Existing/Proposed drainage pattern
Existing/Proposed impervious surface - i.e. driveways, patios, sidewalks
Parking lot/loading area layout with aisles, amount of parking spaces required and provided, and all dimensions.
Streets, alleys - name of street and width of right-of-way and pavement
Points of ingress/egress (driveway openings)
Owner, applicant, architect, engineer, surveyor, draftsman, with address and phone number, fax number
Address of subject property
Legal description of property; (i.e. Block 1, Lot 1 of Hillcrest Addition)
Name of project

SECTION 21. SUPPLEMENTARY REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS.

The following regulations are applicable to all zoning districts, except where specifically stated otherwise:

Sec. 21.1. Application of Setbacks.

Required setback lines shall apply to any structure, as defined herein, including principal structures, accessory structures, pools, hot tubs, decks elevated 30 inches above grade; not including paved areas, boundary fences and boundary walls, signs, and retaining walls.

Sec. 21.2. Building Front Determination.

The front of a building is the direction from which the building takes its access, its address, or has its direction of orientation. To determine the front of a building all three factors should apply. Should these determining factors conflict, the Building Official shall have the authority to determine the building front.

Sec. 21.3. Carports.

Single family residential carports are subject to the following provisions, unless otherwise regulated by restrictions for the subdivision in which a carport is located:

A. Front yard setback of five (5) feet as measured from the street right-of-way line, except for corner lots;

B. Carports on corner lots are subject to the corner side yard setback as required for the zone, and a front yard setback that is necessary for traffic safety, not to exceed the

setback required for the principal residence and not less than a five(5) foot front yard setback; and

C. Carports must remain completely open on all sides.

Sec. 21.4. Certificate of Occupancy (CO).

The purpose of a Certificate of Occupancy inspection is to insure that all aspects of the plans which were approved for a building permit have been complied with verifying such with an on-site visual inspection of the project.

At the completion of a building project, a request for a Certificate of Occupancy inspection shall be made to the Inspection Department for the following types of projects:

- new residences
- new commercial buildings
- additions to existing commercial buildings
- addition to existing residences

A Certificate of Occupancy shall be issued by the Inspection Department following verification that all aspects of the plans which were approved for a building permit have been followed. A Certificate of Occupancy is only issued upon request and only for new construction or permitted renovations.

Sec. 21.5. Commercial Temporary Uses.

Commercial temporary uses, including but not limited to, Christmas tree sales, plant sales, pumpkin sales, agricultural products sales, are allowed in any zone except residential zones, subject to the following conditions:

A. A written request must be made to the Inspection Department, along with a \$25.00 fee.

B. The Building Official shall approve the request if it is demonstrated that the commercial temporary use conforms to the intent of this Zoning Ordinance.

C. Commercial temporary uses may be approved for a period not to exceed sixty (60) total days per year.

Sec. 21.6. Mobile Vendors in Commercial and Industrial Districts.

Mobile vendors are allowed to sell merchandise and/or food and drink only in commercial or industrial districts in the City of Nederland and only as a non-profit club or organization for no more than fourteen (14) consecutive days and no more than thirty (30) total days per year.

Sec. 21.7. Accessory Buildings in Commercial Districts.

An accessory building in a commercial district can be used to sell merchandise and/or food and drink if it meets the requirements of this ordinance and the requirements of the most recently adopted Standard Codes and the National Electrical Code and contain restroom facilities with permanent water and sewer connections.

SECTION 22. FENCES, HEDGES, OR ENCLOSURE WALLS (Residential, Commercial, Commercial adjacent to Residential).

Sec. 22.1. Residential.

A. Shall not exceed a standard height of six (6) feet in the rear or side yard and only under specific conditions may be allowed a total height not to exceed eight (8)

feet when in conformity with other fences in the neighborhood or in an area in which fence height has not been established by previous construction or subdivision restrictions.

B. In the front yard, shall not exceed a height of three (3) feet on or within the property line, and shall be non-opaque.

C. Within 20 feet of the front property line the fence shall not exceed a height of three feet, and any fence, hedge or enclosure wall on a corner lot extending closer to the side property line than the required building setback line shall not exceed a height of three feet.

D. A fence, hedge or enclosure wall within twenty (20) feet of the rear property line that abuts a street right-of-way shall not exceed a height of three (3) feet, without a variance from the Zoning Board of Appeals.

E. No fence, hedge or enclosure wall shall be placed within a street right-of-way, alleyway or on any other City property .

F. Anyone wishing to construct a fence shall first submit a drawing to the Inspection Department showing the property lines, where the fence is to be located and the height of the fence.

G. A permit is required to be taken out prior to construction and the fee for the permit is based on the cost of the project.

Sec. 22.2. Commercial.

A. In all other than residential districts, when a lot abuts a residential district, there shall be provided, at the time any building or structure is erected, renovated, or when there is a change in ownership or classification, or the commercial land is developed or the property is utilized for any purpose (for more than 45 consecutive days), a six (6) foot permanent screening wall or fence. Screening walls or fences shall be constructed of redwood, cedar, pressure treated pine, masonry or other permanent wall or fence material.

B. The surface of such wall or fence shall not contain any openings consisting of more than 40 square inches in each one (1) square foot of wall or fence surface. All passageways in such wall or fence shall be equipped with gates equal in height and screening characteristic of the wall or fence.

C. All required screening walls or fences shall not be less than six (6) feet nor more than eight(8) feet in height. The lower edge of such wall or fence shall not be over three (3) inches above the finished ground elevation.

D. All required screening walls or fences shall be permanently maintained by the owner in a safe and sound vertical condition. The area in front of such wall or fence shall be maintained in a clean and orderly condition, free of weeds, debris and trash.

E. A fence, hedge or enclosure extending closer than ten (10) feet from the front property line shall not exceed a height of three (3) feet and, on a corner lot, a fence, hedge or enclosure extending closer than ten (10) feet from the side property line shall not exceed a height of three (3) feet.

F. No fence shall be allowed in the front yard of a commercial use that would obstruct visibility or create a traffic hazard in any form.

Sec. 22.3. Commercial Uses Adjacent to Residential Zone.

A. Shall be opaque and not less than six (6) feet in height and not higher than eight (8) feet.

B. An addition to a commercial use in excess of 50% or more of the existing floor area, where the commercial use is adjacent to a residential zone, shall require construction of an opaque fence not less than six (6) feet in height and not higher than eight (8) feet.

C. All fences adjacent to residential zones shall be maintained by the owner of the commercial property to prevent unsightliness and shall be maintained to prevent openings in the fence.

SECTION 23. HOME OCCUPATIONS.

A home occupation shall be approved by the Building Official if it meets all of the following requirements:

A. No retail business of any sort is involved.

B. No stock in trade is kept nor commodities sold except those made or used on the premises.

C. Only members of the family residing on the premises are employed.

D. No internal or external alterations, special construction, or features are involved.

E. There is no on-premise advertising or any other display to storage of materials or exterior identification of the home occupation or variation from the residential character of the main building or any accessory buildings.

F. No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odor, heat, glare, x-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist's studio; dressmaking and millinery; limited professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than two (2) pupils at one time; the keeping of up to five (5) children under the age of sixteen (16) years at any one time apart from their parents, guardians, or custodians for compensation, provided that the total number of children under the age of sixteen (16) years on the premises at any one time, including those kept without compensation and those who reside on the premises, shall not exceed eight (8).

SECTION 24. PROJECTION INTO REQUIRED SETBACKS.

Open building projections such as outside stairways and fire escapes, balconies, terraces or porches, awnings, eave and roof extensions, and ornamental features may project into the required yards for a distance not to exceed four (4) feet. In no case shall such projections be located closer than three (3) feet from the property line. Awnings or canopies for uses by gas service stations may not be located closer than ten (10) feet from the property lot line. Projections into street rights-of way with canopies or awnings in business districts may be allowed but must require a license to encroach and approval by the City Council.

SECTION 25. RESIDENTIAL TEMPORARY OUTDOOR SALES.

Residential temporary outdoor sales, such as a yard sale or garage sale, are allowed in the residential zone for no longer than two (2) consecutive days and no more than four (4) total days per month.

SECTION 26. SEXUALLY ORIENTED BUSINESS (S.O.B.).

The City finds that the unrestricted operation of certain sexually oriented businesses may be detrimental to the health, safety, and welfare by contributing to the decline of residential and commercial neighborhoods and the growth of criminal activity. The following regulations apply to Sexually Oriented Businesses (SOB):

A. Location of a Sexually Oriented Business.

A SOB may be located not closer than 1,000 linear feet from an existing SOB. An SOB cannot be located closer than 1000 linear feet, measured in a straight line from the nearest property line to the nearest property line, from the following uses that are located within the City:

- a child care facility
- a school
- a dwelling
- a hospital
- a public park
- a church or place of religious worship

B. Lot Size of a Sexually Oriented Business.

Lot size depends on the zone in which the SOB is located.

C. Parking for a Sexually Oriented Business.

Twelve (12) parking spaces per 1,000 gross square feet of building area.

D. Setbacks for a Sexually Oriented Business.

Setbacks for an SOB is determined by the zone in which it is located.

E. Height for a Sexually Oriented Business.

Height of an SOB is determined by the zone in which it is located.

F. Lighting for a Sexually Oriented Business.

Exterior lighting shall be designed to illuminate the entire property, at an intensity of no less than six (6) foot candles per square foot.

G. Signage for a Sexually Oriented Business.

The following exterior sign regulations shall apply:

- No pole signs are allowed
- No roof-mounted signs are allowed
- No sign or sign copy shall be designed to rotate, move or flash in any manner
- No temporary signs are allowed

It shall also be unlawful for any sexually oriented business enterprise to exhibit advertisements, displays, or other promotional materials at the premises that are characterized by specified sexual activities or specified anatomical areas and are visible from a public place.

H. Building Design of a Sexually Oriented Business.

1. Exterior building color for sexually oriented businesses including facade, doors,

window frames, and all appurtenances, shall be limited to gray, tan, or beige.

2. Roof color is limited to shades of gray, black, or brown.
3. Trim color is limited to a shade of the principal color of the building or white.
4. The activities or merchandise of a SOB shall not be visible from anywhere outside the building.

I. Landscaping of a Sexually Oriented Business.

Landscaping of a Sexually Oriented Business shall consist of decorative ground cover only. Shrubs and trees which block visibility shall be strictly prohibited.

SECTION 27. SPECIFIC USE PERMITS.

The City Council of the City on Nederland, Texas, after public hearing and proper notice to all parties affected and after recommendations by the Planning and Zoning Commission may authorize the issuance of specific use permits for the uses indicated by "S" in the Permitted Use Table.

Sec. 27.1. Information required for a specific use permit.

The Planning and Zoning Commission in considering and determining its recommendations to the City Council on any request for a specific use permit may require from the applicant plans, information, operating data and expert evaluation concerning the location and function and characteristics of any building or use proposed.

Sec. 27.2. Requirements.

The Planning and Zoning Commission shall review the particular facts and circumstances of each proposed specific use in terms of the following general standards to ensure that the use:

- A. Will be harmonious with and in accordance with the general objectives of this Ordinance;
- B. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area;
- C. Will have vehicular approaches to the property which shall be so designed as not to create interference with traffic on surrounding thoroughfares;
- D. Will not be hazardous or disturbing to existing or future neighboring uses;
- E. Will not create excessive additional requirements on public facilities or services;
- F. Will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive traffic, noise, smoke fumes, glare, odor or any other nuisance;
- G. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major significance.

Sec. 27.3. Conditional Requirements.

The City Council may, in the interest of the public welfare and to assure compliance with this ordinance, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific

use permits, the City Council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property

from noise, vibration, dust, dirt, smoke, fumes, gas odor, explosion, glare, offensive view or other undesirable or hazardous conditions.

All specific use permits approved in accordance with the provisions of this ordinance in its original form or as hereafter amended shall be referenced on the zoning district map. A specific use permit is cumulative to the preexisting zoning classification and is also an amendment to the zoning ordinance.

A Specific Use Permit shall remain in effect until such time that any of the following conditions occur:

A. An amendment to the Zoning Ordinance results in the use for which the specific use permit was issued becoming a use permitted by right in the district in which it is located; or

B. An amendment to the Zoning Ordinance results in the use for which the specific use permit was issued becoming a prohibited use in the district in which it is located; or

C. The person applying for the Specific Use Permit terminates business operations at location for which the SUP was issued for more than sixty (60) days; or

D. The person applying for the Specific Use Permit sells the property for which the Specific Use Permit is issued.

Upon occurrence of either of the above conditions the Specific Use Permit shall become void and shall be designated as such in the Appendix of this ordinance and removed from the official zoning map. Those uses which then are nonconforming in the district in which they are located shall be subject to Section 14 of this Ordinance entitled "Nonconforming Uses".

SECTION 28. APPEALS CLAUSE.

Any person aggrieved by the provisions or enforcement of this ordinance, any officer, department, board or bureau of the municipality may have the right to appeal the decision if alleged there is error in any order, requirement, decision or determination made by any official enforcing this section. Section 6 of this ordinance outlines this procedure and provides the manner to convey to the Zoning Board of Appeals this information for consideration, action or variance from the terms hereof.

SECTION 29. CHANGES AND AMENDMENTS.

A. The City Council may from time to time amend, supplement or change by ordinance the boundaries of the districts, or the regulations herein established.

B. Before taking action on any proposed amendment, supplement or change, the City Council shall submit same to the Planning Commission for its recommendation and report.

C. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication one time in the official publication of the City, stating the time, place and purpose of such hearing, which time shall not be earlier than 15 days from the date of publicati

D. Unless such proposed amendment, supplement or change has been filed with the City Clerk, duly signed and acknowledged by the owners of 20 percent or more, either of the area or the lots included in such proposed changes or those immediately adjacent in the rear thereof extending 200 feet therefrom, or those directly opposite thereto extending

200 feet from the street frontage of such opposite lots, such amendment, supplement or change shall not become effective, except by a three-fourths vote of the City Council.

E. In case an application for amendment to the Zoning Ordinance is denied by the City Council, such application shall not be eligible for reconsideration for six months subsequent to such denial.

SECTION 30. REPEALING CONFLICT.

All ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 31. VALIDITY OF THE ORDINANCE.

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

SECTION 32. PENALTY FOR VIOLATION.

Any person, firm or corporation violating any of the provisions of this ordinance or who shall fail to comply with any of the requirements hereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in accordance with Sec. 1-4. "General penalty; continuing violations" of the Nederland Code of Ordinances and each day such violation continues or exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of this ordinance shall be placed or shall exist and any architect, builder, contractor or agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein provided.

SECTION 33. EFFECTIVE DATE.

This ordinance shall be effective from and after its passage and publication as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEDERLAND AT A REGULAR MEETING ON THIS _____ DAY OF _____, A.D., 2000.

Homer E. Nagel, Mayor
CITY OF NEDERLAND

ATTEST:

LaDonna Floyd, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Richard D. Hughes, City Attorney