

Chapter 98

**ZONING**

**Article I. In General**

- Sec. 98-1. Short title.
- Sec. 98-2. Definitions.
- Sec. 98-3. Violations; penalty.
- Sec. 98-4. Interpretation of chapter; conflicting regulations or agreements.
- Secs. 98-5—98-30. Reserved.

**Article II. Administration and Enforcement**

Division 1. Generally

- Sec. 98-31. Authority of building official; right of entry; stop work orders.
- Sec. 98-32. Building permits.
- Sec. 98-33. Special use permits.
- Sec. 98-34. Certificate of occupancy.
- Sec. 98-35. Board of adjustment; appeals and variances.
- Sec. 98-36. Amendments to chapter and changes to district boundaries.
- Secs. 98-37—98-44. Reserved.

Division 2. Planning and Zoning Commission

- Sec. 98-45. Creation and purpose.
- Sec. 98-46. Open meetings.
- Sec. 98-47. Notices.
- Sec. 98-48. Membership and appointment.
- Sec. 98-49. Terms of office.
- Sec. 98-50. Organization.
- Sec. 98-51. Duties and powers.
- Sec. 98-52. Meeting and quorum.
- Sec. 98-53. Disqualification from voting.
- Secs. 98-54—98-60. Reserved.

**Article III. Districts and Zoning Map**

Division 1. Generally

- Sec. 98-61. Establishment of districts and boundaries.
- Sec. 98-62. Official zoning map.
- Sec. 98-63. Interpretation of district boundaries.
- Sec. 98-64. Compliance with district regulations.
- Sec. 98-65. Table of permitted uses and special uses.
- Secs. 98-66—98-90. Reserved.

Division 2. District R-1 Single-Family Residential

- Sec. 98-91. Intent and purpose; applicability of recorded plans and plats.
- Sec. 98-92. Use regulations.
- Sec. 98-93. Area regulations.
- Sec. 98-94. Parking requirements.
- Secs. 98-95—98-120. Reserved.

Division 3. District R-2 Multifamily Residential

- Sec. 98-121. Use regulations.
- Sec. 98-122. Height regulations.
- Sec. 98-123. Area regulations.
- Secs. 98-124—98-150. Reserved.

Division 4. District B Commercial

- Sec. 98-151. Description.
- Sec. 98-152. Purpose.
- Sec. 98-153. Use regulations.
- Sec. 98-154. Height regulations.
- Sec. 98-155. Area regulations.
- Secs. 98-156—98-~~180~~210. Reserved.

Division 5. District ~~B~~ Professional

- ~~Sec. 98-181. Description.~~
- ~~ID~~~~Sec. 98-182. Purpose.~~
- ~~Sec. 98-183. Use regulations.~~
- ~~Sec. 98-184. Height regulations.~~
- ~~Sec. 98-185. Area regulations.~~
- ~~Secs. 98-186—98-210. Reserved.~~

~~Division 6. District L Light~~ Industrial

- Sec. 98-211. Description.
- Sec. 98-212. Purpose.
- Sec. 98-213. Use regulations.
- Sec. 98-214. Height regulations.
- Sec. 98-215. Area regulations.
- Sec. 98-216. Parking requirements.
- Secs. 98-217—98-240. Reserved.

Division ~~7. District L Heavy Industrial~~6. Institutional

- Sec. 98-241. Description.
- Sec. 98-242. Purpose.
- Sec. 98-243. ~~Use regulations.~~
- ~~Sec. 98-244.~~ Height regulations.
- Sec. 98-~~245~~244. Area regulations.
- Sec. 98-~~246~~245. Parking requirements.

Secs. 98-~~247~~~~246~~—98-255. Reserved.

Division ~~87~~. District PD Planned Development

Sec. 98-256. Purpose.

Sec. 98-257. Approved planned developments.

Sec. 98-258. Use regulations,

Secs. 98-259—98-270. Reserved.

**Article IV. Off-Street Parking Requirements**

Sec. 98-271. General requirements.

Sec. 98-272. Rules for computing number of parking spaces.

Sec. 98-273. Location of parking spaces.

Sec. 98-274. Minimum dimensions of parking spaces.

Secs. 98-275—98-300. Reserved.

**Article V. Nonconforming Uses**

Sec. 98-301. Continuation of nonconforming use; change of use.

Secs. 98-302—98-330. Reserved.

**Article VI. Historic Preservation**

Sec. 98-331. Purpose.

Sec. 98-332. ~~Definitions~~Designation of Historic Landmarks.

Sec. 98-333. ~~Designation of Historic Landmarks.~~

~~Sec. 98-334.~~ Designation of Historic Preservation District(s).

Sec. 98-~~335~~~~334~~. Criteria for Designation of Historic Landmarks and Districts.

Sec. 98-~~336~~~~335~~. Approval for Alteration or New Construction Within Historic Preservation Districts or Affecting Historic Landmarks.

~~Sec. 98-336.~~ ~~Sec. 98-337.~~ Nonconforming Structures.

~~Sec. 98-337.~~ ~~98-338.~~ Historic Preservation District/Landmark Building Permit Application Procedures.

Sec. ~~98-339~~—~~98-338.~~ Criteria for Approval by the Planning and Zoning Commission.

Sec. 98-~~340~~~~339~~. Special Setback Provision.

Sec. 98-~~341~~~~340~~. Approval Required for Demolition.

Sec. 98-~~342~~~~341~~. Economic Hardship Application Procedure.

Sec. 98-~~343~~~~342~~. Enforcement.

Sec. 98-~~344~~~~343~~. Ordinary Maintenance.

Sec. 98-~~345~~~~344~~. Demolition by Neglect.

Sec. 98-~~346~~~~345~~. Penalties.

Secs. 98-~~467~~~~446~~—98-360. Reserved.

**Article VII. ~~Corridor~~Corridor Enhancement**

Sec. 98-361. Purpose.

Sec. 98-362. ~~Definitions.~~

~~Sec. 98-363.~~ District Boundaries and Designation of Properties.

| Sec. 98-~~364~~363. General Requirements.  
~~Sec. Sec. 98-365~~364. Exceptions and Exemptions.  
Sec. Sec. 98-366365. Enforcement.

## ARTICLE I. IN GENERAL

### Sec. 98-1. Short title.

This chapter shall be known and may be cited as "The City of Montgomery Zoning Ordinance."

### Sec. 98-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory use or building* means a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

*Adjoining or abutting* means touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot, it adjoins and abuts such other lot which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.

*Alley* means a public way which affords only a secondary means of access to property abutting thereon.

*Apartment hotel* means an apartment house which furnishes, for the use of its tenants, services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

*Bed and breakfast* means a house used for the temporary residence of motorists or travelers.

*Board* means the board of adjustment established by section 98-35.

*Boardinghouse* and *lodginghouse* mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

*Building* means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. The word "building" shall include the word "structure."

*Building, height of,* means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

*Building line* means a line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

*Building official* means any person or officer of the city duly designated by official resolution of the city council having the duty to enforce the regulations contained in this chapter.

*Clinic* means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by ~~a group of~~ physicians ~~practicing~~ providing medicine ~~together, or other health care professionals.~~

*Club* means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

*Demolition* means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

*Design guidelines for the City of Montgomery* means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the City Secretary.

*Design guidelines for the City of Montgomery* means written guidelines adopted by the City as a reference and guide to provide information on appropriate methods for new construction of buildings.

*District* means a section of the city for which regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform under this chapter.

*Dwelling* means any building or portion thereof which is designed for or used for residential purposes.

*Dwelling, multifamily*, means a building designed for or occupied exclusively by more than one family.

*Dwelling, single-family*, means a building designed for or occupied exclusively by one family.

*Exterior architectural feature* means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

*Exterior walls and facades* means the outermost covering of a building that is visible from any public right of way, street or roadway.

*Family* means one or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, or hotel.

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

Historic Landmark means an individual property designated by the city council under this ordinance, as having outstanding historical and cultural significance in the nation, region, or community. The designation “Historic Landmark” recognizes that the historic place, or the building(s), structure(s), accessory building(s), fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial Historic Landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list attached and shown on the attached map. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9000 square feet in area, only the buildings or structures and a twenty-five (25) feet buffer around said buildings or structures shall be subject to the provisions of this article. Said list and map shall remain on file with the City Secretary and the Montgomery County Clerk’s office.

Historic Preservation District means an area of the city designated by the city council under this ordinance, as having definable geographic boundaries, a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation “Historic Preservation District” recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial Historic Preservation District shall consist of the area shown on the attached map and the map shall remain on file with the City Secretary.

*Hotel* means 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 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.

*Lot* means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, and the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. The word "lot" includes the word "plot."

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

Main entryways and corridors means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

Metal panels means profiled metal panels, deep ribbed panels and concealed fastener systems.

*Motor court* and *motel* mean a building or group of buildings used for the temporary residence of motorists or travelers.

Nonconforming Structures means commercial, residential, and/or institutional buildings or other structures existing within a Historic Preservation District but not possessing the character nor the designation of an official Historic Landmark.

*Nonconforming use, building or yard* means a use, building, or yard, existing legally at

the time of passage of the ordinance from which this chapter is derived (December 6, 1994), which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Ordinary Maintenance means repairs and other work necessary for the upkeep of buildings and other structures that may include but is not limited to minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a building permit.

*Parking space, off-street*, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

*Place* means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planning and Zoning Approval means an indication on the building permit evidencing the approval of the Planning and Zoning Commission, signed and dated by the chairman of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this article, where approval for the same is required.

Planning and Zoning Commission means the Planning and Zoning Commission of the City of Montgomery, Texas (hereinafter may be referred to as the "Commission") formed by city council ordinance and appointment.

*Story* means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

*Street* means a public or private thoroughfare which affords the principal means of access to the abutting property.

*Street line* means a dividing line between a lot, tract or parcel of land and a contiguous street.

*Structural alterations* means any changes in the supporting members of a structure, such as bearing walls, columns, beams or girders.

*Structure* means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including but not limited to buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

*Temporary building* means any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

*Used for* includes the meaning "designed for" or "intended for."

*Visual barrier* means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening provided it creates a visual barrier. The city shall not be responsible for the maintenance of required screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

*Wetland* means any swamps, marshes or bogs or other areas classified as jurisdictional wetland which would require appropriate permits from the Corps of Engineers for any construction.

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this chapter. 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 the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

*Yard, front*, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

*Yard, rear*, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, enclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

*Yard, side*, means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

**Sec. 98-3. Violations; penalty.**

(a) It shall be the duty of the building official to enforce the provisions of this chapter, and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of this chapter.

(b) In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the building official is authorized and directed, after notifying the property owner of the violation and allowing ten days for correction, to ~~put an end to~~ remedy any such violation. If the building official

determines that a good faith effort is being made to correct the violation, the grace period can be extended.

(c) Any person who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved under this chapter, shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$200.00, and each day such violation shall ~~be permitted to exist~~, after the ten days allowed for correction and any additional correction time approved by the building official, shall constitute a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be punished as provided in this section.

(d) In addition to the penalties provided for herein, the City may bring suit in a court having jurisdiction thereof to abate or enjoin any violations of the provisions of this chapter, and obtain such remedies as may be available at law or in equity.

**Sec. 98-4. Interpretation of chapter; conflicting regulations or agreements.**

In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces, ~~than~~ are imposed or required by other ordinances, rules, or regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.

**Secs. 98-5—98-30. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1. GENERALLY**

**Sec. 98-31. Authority of building official; right of entry; stop work orders.**

The provisions of this chapter shall be administered and enforced by the building official. The building official or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out ~~his~~the duties in the enforcement of this chapter. Whenever any construction work is being done contrary to the provisions of this chapter, the building official may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building official to proceed with the work.

**Sec. 98-32. Building permits.**

(a) All applications for building permits shall be submitted ~~pursuant to Ordinance No. 1994 2, as amended, passed by the city council, and in addition to the requirements contained therein~~ as required by the City, and shall show:

- (1) The actual shape and dimensions of the lot to be built upon.
- (2) The exact sizes and locations on the lot of the buildings and accessory buildings then existing.
- (3) The lines within which the proposed building and structure shall be erected or altered.
- (4) The existing and intended use of each building or part of building.
- (5) Such other information with regard to the lot and neighboring lots as maybe necessary to determine and provide for the enforcement of this chapter.

(b) One copy of such plans will be returned to the owner when such plans have been approved. A period of two weeks shall be allowed for inspection of plans before a permit shall be issued. All dimensions shown on the plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started.

#### **Sec. 98-33. Special use permits.**

(a) The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit for special uses in any district, ~~as for those uses~~ listed under "CC" in the table of permitted uses in section 98-65, ~~or~~ which are otherwise ~~prohibited~~ not expressly permitted by this chapter, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect property and property values in the neighborhood. ~~A special use permit may be revoked or canceled by the City Council upon violation of any permit granted.~~ Before authorization of any of such special uses, the request therefor shall be referred to the planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed in subsection (b) of this section ~~for hearings and amendments.~~

(b) A public hearing shall be held by the city council before adopting any proposed ~~amendment, supplement or change~~ special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the ~~first~~ date of publication.

#### **Sec. 98-34. Certificate of occupancy.**

(a) No vacant land shall be occupied or used, except for agricultural uses, until a certificate of occupancy shall have been issued by the building official.

(b) No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied or changed in use until the provisions of this chapter are met and a certificate of occupancy and compliance shall have been issued by the building official.

(c) Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such buildings shall have been completed in conformity with the provisions of this chapter. A record of all certificates shall be kept on file in the office of the building official.

(d) A certificate of occupancy shall not be issued for any temporary building unless and until such temporary building shall have met all requirements imposed by other city ordinances. Any permit issued will be valid for six months and will be reviewed by the city council for any extensions.

**Sec. 98-35. Board of adjustment; appeals and variances.**

(a) *Board established.* A board of adjustment is hereby established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008, regarding the zoning of cities, and having the powers and duties as provided in such statutes.

(b) *Membership of board; term of office; chairman.* The board shall consist of five citizens of the city, each to be appointed or reappointed by the mayor and confirmed by the city council, for staggered terms of two years respectively. At least one member of the board shall be a member of the planning commission and his term shall expire at the same time as his term on such commission. Each member of the board shall be removable for just cause by the city council upon written charges and after public hearings. Vacancies shall be filled by appointment by the mayor and confirmation by the city council for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman, who shall be a voting member and who shall serve for a period of one year or until a successor is elected.

(c) *Alternate membership of board of adjustment.* There shall be appointed two alternate members to the board of adjustment, each of whom shall serve and be appointed for a two-year term. The alternate members' terms shall be filled in the same manner as regular members to the board of adjustment.

The alternate members of the board of adjustment shall serve in the absence of one or more regular members when requested to do so by the mayor.

Alternate members of the board of adjustment are subject to removal in the same manner as regular members of the board of adjustment. Vacancies shall be filled by appointment by the major and confirmed by the city council for the unexpired term of any alternate member whose term becomes vacant.

(d) *Meetings of board.* Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine.

(e) *Hearings before board.* Each case before the board must be heard by at least seventy-five percent (75%) of its members. The hearings of the board of adjustment shall be public. However, the board may go into executive session for discussion as provided in V.T.C.A., Government Code § 551.002, but not for vote on any case before it. The board

shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest.

(f) *Rules and regulations of board.* The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The board of adjustment shall act by resolution in which four members must concur. The board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of this chapter, and shall furnish a copy of such rules and regulations to the building official, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

(g) *Appeals to the board.*

- (1) *Procedure.* Appeals may be taken to and before the board of adjustment by any person aggrieved, or by any officer, department, board or bureau of the city. Such appeal shall be made by filing with the office of the board a notice of appeal, specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the board of adjustment all of the papers constituting the record upon which the action appealed from was taken.
- (2) *Effect of appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official shall certify to the board of adjustment that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown.
- (3) *Notice of hearing on appeal.* The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within 200 feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the board to be affected thereby, such owners and persons being determined according to the current tax rolls of the city. Depositing of such written notice in the mail shall be deemed sufficient compliance with this subsection.
- (4) *Decision by board on appeal.* The board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the officer or department from which the appeal is taken.

(h) *Powers of board.*

- (1) *Witnesses and evidence.* The board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- (2) *Appeals.* The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the building official in the enforcement of this chapter.
- (3) *Special exceptions.* The board shall have the power to hear and decide special exceptions to the terms of this chapter upon which the board is required to pass as follows or elsewhere in this chapter:
  - a. Permit a public utility or public service use or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
  - b. Permit a transitional use between a business or residential district where the side of a lot in the R-1 district abuts upon a lot zoned for business or industrial purposes. The transitional use granted to a property is transferable to a subsequent property owner provided that the property conveyed is the same identical property holding the grant of transitional use.
  - c. Grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of the ordinance from which this chapter is derived ~~(December 6, 1994).~~
  - d. Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use is not to continue a monopoly.
  - e. Waive or reduce the parking requirements in any of the districts whenever the character of the building is such as to make unnecessary the full provision of parking facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
  - f. Determine in cases of uncertainty the classification of any use not specifically named in this chapter.
- (4) *Variances.* The board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that this spirit of this chapter shall be observed, and substantial justice done, including the following:
  - a. Permit a variance in the yard requirements of any district where there are

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unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variance will not seriously affect any adjoining ~~property~~property or the general welfare.

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

- (5) *Limitation on jurisdiction.* The board shall have no authority to change any provisions of this chapter, and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

(6) The concurring vote of seventy-five percent (75%) of the members of the board is necessary to

a. reverse an order, requirement, decision or determination of an administrative official;

b. decide in favor of an applicant on a matter on which the board is required to pass under the Zoning Ordinance; or

c. authorize a variation from the terms of the Zoning Ordinance.

**Sec. 98-36. Amendments to chapter and changes to district boundaries.**

(a) The city council may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations established in this chapter.

(b) Requests for amendments may be initiated by the city council, the planning and zoning commission, or by application of one or more property owners.

- (1) *Accompanying data requirements.* An application for an amendment by a property owner shall be filed with the planning and zoning commission upon such forms and accompanied by such data and information as may be required by the planning and zoning commission. When applicable, an accurate legal description and map of the land and existing building(s) shall be submitted with the application. It shall be the responsibility of the applicant to indicate any applicable deed restrictions applying to the subject property.

- (2) *Application fee.* Each application by a property owner shall be accompanied at the time of filing by a \$500.00 fee. Wherever the entire application for alteration or change hereunder is withdrawn before publication of notice is ordered to be given of the public hearing, the unused portion of the application fee shall be

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refunded to the applicant.

(c) Before taking any action on any proposed amendment, supplement or change, the city ~~council~~ shall submit the amendment, supplement or change to the planning commission of its recommendation and report. The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the city council. The city council may not hold a public hearing until it receives the final report of the planning and zoning commission. The city council may not take action on the matter until it receives the final report of the planning and zoning commission. Before the 10<sup>th</sup> day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(d) A public hearing shall be held by the city council before adopting any proposed supplement, amendment or change. Notice of such hearing shall be given by publication two times in the official publication of the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the first day of such publication.

(e) Unless such proposed amendment, supplement or change has been approved by the city planning commission or if a protest against such amendment, supplement or change has been filed with the 20 percent or more, either of the area of the lots included in such proposed change, or those immediately adjacent in the rear thereof, extending 200 feet therefrom, or of those directly opposite thereto extending 200 feet from the street frontage of such opposite lots, such amendments, supplements or change shall not become effective except by a three-fourths vote of the city council.

**Secs. 98-37—98-44. Reserved.**

## DIVISION 2. PLANNING AND ZONING COMMISSION

### **Sec. 98-45. Creation and purpose.**

A planning and zoning commission is hereby created in order to accomplish the following purposes:

- (1) To identify community needs and to advise the city council of their short-range and long-range implications for the total development of the city;
- (2) To recommend achievable community goals as a basis for long-range planning and development programs;
- (3) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals;
- (4) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies; and
- (5) To comply with the provisions of chapters 78 and 98 of the Code of Ordinances

of the City of Montgomery concerning enforcement and application of the provisions of said chapters.

**Sec. 98-46. ~~Open meetings~~Membership and appointment.**

~~It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the city council at which this division was adopted was posted at a place convenient and rapidly accessible at all times to the general public at the Montgomery City Hall for the time required by law preceding this meeting as required by the Open Meetings Law, Article 62.52-17, Vernon's Texas Civil Statutes, as amended, and that this meeting has been opened to the public as required by law at all times herein which this ordinance and the subject matter hereof has been discussed, considered and formally acted upon herein. The city council further ratifies, approves and confirms such written notice and the contents and posting thereof.~~

**Sec. 98-47. ~~Notices.~~**

~~That the contents of the notice of public hearing, which hearing was held before the city council on August 7, 2002 and the publication of said notice is hereby ratified, approved and confirmed.~~

**Sec. 98-48. ~~Membership and appointment.~~**

The planning and zoning commission shall be composed of ~~seven~~five qualified individuals. These individuals shall be residents of the city, and be registered to vote in city elections. The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the city council that members shall, by reason of their diversity, constitute a commission, which is broadly representative of the community. For purposes of planning, the membership is encouraged to regularly include non-voting individuals, as may be appropriate, at their meetings to provide specific areas of expertise. Any member of the commission who has two consecutive absences without justification may be removed from the commission by the city council and the vacancy treated as an unexpired term. Any member of the commission may be removed for just cause upon recommendation from the chairman of the commission and approval of the city council and the vacancy treated as an unexpired term. At least one member of the commission shall be a member of the board of adjustment.

**Sec. 98-~~49~~47. Terms of office.**

The terms of ~~four~~three of the members shall expire on October 1 of each odd-numbered year and the terms of ~~three~~two members shall expire on October 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through ~~seven~~five. The odd-numbered places shall expire in the odd-numbered years; and the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

**Sec. 98-~~5048~~. Organization.**

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

**Sec. 98-~~5149~~. Duties and powers.**

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

- (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the State of Texas and of the city.
- (2) Formulate and recommend to the city council for its adoption a comprehensive plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (3) Make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in Vernon's Texas Civil Statutes, as amended, authorizing cities to pass regulations. All powers granted under said statutes are specifically adopted and made a part hereof.
- (4) Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats as set out in Vernon's Texas Civil Statutes and/or the city's subdivision ordinance(s).
- (5) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- (6) Study and make recommendations concerning the capital improvements program, including the construction of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art, which are, or may become, the property of the city.
- (7) Initiate, in the name of the city, for consideration at public hearings all proposals: (1) for the opening, vacating or closing of public rights-of-way, parks or other public places; (2) for the original zoning of annexed areas; and (3) for the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the city.

- (8) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted comprehensive plan governing the location and/or operation of utilities, public facilities and services owned or under the control of the city.
- (9) Review and make recommendations concerning the annexation of land into the city.
- (10) Keep itself informed with references to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the city.
- (11) Submit each month a progress report to the city council summarizing its activities, major accomplishments, and a proposed work program. The report shall also contain the attendance record of all members and the identity of commission officers.
- (12) Develop a working knowledge of applicable regulations governing the execution of the duties of the commission and perform these duties in a fair, honest and consistent manner.
- (13) Administer and enforce the city's ~~zoning ordinance as stated in chapter 98~~Zoning Ordinance.

**Sec. 98-~~5250~~. Meeting and quorum.**

(a) A quorum shall be a majority of the Members of the commission.

~~(a)~~(b) A motion may be made by any member other than the presiding officer.

~~(b)~~(c) A motion to approve any matter before the commission or to recommend approval of any request requiring city council action shall require a majority of favorable votes of the members present. ~~When fewer than all the members are present for the voting and when all motions to approve or recommend approval on a given application fail to carry by four votes, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present. Provided however, that no request or application shall be continued under this rule beyond the next regular meeting. Failure of the commission to secure four concurring votes to approve or recommend approval at said next regular meeting shall be recorded in the minutes as a denial of the proposal under this rule. provided a quorum is present.~~

**Sec. 98-~~5351~~. Disqualification from voting.**

(a) A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the commission.

(b) A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his application, other than in the public hearing.

**ARTICLE III. DISTRICTS AND ZONING MAP**

**DIVISION 1. GENERALLY**

**Sec. 98-61. Establishment of districts and boundaries.**

(a) For the purposes of this chapter, the city is hereby divided into ~~sevensix~~ districts as follows:

District R-1	Single-Family Residential District
District R-2	Multifamily Residential District
District B	Commercial District
<del>District B</del>	<del>Professional District</del>
<del>District L</del>	<del>Light ID</del> Industrial District
<del>District L</del>	<del>Heavy Industrial</del> <del>Institutional</del>
District	
District PD	Planned Development District

(b) The location and boundaries of the districts established in this section are shown upon the official zoning map. The zoning map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this chapter as if fully set forth and described in this chapter. The zoning map, property attested, is on file in the office of the city secretary. Any zoning regulations cannot supersede valid deed restrictions, but shall supplement any such restrictions.

**Sec. 98-62. Official zoning map.**

The official zoning map of the city shall be kept in the office of the city secretary. The official map shall be kept current and the copies thereof, therein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to the zoning ordinance and map. The city secretary, on the adoption of the ordinance codified in this chapter, shall affix a certificate identifying the map in his office as the official zoning map of the city.

**Sec. 98-63. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the districts established by this chapter as shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be the boundaries.
- (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is

given, such dimension shall be determined by the use of the scale on the zoning map.

- (4) In unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (5) Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacated area and thereafter all land included in the vacated area shall then and henceforth be subject to all regulations of the extended districts.
- (6) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

**Sec. 98-64. Compliance with district regulations.**

Except as specifically provided in this chapter:

- (1) No land shall be used except for purpose permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established in this chapter for the district in which such building is located.
- (4) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.
- (5) No building shall be erected or structurally altered to the extent specifically provided in this chapter except in conformity with the off street parking regulations of the district in which such building is located.
- (6) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived (~~December 6, 1994~~) or for any building hereafter erected shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.
- (7) Every building hereafter erected or structurally altered shall be located on a lot as defined in this chapter, and, except as provided in this chapter, there shall not be more than one main building on one lot.
- (8) Every building hereafter erected or structurally altered shall in every way conform to any other city ordinance affecting such property.

**Sec. 98-65. Table of permitted uses and special uses.**

Permitted uses and special uses in the various zoning districts are as specified in the following table:

TABLE 1. TABLE OF PERMITTED USES

<i>Permitted Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>B</i>	<i>LID</i>	<i>CC</i>
Accessory uses					X
Aerial or ground survey			X		
Air conditioning sales, retail, complete enclosed (services incidental)			X		
Air conditioning-refrigeration services repair (completely enclosed) with no installation of central units -- heating or cooling					X
Airport (nongovernmental)					X
Air product manufacturing				X	
<u>Alcoholic beverage sales off premises</u>			<u>X</u>		
<u>Alcoholic beverage sales on premises</u>					<u>X</u>
Alcoholic beverage storage			X		
Altering and repairing of wearing apparel			X		
Ambulance service			X		
Amusement park (commercial)					X
Amusement arcade					X
Animal shelter or dog pound (nongovernmental)					X
Antique store (completely enclosed)			X		
Apartment hotel					X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X		
Apparel and accessory store ( <del>no-used merchandise</del> )			X		
Appliance repair (completely enclosed)			X		
Armory					X
Art gallery and/or museum (commercial retail sale of object d'art only)			X		
Asphalt or creosote manufacturing or treatment					X
Assisted Living		X	X		
Automobile filling station and/or service (all repair in district to be completely enclosed)			X		
Automobile glass sales and installation			X		
Automobile muffler sales and installation (completely enclosed)			X		
Automobile parking lots or parking garages (commercial)					X
Automobile rental			X		
Automobile repair			X		
Automobile upholstery sales and installation (completely enclosed)			X		
Automobile car wash			X		
Automobile and truck sales and service (new and used) (service completely enclosed)			X		
Automobile wrecking, dismantling or salvage (enclosed by fence)					X
Aviary					X
Bait store			X		
Bakery (retail)			X		

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<i>Permitted Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>B</i>	<i>LID</i>	<i>CC</i>
Fruit and vegetable stand or store			X		
Funeral home, mortuary or undertaking establishment			X		
Fur dyeing, finishing and storing (no tanning, no hide storage)				X	
Furniture repair upholstery (fenced outside storage)			X		
Furniture repair and upholstery (completely enclosed)			X		
Furniture (wholesale sales)			X		
Furniture store, retail (fenced outside storage)			X		
Furniture store, retail (completely enclosed) (no repair)			X		
Garage, public or storage				X	
Garden specialty store			X		
Gas regulation station (screening)				X	
Gas filling station and/or service (all repairs <del>in B-2 district</del> to be completely enclosed)			X		
Gift shop (completely enclosed)			X		
Glass (retail sales) (service incidental to sales) (completely enclosed)			X		
Glass (wholesale sales)			X		
Glass manufacturing and glass products manufacturing				X	
Golf driving range, pitch-and-putt or miniature golf course					X
Golf course and country club, but no driving range, pitch and putt or miniature golf course					X
Greenhouse or nursery, wholesale				X	
Greenhouse or nursery, retail			X		
Grocery store			X		
Grocery (wholesale)			X		
Gymnasium (commercial)			X		
Hair products manufacturing and processing				X	
Hardware manufacture				X	
Hardware store			X		
Hardware sales (wholesale)			X		
Heliport			X		
Hobby supply store			X		
Hosiery manufacture			X		
Hospital or sanitarium			X		
Hotel			X		
Ice House (no on-premises consumption of alcoholic beverages in B-1)			X		
Ice manufacture				X	
Ice cream manufacturer (wholesale)				X	
Ice cream and ice milk (retail)				X	
Ice cream store			X		
Insulation manufacture and fabrication				X	
Interior decorating studio			X		
Jewelry store			X		
Junk, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least 6 feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided					X
Laboratory (dental or medical)			X		
Laboratory (research)			X		
Laboratory (testing)			X		

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<i>Permitted Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>B</i>	<i>LID</i>	<i>CC</i>
Landfill					X
Laundry plant				X	
Laundry or dry cleaning (pickup station)			X		
Laundry and dry cleaning (self service)			X		
Leather goods or luggage store			X		
Library (nongovernmental)					X
Linen supply, diaper service or uniform supply			X		
Loan office			X		
Locksmith			X		
Lumberyard and building materials (wholesale)			X		
Machine shop				X	
Machine, tools and construction equipment sales and service			X	X	
Marine and boat manufacturing				X	
Marine and boat storage					X
Mattress manufacturing and rebuilding				X	
Massage parlor <del>or other sexually oriented business</del>			X		X
Metal products fabrication				X	
Milliner (custom)			X		
Millinery manufacture				X	
Millwork and similar wood products manufacture				X	
Motel			X		
Motorcycle sales and service			X		
Moving and transfer company				X	
Music store			X		
Nail salon			X		
<del>New</del> News stand			X		
Night club / dance hall					X
Novelty and souvenir manufacture				X	
Nursery, day care, or kindergarten (care of up to 6 children)	X	X			
Nursery, day care, or kindergarten (care of up to 20 children)			X		
Nursery, day care, or kindergarten (over 20 children)			X		X
Nursing home		X	X		
Offices (professional)			X		
Office equipment and furniture manufacture				X	
Office equipment and supplies (retail)			X		
Office equipment and supplies (wholesale)			X	X	
Oil and well supplies and machinery sales				X	
Optical goods (retail)			X		
Optical goods (wholesale)			X		
Optician			X		
Packing plant (no rendering)					X
Packing and gasket manufacture				X	
Paint and wallpaper store			X		
Paper produce manufacture				X	
Paper supplies (wholesale)				X	
Passenger depot (railroad or bus)					X
Pawnshop (completely enclosed)			X		
Pecan shelling				X	
Pet shop (completely enclosed)			X		
Petroleum storage (wholesale)				X	
Photographic equipment and supplies sales			X	X	
Photographic studio			X		

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<i>Permitted Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>B</i>	<i>LID</i>	<i>CC</i>
Picture framing			X		
Pipeline and electrical transmission lines					X
Pipe storage				X	X
Playground equipment manufacture				X	
Plumber			X		
Plumbing fixture sales (completely enclosed) (retail)			X		
Plumbing fixture sales (wholesale)			X	X	
Printer			X	X	
Radio station with transmitter tower					X
Radio station or studio, without transmitter tower					X
Reading room			X		
Recycling plant					X
Reducing salon			X		
Refrigerator equipment manufacture				X	
Restaurant			X		
Riding stable or academy					X
Rooming house or boardinghouse					X
Rug and/or carpet sales			X		
Rug cleaning				X	
Sand or gravel storage yard				X	
Shoe manufacture				X	
Shoe repair shop			X		
Shoe sales (retail)			X		
Shoe sales (wholesale) (completely enclosed)			X		
Sign, advertising (excluding business signs)			X		
Sign shop (completely enclosed)			X		
Sign shop			X	X	
Skating facility (outdoor)					X
Skating rink (enclosed)			X		
Small animal clinic or kennel			X		
Small animal clinic or kennel (completely enclosed)			X		
Sporting goods store			X		
Sporting goods (wholesale) (completely enclosed)			X	X	
Stamp, coin sales (retail)			X		
Stationery sales			X		
Stone cutting or monument manufacturing				X	
Stone monument sales			X		
Stones quarry or gravel pit				X	X
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X		
Surgical or dental supplies store			X		
Tanning salon			X		
Tattoo parlor					X
Tavern					X
Taxidermist					X
Television station with transmitter tower					X
Television station or studio without transmitter tower			X		
Textile manufacture				X	
Theater (indoor)			X		
Theater (outdoor, including drive-in theaters)					X
Tile manufacturer (ceramic)				X	
Tobacco processing				X	

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<i>Permitted Uses</i>	<i>R-1</i>	<i>R-2</i>	<i>B</i>	<i>LID</i>	<i>CC</i>
Tobacco store			X		
Tool manufacture				X	
Tool rental (completely enclosed)			X		
Tool rental (fence outside storage)			X	X	
Toy manufacture			X	X	
Toy store			X		
Trailer manufacture				X	
Trailer sales			X		
Transit vehicle storage and service				X	
Truck repair and maintenance			X	X	
Truck stop					X
Variety store			X		
Venetian blinds and metal awning fabrication, repair and cleaning				X	
Veterinarian (animal or premises)			X		
Watch repair			X		
Water storage (overhead)					X
Water or sewage pumping (nongovernmental)					X
Welding shop				X	
Well drilling contractors			X	X	
Warehousing				X	

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Any use not specifically permitted herein shall require a special use permit, after approval by City Council.

**Secs. 98-66—98-90. Reserved.**

**DIVISION 2. DISTRICT R-1 SINGLE-FAMILY RESIDENTIAL**

**Sec. 98-91. Intent and purpose; applicability of recorded plans and plats.**

(a) District R-1 includes land within the city limits ~~and the extraterritorial jurisdiction used or~~ subdivided for single-family residential purposes and associated uses and in accordance with the land use plan. This district is designed to provide sufficient suitable residential ~~neighbor hoods~~neighborhoods, protected from incompatible uses, provided with necessary facilities and services.

(b) For the purposes of regulating district R-1, the land use restrictions as contained in the recorded plans, plats, replats or other use instruments shall control as adopted in Ordinance No. 1994-4 as authorized by V.T.C.A., Local Government Code § 212.004.

**Sec. 98-92. Use regulations.**

(a) Buildings or premises in district R-1 shall be used only for the following purposes:

- (1) One-family dwellings, including structures which also house immediate relatives of the family (including their parents, adult children, brothers, sisters, uncles, aunts, nephews and nieces) who are living together and sharing expenses for convenience or necessity and not as commercial renters.

~~(2) Churches.~~

(2) ~~Parks~~Existing churches.

- (3) Existing parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency.
- (4) ~~Public~~Existing public buildings, including libraries, museums, police stations and fire stations.
- (5) ~~Schools~~Existing schools, public elementary, intermediate or high.
- (6) Water supply reservoirs, pumping plants and towers.
- (7) Accessory uses customarily incident to the uses listed in this section and located on the same lot therewith, not involving the conduct of a retail business, and as defined in this subsection. The term "accessory use" shall include all home occupations which shall comply with the following standards and criteria in addition to any other standards imposed by the city council when such use is permitted by specific use permit:
  - a. The home occupation shall be conducted only within the principal dwelling.
  - b. No more than one additional person other than the residents residing on the premises shall be employed or engaged in the home occupation at the premises.
  - c. There shall be no alteration or change to the outside appearance, character or use of the dwelling or premises, or other visible evidence of the conduct of such home occupation, other than one sign not exceeding two square feet in area, nonilluminated, and mounted flat against the wall of the principal building.
  - d. No home occupation shall occupy more space than 25 percent of the total floor area of a residence, exclusive of any open porch, attached garage, or similar space not suited for or intended to be occupied as living quarters; provided, however, that in no event shall such home occupation occupy more than 600 square feet.
  - e. No equipment or process shall be used in such home occupation which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
  - f. No articles or materials used in connection with such home occupation shall be stored outside on the premises.
  - g. No more than one automobile or truck, whose size shall not be larger than a stock one-ton panel or pickup truck, used in connection with such home occupation shall be permitted to park on the premises in question or off the premises in question and within view from surrounding properties.

**Sec. 98-93. Area regulations.**

- (a) *Size of yards.* Size of yards in district R-1 shall be as follows:

- (1) *Front yard.* There shall be a front yard having a depth of not less than 25 feet from the property line, except that, where lots face on a major street, the front building line shall be 35 feet from the property line.
  - (2) *Side yard on main thoroughfare.* There shall be a side yard on each side of the lot having a width of not less than ten feet. A side yard adjacent to a side street shall not be less than 15 feet from the property line to the building line, except, where the lots side on a major street, the building line shall be not less than 25 feet from the side street property line.
  - (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.
- (b) *Size of lots.* Size of lots shall be approved by the city council on the basis of the district in which they live.
- (1) *Lot area.* No building shall be constructed on or moved onto any lot of less than 9,000 square feet.
  - (2) *Lot width.* The width of the lot shall not be less than 75 feet. Radial lots shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line.
  - (3) *Lot depth.* The average depth of the lot shall not be less than 120 feet.
  - (4) *Corner lots.* Corner lots with a width of less than 90 feet are to be at least five feet wider than average of interior lots in the block. Corner lots with a width of less than 90 feet adjacent to a major thoroughfare are to be at least 15 feet wider than the average of interior lots in the block.
  - (5) *Lots on cul-de-sac.* Lots on cul-de-sac shall be 9,000 square feet, with the width and depth to be determined by development of the cul-de-sac.
  - (6) *Existing substandard lots.* Where a lot having less area, width or depth than required in this section existed upon the effective date of the ordinance from which this chapter is derived (December 6, 1994), the regulations in this section shall not prohibit the lot owner from erecting a one-family dwelling thereon or moving a one-family dwelling onto the property.

**Sec. 98-94. Parking requirements.**

Off-street parking spaces shall be provided in district R-1 in accordance with the requirements for specific uses set forth in article IV of this chapter.

**Secs. 98-95—98-120. Reserved.**

DIVISION 3. DISTRICT R-2 MULTIFAMILY RESIDENTIAL

**Sec. 98-121. Use regulations.**

A building or premises in district R-2 shall not be used except for the following purposes (see table 1 in section 98-65):

- (1) Any use permitted in the R-1 district.
- (2) Multifamily dwellings, including duplexes and town homes.
- (3) City homes and condominiums.

**Sec. 98-122. Height regulations.**

No building in district R-2 shall exceed 45 feet or three stories in height.

**Sec. 98-123. Area regulations.**

- (a) *Size of yards.* Size of yards in district R-2 shall be as follows:
  - (1) *Front yard.* Front yard requirements are the same as for district R-1.
  - (2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than ten feet; however, a side yard adjacent to a side street shall not be less than 25 feet on a major thoroughfare and 15 feet on a minor thoroughfare. No side yard for allowable nonresidential uses shall be less than 25 feet.
  - (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.
- (b) *Size of lots.*
  - (1) *Lot area.* No structure shall be constructed on any lot less than 9,000 square feet. Not building containing two or more dwelling units shall be constructed on any lot or tract of less than 9,000 square feet. No lot shall contain less than 900 square feet per ground level dwelling unit; provided, however, that this shall not be applicable to hotels, apartments, or motels where no cooking is done in any individual
  - (2) *Lot width.* The width of the lot shall not be less than 75 feet at the front street building line, nor shall its average width be less than 75 feet before it is subdivided for construction of townhouses or condominiums.
  - (3) *Lot depth.* The average depth of the lot shall not be less than 120 feet, except that nay corner lots with a width of not less than 90 feet adjacent to a major thoroughfare must be at least 15 feet wider than the average of interior lot in the block before construction of townhouses or condominiums.

**Secs. 98-124—98-150. Reserved.**

DIVISION 4. DISTRICT B COMMERCIAL

**Sec. 98-151. Description.**

~~District B commercial is the same area as district B professional.~~

A building or premises in district B shall not be used except for business purposes described in the Table of Permitted Uses in Section 98-65.

**Sec. 98-152. Purpose.**

District B ~~commercial~~ is established to provide for a wide range of ~~retail and wholesale business~~ uses within enclosed areas as well as the other uses provided for in ~~Section 98-153~~ this section.

**Sec. 98-153. Use regulations.**

A building or premises in district B ~~commercial~~ shall be used only for the following purposes (see table 1 in section 98-65):

- (a) Retail stores and other local business uses supplying everyday shopping ~~for the immediate neighborhood and services~~, subject to the following restrictions and performance standards:
  - (1) The use shall be conducted wholly within the enclosed building.
  - (2) Required yards shall not be used for the storage of merchandise, vehicles or equipment.
  - (3) No use, activity or process shall produce excessive light, smoke, dust, noise, vibrations or noxious odors that are perceptible without instruments by the average person at the property lines of a site.
  - (4) Storing of containers and waste material will not be permitted in front and side yards
  - (5) All outdoor lighting shall be shielded or directed away so that direct light or glare does not impact adjacent residential land uses.
  - (6) All storage and mechanical equipment shall be enclosed in a structure and completely screened from view.
- (b) The performance standards set out in Subsection (a) shall not apply to special events formally sanctioned by the City of Montgomery.

**Sec. 98-154. Height regulations.**

No building in district B ~~commercial~~ shall exceed 45 feet in height.

**Sec. 98-155. Area regulations.**

- (a) *Size of yards.* Size of yards in district B ~~commercial~~ shall be as follows:
  - (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street and 35 feet if located on a major thoroughfare. No parking, storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R district.
  - (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R district or adjoining any lot located in the district B ~~commercial~~ that is being used for an R district purpose. Otherwise, no side yard is required. No parking, storage or similar use shall be allowed in any required side yard or in any required

side street adjoining an R district, without proper enclosure.

- (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district or abutting any lot located in the district B ~~commercial~~ that is being used for an R district purpose.
  - (4) *Definition and Application of Adjoining or Abutting.* As used in this Section 98-155, the words “adjoining” and “abutting” are synonymous and mean touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot or touches or borders on an R-1 district, it adjoins and abuts such other lot or the R-1 district, as applicable. Likewise, for purposes of this section, where all or any portion of a lot touches or borders on a street, such lot shall be deemed to adjoin or abut any lot or R-1 district which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.
- (b) *Size of lots; minimum building size.*
- (1) There are no limitation requirements; ~~however~~ except, there shall be a minimum building size of 750 square feet. Where a commercial lot existed on the effective date of the ordinance from which this chapter is derived (December 6, 1994) that was too small to accommodate a 750-square-foot structure, a smaller structure would be allowed.
  - (2) Existing residential structures located in ~~a commercial/professional~~ district B on the effective date of the ordinance from which this chapter is derived (December 6, 1994) can be converted to commercial or professional use even if they are below the minimum building size specified in this section.
  - (3) Residential, commercial or institutional buildings in existence more than 25 years, located inside or outside the city limits, may be moved into ~~a commercial/professional~~ district B for commercial or professional use, even if they are below the minimum building size specified in this section, as long as they comply with all other ordinances of the city.

**Secs. 98-156—98-~~180~~170. Reserved.**

DIVISION 5. DISTRICT ~~B PROFESSIONAL~~ ID INDUSTRIAL

**Sec. 98-~~181~~171. Description.**

District ~~B professional~~ ID industrial is ~~the same area for industrial purposes as district B commercial described herein.~~

**Sec. 98-~~182~~172. Purpose.**

~~District B professional includes land within the city limits subdivided for offices or groupings of offices and their associated uses.~~

District ID is established to provide for a wide range of industrial uses which are conducted within completely enclosed buildings and where such use will not be

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objectionable because of excessive light, smoke, dust, noise, vibration or odor.

**Sec. 98-183173. Use regulations.**

~~(a) A building or premises in district **B-professional** shall be used only for the following light and heavy industrial purposes (see as set out table 1 in section 98-65):~~

- ~~(1) Offices to be used for the administrative functions of companies, corporations, or social or philanthropic organizations or societies.~~
- ~~(2) Offices for accountants, architects, brokers, engineers, dentists, lawyers, optometrists, physicians, osteopaths, chiropractors, real estate and insurance agencies, mortuaries, medical laboratories, and hospitals, and accessory uses.~~
- ~~(b) Required yards shall not be used for the storage of merchandise, vehicles or equipment.~~
- ~~(c) Storing of containers and waste material will not be permitted in front and side yards.~~

**Sec. 98-184174. Height regulations.**

No building in district **B-professional** shall exceed 45 feet in height.

**Sec. 98-185175. Area regulations.**

(a) *Size of yards.* Size of yards in district **B-professional** shall be as follows:

- ~~(1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street and 35 feet if located on a major thoroughfare. No parking, storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R or PD district.~~
- ~~(2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R or PD district. Otherwise, a side yard of ten feet is required. No parking, storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R or PD district, without proper enclosure.~~
- ~~(3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R or PD district.~~
- ~~(4) A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R or PD district.~~
- ~~(b) *Size of lots; minimum building size.*~~
  - ~~(1) There are no limitation requirements; however, there shall be a minimum building size of 750 square feet required for B-zoning lots. Where a commercial lot existed on the effective date of the ordinance from which this chapter is derived (December 6, 1994) that was too small to accommodate a~~

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~~750 square foot structure, a smaller structure would be allowed.~~

- ~~(2) Existing residential structures located in a commercial/professional district on the effective date of the ordinance from which this chapter is derived (December 6, 1994) can be converted to commercial or professional use even if they are below the minimum building size specified in this section.~~
- ~~(3) Residential, commercial or institutional buildings in existence more than 25 years, located inside or outside the city limits, may be moved into a commercial/professional district for commercial or professional use, even if they are below the minimum building size specified in this section, as long as they comply with all other ordinances of the city.~~

~~Secs. 98-186 – 98-210. Reserved.~~

#### ~~DIVISION 6. DISTRICT L LIGHT INDUSTRIAL~~

##### ~~Sec. 98-211. Description.~~

~~District L light industrial is the same area as district L heavy industrial.~~

##### ~~Sec. 98-212. Purpose.~~

~~District L light industrial is established to provide for a range of nonrail industrial uses which are conducted within completely enclosed buildings and where such use will not be objectionable because of excessive light, smoke, dust, noise, vibration or odor.~~

~~A building or premises in district L light industrial shall be used only for the purposes specified in table 1 in section 98-65.~~

##### ~~Sec. 98-214. Height regulations.~~

~~No building in district L light industrial shall exceed 45 feet in height.~~

##### ~~Sec. 98-215. Area regulations.~~

~~(a) Size of yards. Size of yards in district L light industrial shall be as follows:~~

- ~~(1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street and 35 feet if located on a major thoroughfare. No storage or similar use shall be allowed in front yards.~~
- ~~(2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R or a Planned Development ("PD") district. Otherwise, a side yard of ten feet is required. No storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R or PD district, without proper enclosure.~~
- ~~(3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district or PD district. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R or PD district. Otherwise, a rear yard of ten feet is~~

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required.

- (4) A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R or PD district.
- (b) *Size of lots.*
  - (1) *Lot area.* The minimum lot area shall be 10,000 square feet.
  - (2) *Lot width.* The minimum lot width shall be 100 feet.

**Sec. 98-~~216~~ 176. Parking requirements.**

Off-street parking spaces shall be provided in district ~~L-light industrial~~I in accordance with the requirements for specific uses set forth in article IV of this chapter.

**Secs. 98-~~217~~~~177~~—98-~~240~~~~210~~. Reserved.**

DIVISION ~~76~~. DISTRICT ~~L HEAVY INDUSTRIAL~~I INSTITUTIONAL

**Sec. 98-211. Description.**

A building or premises in district I shall not be used except for the following purposes:

- (1) New churches.
- (2) New parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency.
- (3) New public buildings, including libraries, museums, police stations and fire stations.
- (4) New schools.

**Sec. 98-212. Purpose.**

**Sec. 98-241. Description.**

~~District L heavy industrial is the same area as district L light industrial.~~

**Sec. 98-242. Purpose.**

~~District L heavy industrial I is established to provide for a wide range of industrial/institutional type uses and certain commercial uses, provided that such uses shall not be objectionable because of excessive light, smoke, dust, noise, vibration or ~~or~~ described herein.~~

**Sec. 98-243. Use regulations.**

~~A building or premises in district L heavy industrial shall be used only for the purposes specified in table 1 in section 98-65.~~

**Sec. 98-~~244~~213. Height regulations.**

No building or accessories to a building in district ~~L heavy industrial~~I institutional

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shall exceed 75 feet in height.

**Sec. 98-~~245~~214. Area regulations.**

(a) *Size of yards.* Size of yards in district ~~L-heavy industrial~~ I institutional shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street and 35 feet if located on a major thoroughfare. No storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R or PD district.
  - (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R or PD district. Otherwise, a side yard of ten feet is required. No storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R or PD district, without proper enclosure.
  - (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-I district. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R or PD district. Otherwise, a rear yard of ten feet is required.
  - (4) A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R or PD district.
- (b) *Size of lots.* There are no limitations on the size of lots.

**Sec. 98-~~246~~215. Parking requirements.**

Off street parking shall be provided in district ~~L-heavy industrial~~ I institutional in accordance with the requirements for specific uses set forth in article IV of this chapter.

**Secs. 98-~~247~~216—98-~~255~~240. Reserved.**

**DIVISION 87. DISTRICT PD PLANNED DEVELOPMENT**

**Sec. 98-~~241~~. Purpose.**

This district [PD planned development] is intended to provide significant design flexibility, in order to encourage innovative and/or mixed-use developments within the city that would not otherwise be permitted under this chapter. It is not intended for nominal changes to the existing ordinance requirements that are established in the various zoning districts. The district allows for deviation from standard ordinance requirements as long as those deviations continue to meet the intent of this chapter. The district allows for an appropriate combination of uses, which may be planned, developed, or operated as integral land units, such as developments that incorporate various types of residential and nonresidential uses into the overall project.

**Sec. 98-~~256~~. Purpose.**

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~~This district [PD planned development] is intended to provide significant design flexibility, in order to encourage innovative and/or mixed-use developments within the city that would not otherwise be permitted under this chapter. It is not intended for nominal changes to the existing ordinance requirements that are established in the various zoning districts. The district allows for deviation from standard ordinance requirements as long as those deviations continue to meet the intent of this chapter. The district allows for an appropriate combination of uses, which may be planned, developed, or operated as integral land units, such as developments that incorporate various types of residential and nonresidential uses into the overall project.~~

~~Sec. 98-257242.~~      **Approved planned developments.**

~~Planned developments that may be approved will appear on the zoning map and will be referenced by a planned development number (PD-#) and the zoning district classification and/or uses authorized by the particular zoning case.~~

~~Sec. 98-Planned developments that may be approved will appear on the zoning map and will be referenced by a planned development number (PD #) and the zoning district classification and/or uses authorized by the particular zoning case.~~

~~Sec. 98-258243.~~      **Use regulations.**

Uses permitted within a planned development (PD) district shall be determined by the city council upon adoption of such zoning designation, and shall be listed within the amending ordinance adopted by the city council establishing each PD district.

~~Secs. 98-259244—98-270.~~ **Reserved.**

#### **ARTICLE IV. OFF-STREET PARKING REQUIREMENTS**

**Sec. 98-271. General requirements.**

In all districts, there shall be provided, at the time any building or structure is erected or structurally altered, off-street parking in accordance with the following requirements:

- (1) *Residential district (R-1).* Each residential lot shall provide sufficient off-street parking on an all-weather surface for at least two vehicles other than garage space.
- (2) *Multifamily district (R-2).* Each apartment or townhouse unit shall have off-street parking for two vehicles.
- (3) *Commercial district (B) and ~~professional~~institutional (I) district ~~(B)~~.* Each lot plan for professional or commercial use (B) or institutional (I) shall have off-street parking at a ratio of not less than 0.75 square foot of parking space for each one square foot of gross building area, with the exception of family dining, which shall have one parking space for each six customer seats plus one parking space for each two employees on the maximum working shift.
- (4) ~~Light industrial~~*Industrial* district (L) and *heavy industrial* district (L). One parking space shall be provided for each employee on the maximum working

shift, plus space to accommodate all trucks and other vehicles in connection therewith, but no less than one parking space for each 600 square feet of floor area.

- (5) *Handicapped spaces.* Handicapped parking spaces shall be included in total required parking spaces as prescribed by state law.

**Sec. 98-272. Rules for computing number of parking spaces.**

In computing the number of parking spaces required for each of the uses specified in section 98-271, the following rules shall govern:

- (1) Usable space shall mean the net floor area of all space of the specific use, including outside display or selling area.
- (2) Where fractional spaces result, the parking spaces required shall be the nearest whole number.
- (3) The parking space requirement for a use not specifically mentioned in this article shall be the same as required for a use of similar nature.
- (4) Whenever a building, regardless of the date of its construction, is enlarged in floor area, number of employees, seating capacity or number of dwelling units, which will increase the required number of parking spaces, such spaces shall be provided on the basis of the enlargement or change as set forth in this article.

**Sec. 98-273. Location of parking spaces.**

All parking spaces required in this article shall be located on the same lot with the building or use served, except as follows: 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 not to exceed 300 feet from a building served and not to exceed 500 feet from any other nonresidential building served.

**Sec. 98-274. Minimum dimensions of parking spaces.**

Each required off-street parking space shall be at least nine feet in width and at least 18 feet in length, exclusive of access drives or aisles, ramps, or columns. Such space shall have adequate vertical clearance. For parallel parking the length of the parking space shall be increased to 23 feet.

**Secs. 98-275—98-300. Reserved.**

**ARTICLE V. NONCONFORMING USES**

**Sec. 98-301.—~~Continuation of nonconforming use; change of use.~~**

~~Except as otherwise provided in this article, the nonconforming use of a building existing at the time this chapter becomes effective (December 6, 1994) may be continued and the use of a nonconforming building may be changed to another use of the same or a more restricted classification, but where such use is changed to a more restricted~~

~~classification it shall not thereafter be changed back to a use of a less restricted classification. A noneconforming building which is or may hereafter become vacant and which shall remain unoccupied or its noneconforming use discarded for a continuous period of one year, shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located. A noneconforming building may be maintained or kept in good repair except as otherwise provided in this section. No existing building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the district in which such building is located, except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law, or ordinance. No noneconforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the district in which it is located. A noneconforming building which is damaged by fire, explosion, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of 50 percent or more of its reasonable value may not be restored except in conformity with the regulations of the district in which it is located.~~

~~DIVISION 6. DISTRICT L LIGHT INDUSTRIAL~~

~~**Sec. 98-211. Description.**~~

~~District L light industrial is the same area as district L heavy industrial.~~

~~**Sec. 98-212. Purpose.**~~

~~District L light industrial is established to provide for a range of nonrail industrial uses which are conducted within completely enclosed buildings and where such use will not be objectionable because of excessive light, smoke, dust, noise, vibration or odor.~~

~~**Sec. 98-213. Use regulations.**~~

~~A building or premises in district L light industrial shall be used only for the purposes specified in table 1 in section 98-65.~~

~~**Sec. 98-214. Height regulations.**~~

~~No building in district L light industrial shall exceed 45 feet in height.~~

~~**Sec. 98-215. Area regulations.**~~

- ~~(a) *Size of yards.* Size of yard in district L light industrial shall be as follows:~~
- ~~(1) *Front yard.* All property abutting major and minor streets is to be considered a front yard. A front yard of ten feet from the building line to the property line is required.~~
  - ~~(2) *Side yard.* The side yard shall be ten feet where the lot line abuts lot lines of other business (B) or industrial uses.~~
  - ~~(3) *Rear yard.* The side yard shall be ten feet where the lot line abuts other business (B) or industrial lot lines.~~
- ~~(b) *Size of lots.*~~

~~(1) *Lot area.* The minimum lot area shall be 10,000 square feet.~~

~~(2) *Lot width.* The minimum lot width shall be 100 feet.~~

**Sec. 98-216. ~~Parking requirements.~~**

~~Off street parking spaces shall be provided in district L light industrial in accordance with the requirements for specific uses set forth in article IV of this chapter.~~

**Secs. 98-217—98-240. ~~Reserved.~~**

**~~DIVISION 7.—DISTRICT L HEAVY INDUSTRIAL~~**

**Sec. 98-241. ~~Description.~~**

~~District L heavy industrial is the same area as district L light industrial.~~

**Sec. 98-242. ~~Purpose.~~**

~~District L heavy industrial is established to provide for a wide range of industrial uses and certain commercial uses, provided that such uses shall not be objectionable because of excessive light, smoke, dust, noise, vibration or odor.~~

**Sec. 98-243. ~~Use regulations.~~**

~~A building or premises in district L heavy industrial shall be used only for the purposes specified in table 1 in section 98-65.~~

**Sec. 98-244. ~~Height regulations.~~**

~~No building or accessories to a building in district L heavy industrial shall exceed 75 feet in height.~~

**Sec. 98-245. ~~Area regulations.~~**

~~(a) *Size of yards.* Size of yards in district L heavy industrial shall be as follows:~~

~~(1) *Front yard.* The front yard requirements are the same as for the R-1 district. A front yard of ten feet from the building line to the property line is required.~~

~~(2) *Side yard.* A side yard of ten feet is required where the lot line abuts other business or industrial uses.~~

~~(3) *Rear yard.* A rear yard of ten feet is required where the lot line abuts other business or industrial uses.~~

~~(b) *Size of lots.* There are no limitations on the size of lots.~~

**Sec. 98-246. ~~Parking requirements.~~**

~~Off street parking shall be provided in district L heavy industrial in accordance with the requirements for specific uses set forth in article IV of this chapter.~~

**Secs. 98-247—98-255. ~~Reserved.~~**

## ~~DIVISION 8.—DISTRICT PD PLANNED DEVELOPMENT~~

### ~~Sec. 98-256.—Purpose.~~

~~This district [PD planned development] is intended to provide significant design flexibility, in order to encourage innovative and/or mixed-use developments within the city that would not otherwise be permitted under this chapter. It is not intended for nominal changes to the existing ordinance requirements that are established in the various zoning districts. The district allows for deviation from standard ordinance requirements as long as those deviations continue to meet the intent of this chapter. The district allows for an appropriate combination of uses, which may be planned, developed, or operated as integral land units, such as developments that incorporate various types of residential and nonresidential uses into the overall project.~~

### ~~Sec. 98-257.—Approved planned developments.~~

~~Planned developments that may be approved will appear on the zoning map and will be referenced by a planned development number (PD #) and the zoning district classification and/or uses authorized by the particular zoning case.~~

### ~~Sec. 98-258.—Use regulations.~~

~~Uses permitted within a planned development (PD) district shall be determined by the city council upon adoption of such zoning designation, and shall be listed within the amending ordinance adopted by the city council establishing each PD district.~~

### ~~Secs. 98-259—98-270. Reserved.~~

## ~~ARTICLE VI.—OFF-STREET PARKING REQUIREMENTS~~

### ~~Sec. 98-271.—General requirements.~~

~~In all districts, there shall be provided, at the time any building or structure is erected or structurally altered, off-street parking in accordance with the following requirements:~~

- ~~(1) Residential district (R-1). Each residential lot shall provide sufficient off-street parking on an all-weather surface for at least two vehicles other than garage space.~~
- ~~(2) Multifamily district (R-2). Each apartment or townhouse unit shall have off-street parking for two vehicles.~~
- ~~(3) Commercial district (B) and professional district (B). Each lot plan for professional or commercial use (B) shall have off-street parking at a ratio of not less than 0.75 square foot of parking space for each one square foot of gross building area, with the exception of family dining, which shall have one parking space for each six customer seats plus one parking space for each two employees on the maximum working shift.~~
- ~~(4) Light industrial district (L) and heavy industrial district (L). One parking space shall be provided for each employee on the maximum working shift, plus space~~

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~~to accommodate all trucks and other vehicles in connection therewith, but no less than one parking space for each 600 square feet of floor area.~~

- ~~(5) *Handicapped spaces.* Handicapped parking spaces shall be included in total required parking spaces as prescribed by state law.~~

**~~Sec. 98-272. Rules for computing number of parking spaces.~~**

~~In computing the number of parking spaces required for each of the uses specified in section 98-271, the following rules shall govern:~~

- ~~(1) Usable space shall mean the net floor area of all space of the specific use, including outside display or selling area.~~
- ~~(2) Where fractional spaces result, the parking spaces required shall be the nearest whole number.~~
- ~~(3) The parking space requirement for a use not specifically mentioned in this article shall be the same as required for a use of similar nature.~~
- ~~(4) Whenever a building or use is constructed or established after the effective date of the ordinance from which this chapter is derived (December 6, 1994) or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more 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 such effective date is enlarged to the extent of 50 percent or more in current floor area used, the building or use shall then and thereafter comply with the parking requirements set forth in this article. The parking requirements are applicable to all covered structures.~~

**~~Sec. 98-273. Location of parking spaces.~~**

~~All parking spaces required in this article shall be located on the same lot with the building or use served, except as follows: 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 not to exceed 300 feet from a building served and not to exceed 500 feet from any other nonresidential building served.~~

**~~Sec. 98-274. Minimum dimensions of parking spaces.~~**

~~Each required off-street parking space shall be at least nine feet in width and at least 18 feet in length, exclusive of access drives or aisles, ramps, or columns. Such space shall have adequate vertical clearance. For parallel parking the length of the parking space shall be increased to 23 feet.~~

**~~Secs. 98-275—98-300. Reserved.~~**

**~~ARTICLE V. NONCONFORMING USES~~**

**~~Sec. 98-301.~~ Continuation of nonconforming use; change of use.**

Except as otherwise provided in this article, the nonconforming use of a building existing at the time this chapter becomes effective (December 6, 1994) may be continued and the use of a nonconforming building may be changed to another use of the same or a more restricted classification, but where such use is changed to a more restricted classification it shall not thereafter be changed back to a use of a less restricted classification. A nonconforming building which is or may hereafter become vacant and which shall remain unoccupied or its nonconforming use discarded for a continuous period of one year, shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located. A nonconforming building may be maintained or kept in good repair except as otherwise provided in this section. No existing building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the district in which such building is located, except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law, or ordinance. No nonconforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the district in which it is located. A nonconforming building which is damaged by fire, explosion, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of 50 percent or more of its reasonable value may not be restored except in conformity with the regulations of the district in which it is located.

**Secs. 98-302—98-330. Reserved**

**ARTICLE VI. HISTORIC PRESERVATION**

**Sec. 98-331. Purpose.**

The city council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) foster civic pride in the accomplishments of the past;
- (3) protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) insure the harmonious, orderly, and efficient growth and development of the city;
- (5) promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (6) encourage stabilization, preservation, restoration, and improvements of such properties and their values.

**Sec. 98-332. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the content clearly indicates a different meaning:

~~*Demolition* means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.~~

~~*Design guidelines for the City of Montgomery* means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the City Secretary.~~

~~*Exterior architectural feature* means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.~~

~~*Historic Preservation District* means an area of the city designated by the city council under this ordinance, as having definable geographic boundaries, a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "Historic Preservation District" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial Historic Preservation District shall consist of the area shown on the attached map and the map shall remain on file with the City Secretary.~~

~~*Historic Landmark* means an individual property designated by the city council under this ordinance, as having outstanding historical and cultural significance in the nation, region, or community. The designation "Historic Landmark" recognizes that the historic place, or the building(s), structure(s), accessory building(s), fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial Historic Landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list attached and shown on the attached map. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9000 square feet in area, only the buildings or structures and a twenty-five (25) feet buffer around said buildings or structures shall be subject to the provisions of this article. Said list and map shall remain on file with the City Secretary and the Montgomery County Clerk's office.~~

~~*Ordinary Maintenance* means repairs and other work necessary for the upkeep of buildings and other structures that may include but is not limited to minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a~~

~~building permit.~~

~~Noneconforming Structures means commercial, residential, and/or institutional buildings or other structures existing within a Historic Preservation District but not possessing the character nor the designation of an official Historic Landmark.~~

~~Planning and Zoning Approval means an indication on the building permit evidencing the approval of the Planning and Zoning Commission, signed and dated by the chairman of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this article, where approval for the same is required.~~

~~Planning and Zoning Commission means the Planning and Zoning Commission of the City of Montgomery, Texas (hereinafter may be referred to as the "Commission") formed by city council ordinance and appointment.~~

**Sec. 98-333. —Designation of Historic Landmarks.**

(a) These provisions pertaining to the designation of historic landmarks both inside and outside of the historic preservation district constitutes a part of the comprehensive zoning plan of the city.

(b) The city council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain sites and/or structures in the city as Historic Landmarks, and define, amend, or eliminate the boundaries of designation. Such sites shall bear the words "Historic Landmark" in their zoning designation. Such designation and the requirement thereof shall be in addition to any other zoning district designation or requirement established in the city's zoning ordinance and in this chapter. All zoning maps shall reflect the Historic Landmark by the letters "HL" as a suffix to the use designated.

(c) Property owners of proposed historic landmarks shall be notified by certified mail no less than fifteen (15) calendar days prior to the Planning and Zoning Commission hearing on the recommended designation. At the Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed Historic Landmark.

(d) The proposed Historic Landmark shall be submitted to the Planning and Zoning Commission at the earliest available meeting and no later than thirty (30) days from the date of the designation request. The Commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within forty-five (45) days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The Commission shall make its recommendation to the city council within forty-five (45) days subsequent to the hearing on the proposed designation.

(e) The city council shall schedule a hearing of the Planning and Zoning Commission's recommendation to be held within forty-five (45) days of receipt of the recommendation of

the Commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.

(f) Upon designation of a historic landmark, the city council shall cause the designated site(s)/structure(s) to be recorded on the official zoning map.

**Sec. 98-~~334~~333. Designation of Historic Preservation District(s).**

(a) These provisions pertaining to the designation of historic preservation districts constitute a part of the comprehensive zoning plan of the city.

(b) The city council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain areas in the city as Historic Preservation Districts, and define, amend, or eliminate the boundaries of designation. Such districts shall bear the words "Historic Overlay" in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in the city's zoning ordinance and in this chapter. All zoning maps shall reflect the Historic Preservation District by the letters "HO" as a suffix to the use designated. Changes to the same may be initiated by any person by request submitted to the Planning and Zoning Commission.

(c) Property owners within a proposed historic preservation district shall be notified by certified mail no less than fifteen (15) days prior to the Planning and Zoning Commission hearing on the recommended designation. At the Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation district.

(d) The proposed addition of or modification to a historic preservation district shall be submitted to the Planning and Zoning Commission at the earliest available meeting and no later than thirty (30) days from the date of the designation request. The Commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within forty-five (45) days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The Commission shall make its recommendation to the city council within forty-five (45) days subsequent to the hearing on the proposed designation.

(e) The city council shall schedule a hearing of the Planning and Zoning Commission's recommendation to be held within forty-five (45) days of receipt of the recommendation of the Commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.

(f) Upon designation of a historic preservation district, the city council shall cause the designated district to be recorded on the official zoning map.

**Sec. 98-~~335~~334. Criteria for Designation of Historic Landmarks and Districts.**

(a) Historic Landmarks are sites, structures, or features that possess significance in

history, architecture, military, political, economic, scientific, archeology, culture or other value. A Historic Landmark may be designated if it exhibits two or more of the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

(b) Historic Preservation Districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. A Historic Preservation District may be designated if the proposed district exhibits a density of properties with the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

**Sec. 98-~~336~~335. Approval for Alteration or New Construction Within Historic Preservation Districts or Affecting Historic Landmarks.**

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within a historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within a historic preservation district without receiving approval from the Planning and Zoning Commission. New construction within a historic preservation district or on property designated as a historic landmark, or buildings or structures moved onto a property within a historic preservation district or onto property designated as a historic landmark will be subject to and in accordance with the Design Guidelines for the City of Montgomery.

**Sec. 98-~~337~~336. Nonconforming Structures.**

Commercial, institutional, and residential structures existing within the Historic Preservation District, or on property designated as a Historic Landmark, prior to the effective date of this article shall not be required to be altered, repaired or modified to meet existing design criteria unless major facade or structural renovations are planned by the property owner. Major facade or structural renovations are defined as changes or renovations to 25% or more of any facade of the structure or improvements facing a street.

**Sec. 98-~~338~~337. Historic Preservation District/Landmark Building Permit Application Procedures.**

(a) Prior to the commencement of any work requiring Planning and Zoning Commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:

- (1) Name, address, telephone number of applicant and property owner, detailed description of proposed work;
- (2) Location and photograph of the property and adjacent properties;
- (3) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
- (4) Elevation drawings of the proposed changes;
- (5) Description of materials and colors to be used; and
- (6) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the City, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property;

(b) Planning and Zoning Commission approval required by this article shall be in addition to and not in lieu of any other building permit requirements for the city.

(c) The Planning and Zoning Commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The Planning and Zoning Commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the Planning and Zoning Commission after required adjustments are made.

(d) All decisions of the Planning and Zoning Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the City Secretary as part of the public record.

(e) An applicant dissatisfied with the action of the Planning and Zoning Commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the City within (30) days after receipt of notification of such action.

**Sec. 98-~~339~~338. Criteria for Approval by the Planning and Zoning Commission.**

Approval by the Planning and Zoning Commission shall be guided by the adopted Design Guidelines for the City of Montgomery. The Design Guidelines for the City of Montgomery shall be made available at the office of the City Secretary.

**Sec. 98-~~340~~339. Special Setback Provisions.**

New commercial structures or improvements being built in the historic downtown commercial area (i.e. any building with front and/or rear facades facing Liberty, Caroline, Prairie, Maiden, McCown, John Butler, or College Streets, and which are located between State Highway 105 on the south and Clepper Street on the north) will be required to adhere to front (main entrance) setbacks that match immediately adjacent buildings or structures facing the same street. If new commercial structures or improvements are being constructed between existing buildings or structures whose setback lines do not match, the new building or structure's front (main entrance) setback line must match the adjacent building or structure whose front (main entrance) setback line is closest to the street in which the adjacent structure or building faces.

**Sec. 98-~~341~~340. Approval Required for Demolition.**

(a) A permit for the demolition of a Historic Landmark or property within a Historic Preservation District, including secondary buildings, must be reviewed and approved by the Planning and Zoning Commission and forwarded to city council for final approval. The Commission shall consult with the City ~~Building and Standards Commission~~ on any application submitted, and shall consider and review any findings and recommendations of the ~~Building and Standards Commission~~City.

(b) A structure deemed ~~hazardous by~~ an unsafe building under the ~~City Building and Standards Commission shall override the requirement for Planning and Zoning Commission approval~~City's ordinances regarding same.

**Sec. 98-~~342~~341. Economic Hardship Application Procedure.**

(a) After receiving written notification from the Planning and Zoning Commission of the denial a of a permit request, an applicant may commence the hardship process. No building permit or demolition permit may be issued unless the Commission makes a finding that an economic hardship exists.

(b) When a claim of economic hardship is made due to the effect of this ordinance, the owner must prove that:

- (1) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (2) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (3) efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(c) The applicant shall consult in good faith with the Planning and Zoning Commission, local preservation groups and interested parties in a diligent effort to seek an

alternative that will result in preservation of the property. Such efforts must be shown to the Commission.

(d) The Planning and Zoning Commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the City Secretary. Following the hearing, the Commission has thirty (30) days in which to prepare a written response to the applicant. In the event that the Commission does not act within ninety (90) days of the receipt of the application, a permit may be granted.

(e) All decisions of the Planning and Zoning Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Secretary's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

(f) If an applicant is dissatisfied with the action of the Planning and Zoning Commission, he/she shall have the right to appeal to the city council within thirty (30) days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

**Sec. 98-~~343~~342. Enforcement.**

All work performed pursuant to a building permit issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the city building official (or other designated official) to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the approved scope of work, or upon notification of such fact by the Planning and Zoning Commission and verification by the designated official, the official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work is in effect.

**Sec. 98-~~344~~343. Ordinary Maintenance.**

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a Historic Preservation District which does not involve a change in design or outward appearance.

**Sec. 98-~~345~~344. Demolition by Neglect.**

No owner or person with an interest in real property designated as a landmark or included within a Historic Preservation District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Planning and Zoning Commission, produce a detrimental effect upon the character of the Historic Preservation District as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roof or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;

- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

**Sec. 98-~~346~~345. Penalties.**

In addition to the penalties set out under this chapter, the following penalties, which are nonexclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (1) *Restrictions on future development.* If a historic resource, either a landmark or one located within the boundaries of the Historic Preservation District, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the Planning and Zoning Commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:
  - a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two (2) years after the date of such demolition or removal. The City may file a certificate evidencing a violation of this section in the Official Public Records of Real Property of Montgomery County, Texas.
  - b. No permits shall be issued by the city for any curb cuts on the site for a period of two (2) years from and after the date of such demolition or removal.
  - c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two (2) years from and after the date of such demolition and removal.
  - d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of Montgomery County and such restrictions shall then be binding on future owners of the property.
- (2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016 as the same may be amended from time to time, injunctive remedies and the like.
- (3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney for the City of Montgomery or his or her designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal

or equitable remedies or relief.

Secs. 98-~~347346~~—98-360. Reserved.

## ARTICLE VII. CORRIDOR ENHANCEMENT

### Sec. 98-361. Purpose.

The city council hereby declares that as a matter of public policy that it is desirable and in the best interest of the public health, safety, morals and general welfare of the citizens of the city to provide for the enhancement of the overall visual image and perception of the city along its main entryways and corridors by requiring construction standards for exterior walls and facades on buildings along these corridors.

### Sec. 98-362. Definitions.

~~The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Design guidelines for the City of Montgomery means written guidelines adopted by the City as a reference and guide to provide information on appropriate methods for new construction of buildings.~~

~~Exterior walls and facades means the outermost covering of a building that is visible from any public right of way, street or roadway.~~

~~Main entryways and corridors means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.~~

~~Metal panels means profiled metal panels, deep-ribbed panels and concealed fastener systems.~~

### Sec. 98-363. District Boundaries and Designation of Properties.

(a) Properties initially subject to the requirements of this article and initially designated as the Corridor Enhancement District include all properties located within three hundred (300) feet of the right of way of:

- (1) Texas State Highway 105, extending from the eastern boundary of the corporate limits of the city to the western boundary of the corporate limits of the city;
- (2) Texas State Farm Road 149, extending from the northern boundary of the corporate limits of the city to the southern boundary of the corporate limits of the city; and
- (3) The entire Lone Star Parkway, extending from Texas State Highway 105 on the east to Texas State Highway 105 on the west.

(b) The city council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain additional areas in the city as a Corridor Enhancement District, and define, amend, or

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eliminate the boundaries of designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the Corridor Enhancement District by the letters “CE” as a suffix to the use designated. Changes to the Corridor Enhancement District may be initiated by any person by request submitted to the city secretary.

**Sec. 98-~~364~~363. General Requirements.**

(a) The construction of metal buildings is allowed within the Corridor Enhancement District; however, metal panels are prohibited on the exterior walls and facades of such buildings. Areas zoned as ~~Light or Heavy~~District ID Industrial are partially exempt from this requirement provided that the main entrance of the building visible from the Main entryways and corridors shall be 100% covered by the approved materials listed in subsection (b) of this section. The remaining exterior facades of a building within an area zoned as ~~Light or Heavy~~District ID Industrial must be at least 50% covered by a wainscoting of approved materials listed in subsection (b) of this section, from the front to the back of the facade wall.

(b) Within the Corridor Enhancement District, acceptable façade materials that may be used on buildings or structures, individually or in combination, include:

- (1) Natural stone
- (2) Brick
- (3) Wood
- (4) Fiber cement siding (e.g. Hardiplank)
- (5) Stucco or similar exterior finishing system
- (6) Pre-cast concrete panels which are painted or integrally colored
- (7) Exposed aggregate concrete
- (8) Any other acceptable system that is not metal panel

(c) New construction within the Corridor Enhancement District or buildings moved into the Corridor Enhancement District will be subject to the construction standards defined in this article.

(d) The city encourages property owners, architects and builders to recognize the historic significance of the city, and the desire to maintain and enhance the historic ambiance of the area. Therefore, voluntary compliance with other architectural aspects of the Design Guidelines for the City of Montgomery is strongly recommended.

**Sec. 98-~~365~~364. Exceptions and Exemptions.**

(a) Commercial, institutional, and residential structures existing within the Corridor Enhancement District, prior to the effective date of this ordinance shall not be required to be altered, repaired or modified to meet existing design criteria unless major facade or structural renovations are planned by the property owner. Major facade or structural renovations are defined as changes or renovations to 25% or more of any facade of the structure or improvements facing a public right of way, street or roadway.

(b) Exceptions to these requirements may be reviewed by the Planning and Zoning Commission for a recommendation to city council for approval on a case by case basis provided that the Commission and city council finds that the proposed building materials and arrangement of these materials will enhance and preserve the character along the corridor in which the structure is located. Consideration for exceptions to the above requirements shall be based on the architectural design and creativity of the structure, and its compatibility with surrounding developed properties.

(c) Exceptions reviewed by the Planning and Zoning Commission and approved by city council shall be in effect for only the structure specifically authorized and shall become null and void should no building permit be issued within ninety (90) day or should the building permit for the specific structure expire.

(d) The provisions of this article shall not be construed to apply to properties located within any planned development district in which deed restrictions have already been approved by the city.

**Sec. 98-~~366~~365. Enforcement.**

(a) A list of intended exterior materials will be submitted along with the building permit application. Building permits will not be approved unless acceptable external materials will be used.

(b) The city engineer and/or city building inspector will review construction to ensure compliance with this article, and no certificate of occupancy will be granted until compliance with this article is achieved.