

ZONING ORDINANCE

2014-01

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ARTICLE I. - DEFINITIONS

Section 1.1. - Short title.

This ordinance may be cited and referred to as "The Peñitas Zoning Ordinance."

Section 1.2. - Definitions.

Certain words and terms in this ordinance are defined for the purpose hereof as follows:

Words used in the present tense include the future tense; [and] words in the future tense include the present tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; the word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.

1. *Accessory use or building.* A subordinate use or structure customarily incident to and located on the lot occupied by the main use or structure and conforming with setback and other regulations concerning location.
2. *Adopted policies.* A written administrative directive discussed at a public meeting and officially adopted by a majority vote of the city council.
3. *Alley.* A minor public right-of-way which is used primarily for vehicular and utility service access to the back or side of properties otherwise abutting on a public street.
4. *Apartment house.* See *Dwelling, multiple.*
5. *Apartment.* A room or suite of rooms located in a building with other such rooms or suites arranged, designed, or to be occupied as a residence by a family. (See *Dwelling unit.*)

6. *Associated recreation.* Recreational uses which are an integral part of a common ownership or associated or high density residential development (example: homeowners association with a private club, swimming pool and tennis courts).
7. *Authorized agent.* An architect, builder, developer, or other person empowered to act on behalf of other persons.
8. *Bar, cocktail lounge, tavern, saloon, cantina.* An establishment where alcoholic beverages are sold for on-premises consumption, other than a restaurant as defined in this section.
- 8A. *Bed and breakfast facility.* An owner-occupied private home which offers lodging for paying guests and which serves meals only to those guests. One off-street parking space per available room shall be required.
9. *Boardinghouse.* A building other than a motel or hotel where lodging and meals for five or more persons are provided for compensation.
10. *Building.* Any structure designed to be built for the support, enclosure, shelter, or protection of persons, animals, chattel, or property of any kind.
11. *Buffer.* A visual screen made of wood, masonry, landscape material or other permanent material so adjacent properties will be screened from the proposed commercial or industrial use. Such buffer shall be horizontal to the ground, opaque, and a minimum of six feet in height.
12. *Building coverage.* See *Lot coverage*.
13. *Building setback line.* A line defining an area on the building lot between the street right-of-way line and all other property lines and the building line within which no building shall be constructed, encroach or project except as specifically authorized in an adopted ordinance of the City of Peñitas.
 - a. *Front building setback line.* A line parallel to the street right-of-way line which the building faces, and takes its primary access from.
 - b. *Side building setback line.* A line parallel to an adjacent lot or street right-of-way on a corner lot, which the building sides up to.
 - c. *Rear building setback line.* A line parallel to an adjacent lot, alley, or street in the case of double frontage lots, which the building backs up to and has its rear or secondary access from.
14. *Carport.* A roofed structure open on at least two sides covered with a roof supported by structural steel or wood columns or masonry piers of minimum size for structural safety.
- 14A. *Cemetery.* Land used or intended to be used for the interment of human remains and dedicated for cemetery purposes including, but not limited to, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. The above term may also be applied to a pet and/or animal cemetery.
- 14B. *City facilities:* Public improvements undertaken by the City of Peñitas for the benefit of the general public that primarily deal with utility service delivery to magnify water, sanitary sewer, and/or storm sewer improvements. Such city facilities shall not be interpreted to

mean new buildings since such would be classified as institutional.

15. *Comprehensive plan.* The comprehensive plan of the City of Peñitas and includes any unit or a part of such unit separately adopted and any amendment to such plan or parts thereof.
16. *Conditional use.* A use which may be suitable in certain locations in a zoning district if developed and operated under specific conditions and/or for a limited period of time.
17. *Condominium.* A multifamily dwelling unit, within which designated dwelling units are conveyed fee simple title, with an undivided interest in the building's common elements, to include, but not be limited to, halls, stairs, elevators, roof, parking space, and the land when the building is not constructed on leased land.
- 17A. *Crematorium:* A structure containing a retort used or intended to be used for cremation of human remains.
18. *Director of planning.* The duly authorized employee or representative of the city in charge of the planning function for the city and charged with implementation and enforcement of the subdivision, zoning and other growth-related ordinances.
19. *District.* A section of the City of Peñitas for which the regulations governing the areas, heights, or uses of buildings are uniform.
20. *Dwelling unit.* Any building or portion thereof which is designed for or used primarily for residential occupancy, but not including hotels, boardinghouses or mobile homes, trailers, motor coaches or other recreational vehicles.
 - a. *Single-family.* A building designed for and/or occupied exclusively by one family as a separate dwelling unit.
 - b. *Duplex.* A building designed for and/or occupied exclusively by two families living independently of each other.
 - c. *Triplex.* A building designed for and/or occupied exclusively by three families living independently of each other.
 - d. *Fourplex.* A building designed for and/or occupied exclusively by four families living independently of each other.
 - e. *Multiple.* A building designed for and/or occupied exclusively by five or more families living independently of each other.
 - f. *[Determination of unit size.]* The determination of whether one family is living independent of another is based on one or more of the following criteria:
 - (1) Separate sanitary facilities.
 - (2) Separate kitchen facilities.
 - (3) Separate entrances.
 - (4) Separate utilities.
- 20A. *Expressway Corridor* means the commercially or industrially zoned areas along, or within

600 feet north and south, of U.S. Expressway 83.

21. *Family.* One or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants, or a number of persons not exceeding four adults, not related by marriage, and their dependent children and/or parents, living together as a single housekeeping unit.
22. *Garage apartment.* A dwelling unit attached to a private garage.
23. *Garage, commercial.* A building or premises used for storage, repair, rental, or servicing of motor vehicles.
24. *Garage, private.* An accessory building, attached or detached, designed or used for the storage of motor-driven vehicles owned and used only by the occupants of the building to which it is accessory.
25. *Guesthouse.* An accessory building designed for the temporary occupancy of guests of the primary dwelling for which there is no remuneration and is not rented or otherwise used as a separate domicile.
26. *Height.* The height of a building or portion of a building shall be the vertical distance from grade to the highest point of the coping of a flat roof, the deckline of a mansard roof, and the mean height level between eaves and ridge for hip, gable, or gambrel roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, radio towers, television antennas, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.
27. *Home occupation.* An activity carried on by a member of the immediate family, residing on the premises, that meets the provision of section 1.56
28. *Hotel and/or motel:* A building occupied as a temporary abiding place of individuals at which parking may be conveniently located at each unit and where there are more than six sleeping rooms provided, for compensation. A building that is condo-owned but hotel-used shall be considered a hotel.
29. *Institution.* A nonprofit organization or building, public or private, for the benefit of the public; or educational facilities, churches, temples, hospitals, clubs, fire stations, police stations, libraries, museums, city offices, etc.
30. *Loading space.* A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of trucks and having a minimum dimension of 12 [feet] by 35 feet and a vertical clearance of at least 14 feet.
31. *Lot.* An undivided tract or parcel of land having frontage on a public street, or upon an approved open space, having direct street access, and which is, or in the future may be, offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.
 - a. *Corner lot.* A lot abutting upon two or more public streets at their intersection.
 - b. *Lot depth.* The length of a line connecting the midpoints of the front and rear lot lines.

- c. *Lot, double frontage.* A lot abutting on two nonintersecting public streets as distinguished from a corner lot.
 - d. *Lot, frontage.* The length of street frontage between property lines.
 - e. *Lot, interior.* A lot other than a corner lot.
 - f. *Lot, irregular.* Any lot not having equal front and rear lot lines, or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees. A lot fronting on a sharp curve or a cul-de-sac.
 - g. *Lot lines.* The lines bounding a lot as defined herein.
 - (1) *Front lot line.* The property line between the front yard and the contiguous street right-of-way boundary.
 - (2) *Rear lot line.* The property line between the rear yard and the adjacent property or right-of-way, and contiguous with the legal boundary of such use.
 - (3) *Side lot line.* The property line between two adjacent lots or between the side yard and

the contiguous street right-of-way boundary on corner lots.
 - h. *Minimum lot area.* The minimum area of the lot includes internal sidewalks, recreation areas, floor space, parking area, open space and utility easements, but does not include any public right-of-way, street easements, or alley easements.
 - i. *Lot width.* That distance measured along a straight line connecting the mid-point of the two side lot lines.
- 31A. *Lot coverage.* The extent to which the lot's surface or subsurface area is occupied by materials that absorb and are impermeable. The term "building coverage," as used in the zoning ordinance, is hereby amended to read "lot coverage." Lot coverage shall also include the lot area under mobile homes, recreational vehicles, or any other structure without a permanent foundation.
32. *Lot of record.* A parcel of land which is part of a subdivision, the map or plat of which has been recorded in the office of the county clerk of Hidalgo County; or a parcel of land not a part of an urban or town lot subdivision, the deed of which has been recorded in the office of the county clerk of Hidalgo County prior to August 26, 1974, which has not been divided since recording.
33. *Maneuvering space.* The space entirely on private property required for maneuvering vehicles in such a manner as to preclude the backing of any vehicle into any street right-of-way.
34. *Mobile home.* A movable or portable dwelling which is constructed on a chassis, and which is designed to be towed over Texas roads and highways under special permit, designed for year-round occupancy, designed primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units that can be telescoped when transported

and expanded later for additional capacity, or of two or more units, separately transportable, but designed to be joined together into one integral unit. The following shall not be included in this definition:

- a. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
 - b. Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical plumbing, and heating systems which comply with chapters of the City Code.
35. *Mobile home park.* A unified development of five acres or more for mobile homes arranged on a tract of land owned by an individual or a single business entity for the purpose of renting or leasing spaces, and meeting the requirements of the mobile home park ordinance.
36. *Mobile home subdivision.* A unified development of five acres or more for mobile homes arranged on a tract of land in such a manner as to provide an individual lot (see definition 31) for each of the mobile homes.
37. *Modular homes.* A dwelling unit in which more than 50 percent of the structure is constructed at other than the construction site, brought to the site in modules, and set on a permanent foundation.
38. *Mobile home space.* An area within a mobile home park which is designed for and designated as the location for a single mobile home and the exclusive use of its occupants.
39. *Nightclub, discotheque, disco or dancehall.* An establishment whose primary activity is the provision of facilities for dancing including a dance floor, and live entertainment or amplified music. Such establishment may or may not provide on-premises consumption of alcoholic beverages. Schools of dance are exempted from this definition.
40. *Nonconforming use.* A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is situated.
41. *Parking area.* Space used exclusively for the parking of vehicles and where no other business is conducted.
42. *Parking space.* A paved all-weather surfaced area, not closer than six feet from the back edge of the curb, the width and length of which shall exceed by a minimum of two feet the dimensions of the type of vehicle normally to be parked in the space, and connected with a street or alley by a driveway affording satisfactory ingress and egress. The minimum dimension of a parking space shall be in accordance with the adopted ordinances of the City of Peñitas regarding off-street parking.
43. *Person.* Any individual, association, firm, corporation, governmental agency or political subdivision.
44. *Planned shopping center.* A group of architecturally unified commercial establishments built on a site which is planned, developed, owned, and managed as one operating unit related in its

location, size, and type of shops to the trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

45. *Planned unit development (PUD)*. Includes a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity, and comply with provisions of the ordinances governing planned unit developments.
46. *Portable building*. A temporary building that does not have a foundation and is transportable.
47. *Recreational vehicle or travel trailer*. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified travel trailer by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding state maximums.
48. *Restaurant*. A building or portion of a building, where the primary business is the on-premises sale of prepared food, with adequate facilities for the preparation of the food to be sold, the adequacy of said kitchen facilities to be based upon the seating capacity of the restaurant and the type of menu offered.
49. *Retail*. The sale of goods directly to a consumer. Engaged in, pertaining to, or relating to the sale of merchandise at retail. To sell by individual items or by the piece, directly to a consumer.
50. *Right-of-way line*. A dividing line between a lot, tract, or parcel of land and the public right-of-way.
51. *Sign*. A name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs. Included in this definition are the following signs:
 - a. *Animated sign*: A sign with action or motion, flashing color ranges requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or special items.
 - b. *Directional sign*: A sign containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately owned natural phenomena; historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation deemed to be in the interest of the traveling public and having statewide or regional significance.
 - c. *Freestanding sign*: A sign which is supported by one or more columns, uprights or braces in or upon the ground.
 - d. *Illuminated sign*: A sign in which a source of light is used in order to make readable the message. This definition shall include internally and externally lighted signs and reflectorized, glowing or radiating signs.

- d (1). *Institutional sign*: An on-premises sign which calls the attention of the general public to a permitted institutional use or message.
- e. *Nameplate*: A sign not more than one square foot in area, attached to a building, identifying the owner or lessor, and his title or occupation.
- f. *Off-premises sign*: A sign, including the supporting sign structure, which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually offered or sold upon the premises where such a sign is located. None of the following shall be deemed an off-premises outdoor advertising sign:
 - (1) Directional and other official signs authorized by law.
 - (2) Real estate signs.
 - (3) Political signs.
 - (4) Signs which have a significant portion of their face area devoted to giving public service information such as, but not limited to, time, date, temperature, weather, or similar information.
- g. *Official signs*: Shall mean directional and other official signs authorized by law, including signs pertaining to natural wonders and scenic and historic attractions, and signs which have as their purpose the protection of life and property.
- h. *On-premises sign*: A sign which directs the attention of the general public to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted at, services rendered, goods sold or produced on the premises, name of the business, name of the person, firm or corporation occupying the premises.
- i. *Political sign*: Any sign whose sole purpose is the transmittal of information concerning an upcoming political issue or campaign, or a public issue of potential concern to the community as a whole.
- j. *Portable sign*: A freestanding and movable sign, designed to be temporary and mobile. This definition includes signs attached to trailers, but does not include signs permanently placed on the sides of motor vehicles.
- k. *Private directional sign*: A sign not erected by or under authority of any governmental agency, which contains only information designed to direct pedestrian or vehicular traffic and which

contains no advertising material or a business name. Examples of private directional signs include signs bearing only the word "entrance" or "exit" located on or near a parking lot. No sign which contains the name of a business or activity or any other advertising material shall be considered a private directional sign, even though such sign may also contain the word "entrance" or "exit." A sign containing the word "parking" at any parking lot where any person is charged any fee or other monetary consideration for parking shall be considered an advertising sign, not a private directional sign.

- l. *Real estate signs*: Any sign smaller than three feet by four feet, temporarily advertising the sale or lease of the property upon which it is located, or any permanent sign affixed to a

gate or entryway advertising only the name and address of a subdivision, apartment complex or residential district.

52. *Residential storage building.* Any building either portable or constructed on site, utilized for storage purposes, and not requiring plumbing, and electrical wiring, and not used for residential purposes.
53. *Servant's quarters.* An accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.
54. *Space.* A plot of ground within a mobile home or recreational vehicle park designated for the accommodation of one mobile home or one recreational vehicle, together with such open space as required by this chapter [ordinance].
55. *Street.* A public or private thoroughfare which affords the principal means of access to abutting property, excluding alleys.
56. *Setback.* See *Building setback line.*
57. *Structure.* Anything constructed, erected, or built up; or composed of parts and joined together in a permanent manner.
58. *Structural alterations.* Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.
59. *Tourist court.* See *Hotel and/or Motel.*
60. *Townhouse.* A single-family dwelling unit constructed in a series, or a group of units having common walls, each on a separate lot.
 - a. *Townhouse condominium:* A single dwelling unit, meeting townhouse construction requirements, within which designated dwelling units are conveyed fee simple title, with an undivided interest in the building's common elements, to include, but not be limited to, parking spaces, common areas, and the land upon which the building is constructed.
61. *Wholesale.* The sale of commodities for the purpose of resale, as to retailers or jobbers rather than to consumers directly; opposed to retail. Of, pertaining to, or engaged in sale at wholesale.
62. *Yard.* An open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise herein provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
 - a. *Front:* A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the right-of-way line and wall of the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On residential corner lots, the front yard shall be

considered as parallel to the street upon which the lot has its least dimension except where corner lots may be square in dimension and/or have double frontage, at which time the front yard shall correspond to the lot's side adjacent to the longest block face in which it occurs and to which the majority of the existing structures front.

- b. Rear: 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 projection thereof other than the projections of uncovered steps, uncovered balconies, or uncovered porches. On all lots, the rear yard shall be in the rear of the front yard.
- c. Side: A yard between the main building and the side line of the lot, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

ARTICLE II. - ADMINISTRATIVE PROVISIONS

Section 1.3. - Official zoning map.

- 1. An official zoning map of the City of Peñitas shall be kept in the office of the planning director and an official certified copy thereof shall be kept in the office of the city clerk.
- 2. It shall be the duty of the planning director to keep the official map and the current copies thereof herein provided, 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.
- 3. The city secretary, upon the adoption of this ordinance, shall affix a certificate identifying the map as the official zoning map of the City of Peñitas.

Section 1.4. - Enforcement.

- 1. *City manager.* The provisions of this ordinance shall be administered and enforced by the city manager or his duly authorized representative of the City of Peñitas.
- 2. *Right to enter.* The city manager or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspection of buildings or premises necessary to carry out the duties in the enforcement of this ordinance.
- 3. *Stop orders.* Whenever any building work is being done contrary to the provisions of this ordinance, the city manager or his duly authorized representative may order the work stopped by notice in writing served on the owner or contractor doing the work or causing such work to be done, and any such person shall forthwith stop such work until authorized to proceed with such work.

Section 1.5. - Plans.

All applications for building permits shall be accompanied by:

- 1. Accurate site plans drawn to scale and showing:
 - a. The actual shape and dimensions of the lot to be built upon;
 - b. The number of families or housekeeping units the building is designed to accommodate.

- c. The setback lines within which the proposed building and structure shall be erected or altered;
- d. The existing and intended use of each building or part of building;
- e. The exact sizes and locations on the lot of the buildings and accessory buildings then existing;

2. And such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance. A plan inspection period shall be completed as soon as practical, but not to exceed ten days.

Section 1.6. - Effect upon existing permits, agreements, rights, etc.

- 1. Existing permits and private agreements: This ordinance is not intended to abrogate or annul:
 - a. Any permits issued before the effective date of this ordinance; or
 - b. Any easement, covenant, or any other private agreement.
- 2. Preserving rights in pending litigation and violations under existing ordinances: By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless such use falls specifically within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this ordinance; but prosecution and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, or causes presently pending be proceeded with in all respects as if such prior ordinance had not been repealed.
- 3. Completion of existing buildings: Nothing in these regulations or in any amendments hereto which change district boundaries shall require any change in the plans, construction, or designated use of a building which shall be completed in its entirety within one year from the date of passage of this ordinance or any amendments to this ordinance and was authorized by building permit before the passage of this ordinance, provided construction shall have been started within 90 days of the effective date of this ordinance. Building construction is hereby defined as the placing of construction materials in permanent position and fastened in a permanent manner.

Section 1.7. - Violation and penalties.

Any person who shall violate, participate, or acquiesce in the violation of any of the provisions of this ordinance or who shall fail to comply therewith or with any of the requirements thereof, or who shall erect or alter any building in violation of any detailed statement or plan required to be submitted and approved thereunder, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than \$1.00 nor more than \$1,000.00. Each day in violation hereof shall constitute a separate offense.

Section 1.8. - Other remedies.

The penalty provided in section 1.7 above should not be construed as exclusive, and the City of Peñitas hereby provides that any other remedy available to it in the enforcement of this ordinance, in law or in equity, including, but not limited to, an injunction in a district court or other court of competent jurisdiction, is not intended to be, and is not, foreclosed by the provision of such penalty.

ARTICLE III. - NONCONFORMING USES

Section 1.9. - Nonconforming uses.

The general public, the city council, and the planning and zoning commission are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible, except:

1. When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and
2. When necessary to promote the general welfare and to protect the character of the surrounding property.

Section 1.10. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or any other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural nonconformity.
2. Should such nonconforming structure or nonconforming portions of structure be damaged by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in accordance with the provision of article IV, section 1.17 of this ordinance.
3. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

Section 1.11. - Nonconforming uses of structures or of structures and premises in combination.

If a permitted use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and land combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered.
2. The use of the structure shall only be changed to a use permitted in the district in which it is located.
3. Any nonconforming use may be extended throughout any parts of a building which were

manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

4. When a nonconforming structure and land combination, in which a nonconforming use is converted to a permitted use or is discontinued or abandoned for 180 days, the structure, or structure and land combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
5. Any use existing on the effective date of this ordinance which is listed as a conditional use in the district where it is located shall be and shall remain a nonconforming use until a conditional use

permit is obtained as provided for in this ordinance if such use is discontinued or abandoned for 180 consecutive days the structure and/or and shall not thereafter be used except in conformity with the regulations of the district in which it is located.

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

Section 1.12. - Repairs and maintenance.

On any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixture, wiring, or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be.

If 50 percent or more of a nonconforming structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

ARTICLE IV. - PROVIDING FOR THE BOARD OF ADJUSTMENT, QUORUM, PROCEDURES FOR APPEALS AND POWERS OF THE BOARD

Section 1.15. - Organization.

1. A board of adjustment is hereby created in accordance with the provisions of V.T.C.A., Local Government Code §§ 211.008—211.012. It shall consist of five regular members and two alternates who shall be appointed by the city council of the City of Peñitas for a term of two years, and removable for cause by the city council upon written charges and after public hearing. Said two alternate members shall serve in the absence of one or more regular members when requested to do so by the mayor, the city manager, or an authorized official, as the case may be. All cases to be heard by the board of adjustment will be heard by a minimum number of four members. Vacancies shall be filled for the unexpired term of any member by appointment of the city council.
2. A quorum shall consist of four members of the board of adjustment.

3. The city manager or his designee shall be an ex officio member of the zoning board of adjustment without power of vote and as an ex officio member of such board shall act as secretary of the zoning board of adjustment and shall set up and maintain a separate file for each application for appeal, special exception, and variance received and shall record therein the names and addresses of all persons, firms, and corporations to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the mailing clerk, post office, or mailbox and further keep a record of all notices published as required herein. All records and files herein provided for shall be permanent and official files and records of the city.

Section 1.16. - Procedures and appeals.

Procedures before the board of adjustment, and appeals to and from such board, shall be governed by the provisions of V.T.C.A., Local Government Code §§ 211.008—211.012.

1. The board shall adopt rules to govern its proceedings provided, however, that such rules are not

inconsistent with this ordinance or state law. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oath and compel the attendance of witnesses.

2. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep record 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.
3. Appeals to the board may be made by any person aggrieved, or by any municipal officer, department, or board affected by any decision of the city manager or his duly authorized representative in the enforcement of this ordinance. Such appeal shall be filed with the board by the director of planning within 15 days after the original decision rendered by the director of planning.

4. Notice of hearing before the board required.

- a. The board shall hold a public hearing on all appeals made to it and written notice of such public hearing shall be sent to the applicant, all persons who are owners of real property lying within 200 feet of the property on which the appeal is made, and all other persons deemed by the board to be affected thereby.
- b. Such notice shall be given not less than ten days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last city tax roll. Such notice may be served by deposition of the same, properly addressed and postage paid, in the U.S. Post Office.

5. The secretary of the board shall forthwith notify in writing the commission and the city building inspector of each decision, interpretation, special exception and variance granted under the provisions of this ordinance.

Section 1.17. - Powers of board of adjustment.

The board of adjustment shall have the following powers, and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decisions, or determination made by an administrative official in the enforcement of this ordinance.
2. The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done. Such variances from the strict application of the terms of this ordinance must be in harmony with its purpose and intent, and shall be authorized only when the board is satisfied that the applicant has proven the following conditions exist:
 - a. That a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Financial hardship is not sufficient to show unnecessary hardship.
 - b. That the property in question is not suitable and usable for uses permitted in the district in which it lies, even though there will be a loss of profit or other economic disadvantage on account of the use.
 - c. That the unnecessary hardship was not self-inflicted.
 - d. That the hardship is unique to the land or parcel involved, and is not shared in general by others in the neighborhood, also as a result of the zoning ordinance and thus perhaps requiring rezoning.
 - e. That the variance will not alter the essential character of the locality, and the surrounding property will be protected.
 - f. That the variance will not merely serve as a convenience to the applicant.
 - g. That the variance requested is not in actuality a reclassification of land uses or the creation of new districts. Such action amounts to legislation, and may only be done by the legislative body of the municipality.
3. In hearing and deciding appeals, to grant special exceptions in the following instances:
 - a. Interpret the provision of this ordinance in such a way as to carry out the intent and purpose of the ordinance, as shown on the maps fixing the several districts, accompanying and made a part of this ordinance, where the street layout actually on the ground varies from the street layout as shown on said maps.
 - b. Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provisions of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience.
 - c. Permit the reconstruction of a nonconforming building which has been damaged to the extent of more than 50 percent of its replacement cost.

- d. If no structural alterations are made, any nonconforming use of structure, or structure and premises in combination, may, as a special exception, be changed to another nonconforming use, provided the board of adjustment shall find that the proposed nonconforming use is not more nonconforming in the district than the previously existing nonconforming use.
4. In permitting such exceptions, the board of adjustment may require any conditions and safeguards as it shall deem appropriate to see that the purpose and intent of this ordinance are met, and the violation of any such conditions or safeguards shall constitute a violation of this ordinance.
5. In exercising the above mentioned powers, the board may, in conformity with the provisions of V.T.C.A., Local Government Code §§ 211.001—211.013 and this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
6. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance.

Section 1.18. - Administrative cost.

The board of adjustment and appeals, with the concurrence and approval of the city council, shall determine and set forth a fee schedule for the purpose of recovering the administrative cost of processing requests and the public hearings called for by this article. Such fee shall be paid by the applicant and shall not be designed for restricting an applicant's ability to seek a hearing and/or to generate revenue for other than recovery of actual administrative cost incurred by the city.

ARTICLE V. - AMENDMENTS, PROCEDURES, FILING FEE AND APPEALS FROM DECISIONS OF THE PLANNING AND ZONING COMMISSION

Section 1.19. - General.

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

Section 1.20. - Procedure.

Before taking action on any proposed amendment, supplement, or change:

1. The city council shall submit the proposed revision to the planning and zoning commission for its recommendations and reports.
2. The planning and zoning commission shall make a preliminary report and hold public hearings thereon before submitting its final report.
3. Written notices of all public hearings on proposed changes in classifications shall be sent to the address of record of all owners of property, or to the person rendering the property for city taxes, affected by such proposed changes in classification and to the address of record of all owners of

property, or to the person rendering the property for city taxes, located within 200 feet of a property affected thereby within no less than ten days before any such hearing is held. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. Where property lying within 200 feet of the property proposed to be changed is located in territory which was annexed to the city after the final date of making the renditions which are included on the last approved city tax roll or to property lying in another city, notice to such owners shall be given by publication in the manner provided by section 1.21 following.

Section 1.21. - Public hearings.

After receipt of the final report from the planning and zoning commission, a public hearing shall be held by the city council before adopting any proposed amendment, supplement, or change. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of such hearing, which time shall not be less than ten days nor more than 20 days from the date of publication.

Section 1.22. - Rulings.

In all cases where the city council deems it feasible and practicable to do so, public hearings provided for herein to be held before the planning and zoning commission and the city council, respectively, may be held jointly before said commission, and city council, and said city council shall not take final action until it has received the final report of the planning and zoning commission.

Section 1.23. - Protests and recommendations for denial.

1. In case of a written protest against any change in zoning, signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of the City of Peñitas.
2. A vote of three-fourths of all the members of the legislative body of the City of Peñitas is also required to overrule a recommendation of the planning and zoning commission that the proposed amendment, supplement, or change be denied.
3. At the option of the applicant, his request for a change in zoning shall be heard by the full council.

Section 1.24. - Appeals for conditional use permits.

Any person or persons who are owners of real property immediately adjoining the applicants property and extending 200 feet therefrom and/or residing or owning property from any subdivision notified under the required public hearing notices, jointly or severally, aggrieved by any decision of the planning and zoning commission, may present to the city council a petition, duly verified, setting forth that such decision is unjust, in whole or in part, specifying the grounds of injustice. Such petition shall be presented to the planning department within ten business days after the final decision of the planning and zoning commission whereafter the planning department shall present the petition to the city council at the next most available city council meeting for notification and calling of a public hearing to hear and act on the appeal.

Section 1.25. - Administrative cost.

The planning and zoning commission, with the concurrence and approval of the city council, shall

determine and set forth a fee schedule for the purpose of recovering the administrative cost of processing zoning and subdivision requests and the public hearings called for by this article. Such fee shall be paid by the applicant and shall not be designed for restricting an applicant's ability to seek a hearing and/or to generate revenue for other than recovery of actual administrative cost incurred by the city.

Section 1.26. - Applications for zoning change.

1. Applications for a zoning change shall be made, by the owner or his authorized agent, on forms provided by the city.
2. No zoning change applications shall be considered on any parcel more than once in any six-month period of time unless otherwise approved by the planning and zoning commission.
3. The City of Peñitas shall have the inherent right to initiate a proposed change of zoning to any property when deemed in the best interests of the city.

Section 1.27. - Institutional use processing.

1. All "institutional" uses, whether proposed new, proposed expansion, or proposed conversion shall be a permitted use in all residential zoning districts subject to approval of a completed site plan, as described in section 1.52 of this ordinance, by the planning and zoning commission.
2. Public notice of the site plan review shall be given by posting the item at least 72 hours prior to the public meeting in accordance with the open meeting law.
3. The site plan shall be placed on the agenda of the next regularly scheduled meeting of the planning and zoning commission, but not less than ten calendar days from the date of receipt of such application.
4. The requirements of approval shall be in accordance with section 1.53 [paragraph 1] of this ordinance.
5. A decision of the planning and zoning commission may be appealed to the city council by presenting a signed narrative demonstrating that such decision is unjust, in whole or in part. The appeal shall be presented to the director of planning, or a designated representative, within ten calendar days of the planning and zoning commission's decision to be placed on the next regularly scheduled meeting of the city council, but not less than ten calendar days from the date of receipt of such appeal.

ARTICLE VI. - DISTRICT BOUNDARIES

Section 1.28. - Establishment of districts and map.

The city is hereby divided into districts, as shown on the official zoning map. The districts and their boundaries shall be as shown upon the map referred hereto and made a part of this ordinance, said map being designated "official zoning map." Said map, and all notations, references, and other information

shown thereon, shall' be a part of this ordinance. If, in accordance with the provision of this ordinance, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall:

1. Be entered on the map promptly after the amendment has been approved by the city council;
2. Include the date of official action and a brief description of the nature of the change; and
3. Be signed by the mayor and attested to by the city secretary. No amendment to this ordinance which involves matters portrayed on the official zoning map shall become effective until after such change and entry have been made on said map.

Section 1.29. - Boundaries; official zoning map.

The location and boundaries of the districts herein established are shown upon the official zoning map, which is hereby adopted and incorporated into and made a part of this ordinance. All districts, areas, notations, references and other information shown upon the said zoning map are hereby made a part of this ordinance.

Section 1.30. - Determination of boundaries.

In determining the location of zoning district boundaries on the map accompanying and made a part of these regulations, the following rules shall apply:

1. Where district boundaries are indicated as approximately following lot lines, alleys, street or highway right-of-way lines, or extensions of such lines, such lines shall be construed to be boundary lines of the district.
2. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or rights-of-way of highways, such district boundaries shall be construed as being parallel thereto and to 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 said zoning map.
3. Where district boundaries are shown on undivided property, the location shall be determined by the scale shown on the map unless dimensions are given on the map or in the ordinance governing the zone.
4. Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered within the text, the city manager or his duly appointed representative shall interpret the district boundaries. Appeals shall be to the board of adjustments.

ARTICLE VII. - USE DISTRICTS, GENERAL

Section 1.31. - Purpose.

The purpose of the use districts described herein is to group together into districts those uses that are reasonably compatible with one another according to their normal characteristics of operation:

1. To permit, in connection with these uses, those customary and necessary accessory activities which are incidental to the principal use; and
2. To permit certain other uses which may be established in some situations and subject to specific conditions so that such special uses will also be compatible with the uses allowed as a matter of right.
3. To promote orderly, timely, economic growth and to recognize current land use conditions.
4. To provide sufficient space in appropriate locations for development to meet the present and future growth needs of the city, with allowance for a diversity of sites.
5. To protect use areas, as far as possible, against heavy and unnecessary through traffic.
6. To protect use areas against pollution, environmental hazards, and other objectionable influences.
7. To protect use areas against congestion, as far as possible, by managing the density of population in and around them; by providing for proper parking spaces; and by providing open areas for rest and recreation and to break the monotony of continuous building bulk, thus providing a more desirable environment.
8. To provide for privacy and access of light and air to windows, as far as possible, through controls over the spacing and height of buildings and other structures.
9. To promote the most appropriate use of land and direction of building development which is not in conflict with the comprehensive plan or the adopted policies of the city; to promote stability of development; to protect the character of the districts; to conserve the value of land and buildings; and to protect the city's tax base.
10. To promote the most efficient use of city facilities and services.
11. To protect against fire and explosions and other safety hazards.
12. To accommodate use activities and operations whose external physical effects are restricted to the area of the district, and in no manner affect in a detrimental way any of the surrounding districts.
13. To provide for fire protection and access by fire equipment and vehicles.

Section 1.32. - District regulations.

All property within the City of Peñitas shall be located within one of the districts described in article VIII, and shall meet and conform to all requirements of those districts and shall meet any performance standards adopted by the City of Peñitas. Except where indicated otherwise, the uses permitted in each district shall be limited to those specifically enumerated.

Section 1.33. - Newly annexed land.

Proposed annexations: All territory hereinafter annexed to the City of Peñitas shall assume an interim classification of AO-I interim agricultural district, pending determination of the property's initial permanent zoning in accordance with the provisions of state law and this chapter [ordinance]. The city planning and zoning commission shall, as soon as practical after annexation of any territory to the city, and after sufficient study, institute proceedings on its own motion, to give the newly annexed territory a permanent zoning in accordance with the comprehensive plan of the City of Peñitas, following the same procedure as is provided by law for the adoption of original zoning procedures.

ARTICLE VIII. - USE DISTRICTS AND CONDITIONAL USES ^[108]

Section 1.35. - Use districts.

The City of Peñitas is hereby divided into 16 types of districts. The use and regulations shall be uniform in each district. These districts shall be known as:

- AO-I Interim agricultural use district
- AO-P Permanent open space district
- R-1 Single-family residential district
- R-3 Multifamily residential district
- R-4 Mobile home and modular home district
- C-3 General business district
- I-1 Light industrial district*
- PUD Planned unit development

Section 1.361. - AO-P permanent open space district.

1. *Purpose:* The permanent open space district is to be used for the following purposes:
 - a. To protect those areas that are unsuitable for development because of physical problems or potential health or safety hazards such as flooding. The usage of the land would be permanently restricted to low intensity agricultural uses until such time as the property is proven to be suitable for development and is rezoned.
 - b. To provide a permanent greenbelt or open space buffer around uses that might otherwise be objectionable or pose environmental or health hazards.
 - c. To protect and preserve natural habitats of wildlife and/or plant life that are deemed critical by the planning and zoning commission.
2. *Permitted uses:*

- a. Farming, ranching, related activities, and accessory uses including the owner's single-family dwelling plus any housing for employees working on the premises.
 - b. See chapter 86, signs.
 - c. City facilities.
3. *Conditional uses* (require use permits, see article X):
- a. Single-family dwelling and accessory uses.
 - b. A mobile home on an unsubdivided tract of five acres or more.
 - c. Home occupations.
 - d. Broadcast towers for radio, television, or microwave.
 - e. Outdoor commercial recreation, excluding drive-in theaters.
 - f. Extraction activities.
 - g. Landing strips.
 - h. Facilities for the raising of animals including, but not limited to, dog kennels and catteries, in accordance with all applicable City of Peñitas ordinances.
 - i. Amusement parks, circus or carnival grounds, commercial amusement or recreation developments, or tents or other temporary structures used for temporary purposes.
 - j. Facilities for railroads or those utilities holding a franchise under the City of Peñitas.
 - k. Nurseries for the raising of plants.
 - l. Institutional.
 - m. Other uses which, as determined by the planning and zoning commission, are not contrary to the purposes established for this district.
 - n. Fruit, vegetable, etc. sales which are grown on the premises. Section 1.48 must be met.
 - o. Telephone, radio, television and/or other communication towers.
4. *Prohibited uses*:
- a. Any building erected or land used for other than one or more of the preceding specified uses.
 - b. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.
5. *Area requirements*:
- a. Minimum lot area:

- (1) Internal lot: 43,560 square feet.
- (2) Corner lot: 43,560 square feet.
- b. Minimum lot frontage on a public street:
 - (1) Internal lot: 100 feet.
 - (2) Corner lot: 100 feet.
- c. Minimum lot depth: 200 feet.
- d. Minimum depth of front setback: 40 feet.
- e. Minimum depth of rear setback: ten feet.
- f. Minimum width of side setback:
 - (1) Internal lot: six feet.
 - (2) Corner lot: ten feet.
- g. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport, unless otherwise approved by the zoning board of adjustments: 18 feet.
- h. Maximum building coverage as a percentage of lot area: N/A.
- i. Maximum height of structures: 35 feet.*
*Where a structure exceeds the 35-foot height maximum, it shall be set back one additional foot for each foot above 35 feet.
- j. Minimum number of off-street parking spaces required for:
 - (1) One single-family dwelling unit: two.
 - (2) All other uses: see off-street parking ordinance.
- k. See article XIII, section 1.59, for further clarification, and exceptions and modifications.

Section 1.371. - R-1 single-family residential district.

- 1. *[Purpose:]* The single-family residential district is established for the following purposes:
 - a. To provide sufficient space in appropriate locations for residential development to meet the present and future housing needs of the city, with allowance for a diversity of sites.
 - b. To protect residential areas against pollution, environmental hazards, and other objectionable influences.
 - c. To protect residential areas, as far as possible, against heavy and through traffic.

- d. To protect residential areas against congestion, as far as possible, by managing the density of population in and around them; by providing for off-street parking spaces; and by providing open areas for rest and recreation and to break the monotony of continuous building bulk, thus providing a more desirable environment for urban living.
- e. To provide for privacy and access of light and air to windows, as far as possible, through controls over the spacing and height of buildings and other structures.
- f. To promote the most desirable use of land and direction of building development not in conflict with the comprehensive plan of the City of Peñitas; to promote stability of residential development; to protect the character of the district; to conserve the value of land and buildings; and to protect the city's tax base.
- g. To promote the most efficient use of city facilities and services.

2. *Permitted uses:*

- a. One single-family dwelling per lot, and accessory uses.
- b. See chapter 86, signs.
- c. One portable building not more than three percent of the lot's net square footage used for either storage, hobby or other similar accessory uses.
- d. An accessory use customarily related to a principal use authorized in this district. Furthermore, any nonliving accessory structure such as a carport or a garage, whether as an addition or as a detached building, shall be built with like material and with a minimum 80 percent similar architectural style as the primary residence, and shall not exceed 800 square feet.
- e. Institutional uses subject to compliance to section 1.2. (New institutional uses require conditional use permit approval.)
- f. Temporary sales office for the sale of lots.

3. *Conditional uses (require use permits, see article X):*

- a. Planned unit developments, excluding industrial uses.
- b. Home occupations.
- c. Associated recreation.
- d. Guesthouses, or separate servant quarters.
- e. A mobile home on an unsubdivided tract of five acres or more.
- f. Portable buildings larger than three percent of the affected lot's net square footage. No second "portable building" shall be permitted without obtaining a conditional use permit.

- g. Facilities for railroads or those utilities holding a franchise under the City of Peñitas.
- h. Parking facilities for nonresidential uses; also other nonresidential facilities such as internal sidewalks, benches, and gazebos.
- i. Amusement parks, circus and carnival grounds, commercial amusement or recreation developments, or tents or other temporary structures used for temporary purposes.
- j. Bed and breakfast facility.
- k. A replacement mobile home for a particular applicant. Once ownership changes, any awarded CUP is null and void.

4. *Prohibited uses:*

- a. Any building erected or land used for other than one or more of the preceding specified uses.
- b. On- and off-premises signs, portable signs, animated or illuminated signs.
- c. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.

5. *Area requirements:*

- a. Minimum lot area:
 - (1) Internal lot: 6,000 square feet.
 - (2) Corner lot: 7,000 square feet.
- b. Maximum number of single-family dwellings per lot: one.
- c. Minimum lot frontage on a public street:
 - (1) Internal lot: 60 feet.
 - (2) Corner lot: 65 feet.
- d. Minimum lot depth: 100 feet.
- e. Minimum depth of front setback: 20 feet.
- f. Minimum depth of rear setback: ten feet.
- g. Minimum width of side setback:
 - (1) Internal lot: six feet.
 - (2) Corner lot: ten feet.
- h. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport,

unless otherwise approved by the zoning board of adjustments: 18 feet.

- i. Maximum building coverage as a percentage of lot area: N/A.
- j. Maximum height of structures: 35 feet.*

*Where a structure exceeds 25 feet in height, it shall be set back one additional foot for each foot above 25 feet, not to exceed the 35-foot maximum.

- k. Minimum number of off-street parking spaces required for:
 - (1) One single-family dwelling unit: two.
 - (2) All other uses: see off-street parking ordinance.
- l. See article XIII, section 1.59, for further clarification, and exceptions and modifications.

Section 1.39. - R-3 Multifamily Residential District.

- 1. *[Purpose:]* The multifamily residential district is established for the following purposes:
 - a. To provide adequate space and site diversification for higher-density residential development where adequate streets and other community facilities are available for present and future needs.
 - b. To protect residential areas against pollution, environmental hazards, and other objectionable influences.
 - c. To protect residential areas, as far as possible, against heavy traffic.
 - d. To manage the density of population and protect against congestion by providing for off-street parking spaces and by requiring the provision of open space in residential areas in order to open areas for rest and recreation and to break the monotony of continuous building bulk, thus providing a more desirable environment for urban living.
 - e. To provide for privacy and access of light and air to windows, as far as possible, through controls over the spacing and height of buildings and other structures.
 - f. To promote the most desirable use of land and direction of building development not in conflict with the comprehensive plan of the City of Peñitas; to promote stability of residential development; to protect the character of the district; to conserve the value of land and buildings; and to protect the city's tax base.
 - g. To promote the most efficient use of city facilities and services.
- 2. *Permitted uses:*
 - a. One single-family dwelling per lot. Structures must meet the requirements of the R-1 district.

- b. One duplex-fourplex per lot. Structures must meet requirements of the R-2 district.
- c. Apartments.
- d. Condominiums.
- e. One townhouse per lot. Structures must meet requirements of R-1T district.
- f. Parking lots for multifamily residential use.
- g. See chapter 86, signs.
- h. One portable building not more than three percent of the lot's net square footage used for either storage, hobby or other similar accessory uses.
- i. An accessory use customarily related to a principal use authorized in this district, except guesthouses.
- j. Temporary sales office for the sale of lots.
- k. Institutional uses subject to compliance with section 1.2. (New institutional uses require conditional use permit approval.)

3. *Conditional uses* (require use permits, see article X):

- a. Planned unit developments, excluding industrial uses.
- b. Home occupations.
- c. Associated recreation.
- d. Guesthouses.
- e. A mobile home on an unsubdivided tract five acres or more.
- f. Boardinghouses.
- g. Amusement parks, circus or carnival grounds, commercial amusement or recreation developments, or tents or other temporary structures used for temporary purposes.
- h. Facilities for railroads or those utilities holding a franchise under the City of Peñitas.
- i. Portable buildings larger than three percent of the affected lot's net square footage. No second "portable building" shall be permitted without obtaining a conditional use permit.
- j. Parking facilities for nonresidential uses.
- k. Household goods, warehousing or storage in individually rented/leased storage units.
- l. Bed and breakfast facility.

4. *Prohibited uses*:

- a. Any building erected or land used for other than one or more of the preceding specified uses.
- b. On- and off-premises signs, portable signs, animated or illuminated signs.
- c. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.

5. *Area requirements:*

- a. Single-family dwelling units shall meet the requirements of the R-1 district. Only one single-family residential structure will be allowed per lot.
- b. Townhouses shall meet the requirements of the R-1T district. Only one townhouse will be allowed per lot.
- c. Minimum lot area:
 - (1) Internal lot: 7,000 square feet.
 - (2) Corner lot: 8,000 square feet.
- d. Maximum number of dwelling units per lot:
 - (1) Zero-bedroom or efficiency dwelling units: 1,000 square feet of lot area per unit.
 - (2) One-bedroom dwelling units: 1,250 square feet of lot area per unit.
 - (3) Two-bedroom dwelling units: 1,500 square feet of lot area per unit.
 - (4) Three- or more bedroom dwelling units: 1,750 square feet of lot area per unit. To determine the permitted number of dwelling units in the R-3 district, divide the area of the parcel in question by the "minimum lot area per dwelling unit." The resulting quotient is the maximum number of dwelling units permitted.

i.e.: 80 feet X 120 feet lot = 9,600 feet.

9,600 square feet of lot area ÷ 1,000 square feet = 9.6 efficiency apartments. The maximum number on 9,600 square foot lot = 9 efficiencies.

9,600 square feet of lot area ÷ 1,250 square feet = 7 one bedroom apartments.

9,600 square feet of lot area ÷ 1,500 square feet = 6 two-bedroom apartments.

9,600 square feet of lot area ÷ 1,760 square feet = 5 three-bedroom apartments.

- e. Maximum density per acre:
 - (1) Zero-bedroom or efficiency dwelling units: 43 dwelling units per net acre.
 - (2) One-bedroom dwelling units: 34 dwelling units per net acre.
 - (3) Two-bedroom dwelling units: 29 dwelling units per net acre.
 - (4) Three- or more bedroom dwelling units: 24 dwelling units per net acre.

- f. Minimum lot frontage on a public street:
 - (1) Internal lot: 70 feet.
 - (2) Corner lot: 80 feet.
- g. Minimum lot depth: 100 feet.
- h. Minimum depth of front setback: 30 feet.
- i. Minimum depth of rear setback*: 15 feet.

*Unenclosed carports may be built up to within five feet of any property line that abuts an alley in an R-3 district.
- j. Minimum width of side setback:
 - (1) Internal lot: six feet.
 - (2) Corner lot: 15 feet.
- k. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport, unless otherwise approved by the zoning board of adjustments: 18 feet.
- l. Maximum building coverage as a percentage of lot area: 50 percent.
- m. Minimum amount of permanent, landscaped open space: ten percent.
- n. Maximum height of structures: 25 feet.*

*Where a structure exceeds the 25-foot height maximum, it shall be set back one additional foot for every two feet above 25 feet.
- o. Minimum number of paved, striped off-street parking spaces required for:
 - (1) Two off-street parking spaces shall be required for each apartment.

 - (2) All other uses: see off-street parking ordinance.
- p. See article XIII, section 1.59, for modifications and exceptions.

6. *Required conditions:*

- a. Any owner, builder, or developer of a multiple-family, condominium or townhouse dwelling complex of five units or more on a single lot or parcel, or five or more single-family townhouse attached units, shall submit to the planning and zoning commission for a review, the site and building plan for the proposed development. The contents of this site plan shall contain drawings to scale to indicate as needed:

- (1) Location of all structures proposed and existing on the subject property and within 20 feet on adjoining property;
 - (2) Landscaping and/or fencing of yards and setback areas and proposed changes;
 - (3) Design of ingress and egress;
 - (4) Off-street parking and loading facilities;
 - (5) Height of all structures;
 - (6) Proposed uses; and
 - (7) Location and types of all signs, including lighting and heights.
- b. The purpose of the site plan review is:
- (1) To ensure compliance with the zoning ordinance, while allowing for design flexibility;
 - (2) To assist in the orderly and harmonious development of the city;
 - (3) To protect adjacent uses from obstructions to light, air, and visibility;
 - (4) To provide protection from fire;
 - (5) To avoid undue concentrations of population and overcrowding of land; and
 - (6) To facilitate the adequate provision of transportation, water, sewage, drainage and other public requirements.
- c. The planning and zoning commission shall approve an application for a multiple-family dwelling complex if the proposed development meets all the minimum standards established in this ordinance and other applicable ordinances, and if the commission finds that the proposed development will not be detrimental to the health, safety, or welfare of the surrounding neighborhood or its occupants, or be substantially or permanently injurious to neighboring property. It shall disapprove or conditionally approve any application which fails to meet the above criteria or is in conflict with the comprehensive plan or the adopted growth policies of the city.
- d. The site plan shall be submitted to the city manager or his duly authorized representative ten working days prior to the submission to the planning and zoning commission for review. The city manager or his designee shall review these plans as quickly as possible, but in no case shall he delay subPeñitas beyond one planning and zoning commission meeting.
- e. Appeals of the decision of the planning and zoning commission shall be in accordance with section 1.24 of article V.

Section 1.40. - R-4 Mobile Home District.

1. *[Purpose:]* The mobile home district is established for the following purposes:
 - a. To provide adequate space and site diversification for moderate-density residential development where adequate streets and other community facilities are available for present

and future needs.

- b. To protect residential areas against pollution, environmental hazards, and other objectionable influences.
- c. To provide adequate provisions for vehicular and pedestrian circulation.
- d. To promote housing densities appropriate to and compatible with existing and proposed public support facilities.
- e. To promote the most desirable use of land and direction of building development; to promote stability of development; to protect the character of the district; to conserve the value of land; and to protect the city's tax base.

2. *Permitted uses:*

- a. One mobile home per lot, approved for mobile homes only. One recreational vehicle or park model per space or lot may be permitted, provided that the space or lot complies with the minimum area dimensions required for mobile home use. The RV building setbacks shall be identical to those of the mobile home use.
- b. One modular home per lot, approved for modular homes only, or one modular home per lot approved for mobile home/modular home.
- c. Accessory buildings.
- d. Recreational and commercial facilities designed for exclusive use of the subdivision's occupants.
- e. An accessory use customarily related to a principle use authorized in this district.
- f. An accessory use customarily related to a principle use authorized in this district.
- g. One portable building per lot to be not more than 140 square feet used for either storage, hobby or other similar accessory uses.
- h. A recreational vehicle may be parked or stored off-street on any lot or space, provided that the vehicle is not occupied or connected to utilities for occupancy, and such that said parked/stored vehicle does not have to abide by building setbacks.
- i. Institutional uses subject to compliance with section 1.2. (New institutional uses require conditional use permit approval.)
- j. Temporary sales office for the sale of lots.
- k. See chapter 86, signs.

3. *Conditional uses (require use permits, see article X):*

- a. Home occupations.

- b. Amusement parks, circus or carnival grounds, commercial amusement or recreation developments, or tents or other temporary structures used for temporary purposes.
- c. Facilities for railroads or those utilities holding a franchise under the City of Peñitas.
- d. Reserved.
- e. Portable buildings larger than 140 square feet. No second "portable building" shall be permitted without obtaining a conditional use permit.
- f. One single-family dwelling per lot. Structures must meet the requirements of the R-1 district.

4. *Prohibited uses:*

- a. Any building erected or land used for other than one or more of the preceding specified uses.
- b. No more than one mobile home or modular home shall occupy any approved lot, except as noted in 2.f.
- c. Off-premises signs.
- d. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimensions; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.

5. *Area requirements:*

- a. Minimum size of tract for development: Unless otherwise approved by the city council, based upon a recommendation by the planning and zoning commission, the minimum size of a tract for development into a mobile home subdivision shall be five acres.
- b. Minimum lot area for lots in subdivision for mobile homes or modular homes:
 - (1) Internal: 5,000 square feet.
 - (2) Corner: 6,000 square feet.
- c. Minimum lot frontage on a public or private street for lots in a subdivision for mobile home or modular homes.
 - (1) Internal: 50 feet.
 - (2) Corner: 60 feet.
- d. Minimum lot depth: 100 feet.
- e. Minimum depth of front setback: 15 feet.
- f. Minimum depth of rear setback: five feet.
- g. Minimum width of side setback:
 - (1) Internal: six feet.

(2) Corner: ten feet.

- h. Maximum number of residential structures per approved lot or space: one.
- i. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport, unless otherwise approved by the zoning board of adjustments: 18 feet.
- j. Maximum building coverage as a percentage of lot area:
- k. Maximum height of structures: 25 feet.
- l. Minimum number of off-street parking spaces required for:
 - (1) Each mobile home or recreational vehicle: two.
 - (2) All other uses: see off-street parking ordinance.
- m. See article XII, section 1.59, for further clarification, and exceptions and modifications.
- n. The maximum square footage of site-built additions to recreational vehicles shall not exceed 600 square feet.

6. *Required conditions:*

- a. A development designed as a mobile home subdivision or modular home subdivision shall meet all requirements for the City of Peñitas Subdivision Ordinance. Such subdivision shall have as its major purpose the sale and conveyance of property rights and ownership of individual lots to consumers.
- b. At no time may an existing mobile home park or recreational vehicle park be converted to a mobile home subdivision without first meeting all the requirements of the City of Peñitas Subdivision Ordinance and receiving approval by the city council of Peñitas, Texas.
- d. Section 1.56.2 of this ordinance shall not apply to mobile homes in this district.

Section 1.40A. - Reserved.

Section 1.43. - C-3 general business district.

1. *[Purpose:]* The general business district is established for the following purposes:

- a. To provide sufficient space, in appropriate locations with a variety of site choices, for development requiring a higher density of commercial establishments, generally characterized by an integrated or planned cluster of establishments served by a common parking area and/or generating large volumes of vehicular and pedestrian traffic.
- b. To protect against fire and explosions, pollution, and other environmental hazards.
- c. To protect, as far as possible, commercial centers against congestion.
- d. To promote the most desirable use of land and direction of building development in accord with the comprehensive plan of the City of Peñitas.

- e. To promote stability of commercial development; to strengthen the economic base of the city; to protect the character of the district and its uses; to conserve the value of land and buildings; and to protect the city's tax base.
- f. To promote the most efficient use of city facilities and services.

2. *Permitted uses:*

- a. All uses listed as permitted uses in the C-1 and C-2 districts. Said uses must meet the requirements of their use district.
- b. Any retail business, personal services, business services except the following: Lumberyards or contractor yards, farm equipment or other heavy equipment sales or service, farm products warehousing and storage or stockyards, general warehousing and storage. Household goods warehousing and storage in individually rented storage units is permitted.
- c. Hotel, motel and/or restaurants.
- d. Institutional uses.
- e. Printing, publishing, and allied products manufacturing.
- f. Rail and motor vehicle transportation passenger terminals.
- g. Telephone, telegraph, television, radio or similar media stations, centers, studios, but not including public microwave, radio and television towers.
- h. Any wholesale trade, or wholesale trade accessory to any permitted retail operation except the following: Raw cotton, grain, hide, skins, and raw furs, tobacco, wool or mohair, livestock, commercial or industrial machinery or supplies, metals and minerals, petroleum bulk stations and terminals, scrap or junk waste materials.
- i. Signs in accordance with adopted ordinances.
- j. Automotive repair, paint and body shops, provided all work is conducted wholly within a completely enclosed building. That portion of the land used for open storage of vehicles or parts shall be totally obscured by a wall.
- k. An accessory use customarily related to a principle use authorized in this district including temporary tents for sidewalk sales.

3. *Conditional uses* (require use permits, see article X):

- a. All R-3 uses not already allowed in this district, excluding mobile homes for residential use.
R-3 uses must meet the requirements of the R-3 district.
- b. Gasoline service stations or retail outlets where gasoline products are sold.
- c. Drive-in businesses.
- d. Planned shopping centers.
- e. A mobile home on an unsubdivided tract or accessory to permitted use for security and/or office purpose.

- f. Restaurants that serve liquor or other alcoholic beverages for on-premises consumption and in accordance with adopted policies. Also, bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, discos, nightclubs or other similar operations. The aforementioned conditional use shall in all cases require the approval of the city council.
 - g. Amusement parks, circus or carnival grounds, commercial amusement or recreation developments, or other temporary structures used for temporary purposes.
 - h. Portable buildings.
 - i. Any of those permitted uses under the light industrial zoning district. When applicable, relevant SIC codes will be required by the City of Peñitas during the conditional use permit hearing process.
 - j. Telephone, radio, television and/or other communication towers.
 - k. Changeable copy signs.
 - l. Crematorium when in association with a funeral home establishment; the owner of the funeral home must also be the owner and applicant of the crematorium.
 - m. The complimentary offering of alcoholic beverages for on-site consumption may be permitted within city-owned buildings for a social and/or cultural event that is associated with a charitable or civic organization.
4. *Required conditions:* Gasoline service stations or retail outlets where gasoline products are sold, drive-in businesses, and veterinary hospitals shall be subject to the same limitations as set forth in subsections 4.d, e and f of section 1.42
5. *Prohibited uses:*
- a. Any building erected or land used for other than one or more of the preceding specified uses.
 - b. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.
6. *Area requirements:*
- a. All uses in this district shall meet the area requirements of article XII, section 1.58
 - b. All uses in this district shall meet the requirements of the City of Peñitas off-street parking ordinance.

Section 1.45. - I-1 Light Industrial District.

- 1. *[Purpose:]* The light industrial district is established for the following purposes:
 - a. To accommodate wholesale and warehouse activities and industrial operations whose external

physical effects are restricted to the area of the districts and in no manner affect in a detrimental way any of the surrounding districts.

- b. To permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material as long as such use has no adverse external effects such as noise or odor which extend beyond the property line of the site.
- c. To protect against fire and explosions, pollution, and other environmental hazards.
- d. To protect, as far as possible, against congestion.
- e. To promote the most desirable use of land and direction of building development in accord with the comprehensive plan of the City of Peñitas.
- f. To promote stability of industrial development; to strengthen the economic base of the city; to protect the character of the district; to conserve the value of land and buildings; and to protect the city's tax base.
- g. To promote the most efficient use of city facilities and services.

2. *Permitted uses:*

- a. Any of the following uses when the manufacturing, compounding, or processing of previously prepared materials are conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting R-1 through R-4 districts, residential uses in a planned unit development, C-1 and C-2 districts.
 - (1) The manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery;
 - (2) The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding saw and planing mills) and yarns;
 - (3) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas;
 - (4) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other small molded rubber products;
 - (5) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, and phonographs;
 - (6) Laboratories—Experimental, film, or testing;
 - (7) Manufacture and repair of electric or neon signs, sheet metal products, including heating and ventilating equipment, cornices, eaves and the like;

- (8) Tool, dye, gauge and machine shops;
 - (9) All public utilities, including buildings, necessary structures, storage yards and other related uses;
 - (10) Any use listed as permitted in C-4.
- b. Accessory structures and uses customarily incidental to the above permitted uses.
 - c. Other uses of a similar and no more objectionable character to those principal uses permitted subject to any and all provisions of ordinance relating to the use of property within the City of Peñitas.
3. *Conditional uses* (require use permits, see article X):
- a. Planned shopping centers.
 - b. Planned industrial parks.
 - c. The residence of a watchman or caretaker employed on the premises.
 - d. Amusement parks, circus or carnival grounds, commercial, amusement or recreation developments, or tents or other temporary structures used for temporary purposes.
 - e. Facilities for railroads or those utilities holding a franchise under the City of Peñitas
 - f. Portable buildings other than storage buildings.
 - g. Changeable copy signs.
4. *Required conditions:* Gasoline service stations or retail outlets where gasoline products are sold, drive-in businesses, and veterinary hospitals shall be subject to the same limitations as set forth in section 1.42, subparagraphs 4.d, e and f.
5. *Prohibited uses:*
- a. Any building erected or land used for other than one or more of the preceding specified uses.
 - b. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required.
6. *Area requirements:*
- a. All uses in this district shall meet the area requirements of article XII, section 1.58
 - b. All uses in this district shall meet the requirements of the City of Peñitas off-street parking ordinance.
 - c. To protect against fire and explosions, pollution, and other environmental hazards.
 - d. To protect, as far as possible, against congestion.
 - e. To promote the most desirable use of land and direction of building development in accord with

the comprehensive plan of the City of Peñitas.

- f. To promote stability of industrial development; to protect the character of the district; to conserve the value of land and buildings; and to protect the city's tax base.
- g. To promote the most efficient use of city facilities and services.

Section 1.47. - PUD planned unit development district.

1. *Purpose:* The planned unit development district is established for the following purposes:
 - a. To accommodate the development of planned units which do not conform in all respects with the land use pattern designated on the zoning map, the district regulations prescribed by the zoning ordinance, or the requirements of the subdivision ordinance.
 - b. To encourage the creative development of land, provide locations for well-planned comprehensive developments, and provide for variety in the development pattern of the City of Peñitas which conforms with the purpose of the master plan.
 - c. To protect against fire and explosions, pollution, and other environmental hazards;
 - d. To promote housing densities appropriate to and compatible with existing and proposed public support facilities.
 - e. To protect, as far as possible, against congestion; and to provide for vehicular and pedestrian circulation.
 - f. To promote the most desirable uses of land and the direction of building development in accord with the master plan;
 - g. To promote the stability of developments; to strengthen the economic base of the city; to protect the character of the district and adjacent districts; to conserve the value of land and buildings; and to protect the city's tax base;
 - h. To promote the most efficient use of city facilities and services.
2. *Permitted uses:*
 - a. Planned unit developments in accordance with the subdivision ordinance requirements regarding planned unit developments on tracts of ten acres or more.
 - b. Developments on tracts of five acres or more that incorporate dwelling unit types that are not permitted in any other use district.
3. *Prohibited uses:*
 - a. Any building erected or land used for other than the use shown on the planned unit development plan, as approved by the planning and zoning commission, and as recorded with the chief building inspector.
 - b. Any use of property that does not meet the required minimum lot size; front, side and rear yard

dimension; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as shown in the recorded development plan, and approved by the planning and zoning commission.

4. *Required conditions:* Granting of a permit: The planning [and zoning] commission may grant a permit for a planned unit development and may vary the specific requirements of this chapter [ordinance], if, on the basis on the application and the evidence submitted, the planning [and zoning] commission makes the following findings:
 - a. That the requirements of the subdivision ordinance and all other ordinances have been met.
 - b. That the proposed location of the planned unit development is in accord with the objectives of the comprehensive general plan and the zoning and subdivision ordinance and the major purposes of the district in which the site is located.
 - c. That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.
 - d. That the development is planned with adequate provisions for light, air, vehicular and pedestrian circulation, and recreational facilities equal to or better than the requirements of this chapter [ordinance].
 - e. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.
 - f. The average dwelling unit's density per net acre in that portion of a planned unit devoted to residential use can exceed the net dwelling unit density proposed in the approved comprehensive plan providing the gross average density of the planned unit development does not exceed that proposed in the comprehensive plan. In calculating population density per net acre, all streets shall be excluded.

ARTICLE IX. - BUSINESS PERMIT

Section 1.48. - Business Permit Required.

The provisions of this section shall be administered by the planning director under the direction of the city council in accordance with the provisions of the city Charter.

No person shall construct any building or make any use of any existing building or premises as a place of business or for the practice of any profession or calling or vocation without obtaining from the City of Peñitas a license to do so. Said license shall contain the name of the licensee, description of the property, and the use to be made of the same, and shall not be transferable. It shall contain such other information as shall be prescribed by the city authorities. The fee for said license shall be \$110.00. Except that a license fee of only \$1.00 shall be charged when obtained as part of a building permit.

All applications for building and permits shall be accompanied by legible plans and specifications for the building to be erected and/or used. The plans shall be drawn to scale and shall include a plan which discloses the actual dimensions of the lot upon which the proposed building is to be erected, the position of the proposed building upon the lot, its intended use and such other information as the planning director may require for the proper enforcement of this ordinance. Upon receipt of an application for a building permit, use permit and/or business permit, the city's staff shall, as soon as practicable, check the plans and specifications carefully for compliance with the terms of all applicable codes and ordinances.

In case the plans and specifications submitted do not comply with terms of the building codes, or the terms of this ordinance, it shall be the duty of the building inspector to deny the application for the building and use permits.

The applicant whose request has been denied may, as set forth in section 1.16, refer his application to the board of adjustments for consideration and the said board may grant his request. In case the applicant wishes to appeal his case to said board, it shall be the duty of the planning director to issue a certificate necessary to complete the appeal.

ARTICLE X. - CONDITIONAL USE PERMITS

Section 1.49. - Purpose.

The purpose of the regulations described by this article is to allow the compatible and orderly development, within the city, of uses which may be suitable only in certain locations in a zoning district if developed in a specific way or only for a limited period of time. A use permit is required for all conditional uses as set forth in the conditional use paragraph of each use district. At no time may a structure or property be adapted to a conditional use without first obtaining a use permit.

Section 1.50. - Approval, procedure, responsibility and appeals.

The city's planning director shall have the responsibility for processing all use permits required for conditional uses and presenting them to the planning and zoning commission for processing as described below. The following procedures shall be complied with prior to the approval or denial of any use permit:

1. Notice to all owners of real property within 200 feet of the property for which application has been made shall be mailed, but in no case shall this notification occur less than ten days prior to consideration at a meeting of the planning and zoning commission to consider such application.
2. Application concerning use permits for those uses which are conditional shall be automatically referred to the planning and zoning commission for a public hearing. The planning director shall investigate, notify the adjacent property owners, and provide necessary professional advice. The planning and zoning commission may deny an application for a use permit after a public hearing if the proposed use fails to meet one of the criteria set forth in requirements for approval.
3. Appeal shall be in accordance with section 1.24 of this chapter [ordinance].

Section 1.51. - Application, Filing Procedures and Fees.

The property owner or certified agent shall make application on a form prescribed by the city and such application shall provide drawings as set forth in "site plans required," section 1.52, 1—3. Obtaining a use permit does not exempt the applicant from complying with requirements of the building code or other ordinances. The fee for a use permit shall be recommended by the city planning and zoning commission and approved by the city council. Payment of such fees shall not be refundable in whole or in part.

Section 1.52. - Site plans required.

1. *Purpose:* The purpose of the site plan is to ensure compliance with the zoning ordinance and to assist in the orderly and harmonious development of the City of Peñitas, the stability of land values and investments, and enhancement of the general welfare.
2. *Recording:* The applicant shall file with the planning director one copy of his site plan.
3. *Contents:* The site plan shall contain drawings to scale to indicate as needed:
 - a. The location of all structures on the subject property and on adjoining property;
 - b. Landscaping and/or fencing of yards and setback areas and proposed changes;
 - c. Design of ingress and egress;
 - d. Off-street parking and loading facilities;
 - e. Height of all structures;
 - f. Proposed uses; and
 - g. The location and types of all signs, including lighting and heights.

Section 1.53. - Requirements for approval.

1. The planning and zoning commission may permit a conditional use subject to appropriate conditions and safeguards when the commission finds:
 - a. That the proposed use meets all the minimum standards established in this ordinance and other applicable ordinances.
 - b. That the proposed use meets the intent of the district in which it is located.
 - c. That the proposed use will not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property.
2. Appeal of a decision of the planning and zoning commission shall be in accordance with section 1.24 of this chapter [ordinance].

Section 1.54. - Development, revocation and/or automatic cancellation of permit.

1. The city planner shall ensure compliance with this ordinance and the permit. He shall:

- a. Make inspections to determine compliance with the provisions of this ordinance and the permit, and initiate appropriate action if necessary.
 - b. Investigate thoroughly any complaints of noncompliance concerning a permitted special use, and keep a record of all complaints, indicating any action taken. These records shall be made available at the time of renewal of the permit.
2. Upon determination of noncompliance with the provisions of the conditional use permit, the city planner shall take action as follows:
 - a. Give written notice to the permit holder of the nature of the violation, the necessary action to remedy the violation, and the time period, not less than ten days nor more than 30 days after the date of notification, within which to comply.
 - b. Notify the planning and zoning commission of the noncompliance if the violations have not been corrected within the prescribed time period.
 3. The planning and zoning commission, after due hearing, may revoke any conditional use permit that has been reported in violation by the city planner. Continued use without a permit will be a violation of the zoning ordinance and subject to the same penalties provided therein.
 4. If a use permit has not been used within one year after the date granted, the permit is automatically canceled.
 5. Appeal of a decision of the planning and zoning commission shall be in accordance with section 1.24 of this chapter.

Section 1.55. - Period of conditional use and renewal.

1. A conditional use permit shall have a time limit of not more than one year unless otherwise approved by the city council. If the conditional use permit does have a time limitation attached, the expiration date shall be set forth. Any permittee wishing a renewal of such permit for successive time periods shall make application for renewal to the city manager or his designated representative, not less than 20 days before permit expiration. If, after proper inspection, the staff finds that the conditions of the original permit are being met, there have not been any complaints of noncompliance, the permit may be renewed for the same time period as approved by the planning and zoning commission originally. If there is evidence of or complaints of noncompliance, then renewal of the permit must follow the same procedures and notification as the issuance of a new permit, and may be renewed by the planning and zoning commission.
2. A conditional use permit shall not be transferable upon transfer of title to property for which a conditional use permit has been granted, unless specified by the planning and zoning committee

[commission] at the time the conditional use permit is granted.

3. A conditional use permit will be required for any use that is required to have a conditional use permit under this ordinance but was in existence prior to the adoption of this ordinance, if such use is discontinued or abandoned for 30 consecutive days or for 180 days during any three-year period.

Section 1.56. - Conditions of conditional use.

1. Home occupations:

- a. The area used in conducting the home occupation will be clearly secondary to the residential use. Such permitted occupation shall not create offensive noise, vibration, smoke, dust, odor, heat or glare or require more than four parking spaces.
- b. There shall be no sign. A nameplate not more than one square foot in area identifying the name of the owner and his title or occupation may be permitted when attached to the main building.
- c. There shall be no exterior display or alterations indicating that the building is being used for any purpose other than that of a dwelling.
- d. There shall be no more than one additional unrelated employee other than immediate members of the family residing on the premises.
- e. There shall be no outside storage of materials or products.
- f. The permitted use shall not create frequent or heavy traffic greater than ten percent of the average load per hour, per street.
- g. The planning and zoning commission may, under extenuating or special circumstances unique to the home occupation, recommend waiver of this provision on a temporary or permanent basis to the city council who shall have the ultimate authority on the matter. With regard to proposed variances to subsections 1.56-1 (a), (d) and/or (f), a minimum 90 percent of the property owners within the 200-foot mailout radius shall provide written support for the proposed home occupation to request variance. Should the 90 percent threshold not be provided, no variance shall be considered.

2. *Mobile homes or portable buildings:*

- a. One mobile home may be placed on an unsubdivided tract of land when:
 - (1) It is to be occupied by the owner;
 - (2) The tract is five acres or larger;
 - (3) The only use of the land is for agricultural purposes.
- b. The mobile home or portable building must be located in such a manner as to have access to public right-of-way within 200 feet.
- c. The mobile home must be connected to an approved water distribution and sewage disposal system. Portable buildings, if approved for occupancy, must have an approved water distribution and sewage disposal system available for its use.
- d. There must be a provision for garbage and trash collection and disposal.
- e. The mobile home must be tied down and meet all other applicable provisions of the mobile home ordinance.
- f. Portable building requirements shall not include portable buildings used for storage purposes

only, and meeting the setbacks required in adopted city ordinances.

3. *Bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, discos or nightclubs:*
 - a. The property line of the lot of any of the above-mentioned businesses, especially those businesses which have late hours (after 10:00 p.m. [12:00 noon]) must be at least 300 feet from the nearest residence, church, school or publicly owned property, or must provide sufficient buffering and sound insulation of the building such that the business is not visible and cannot be heard from such structures or areas, and must be designed to prevent disruption of the character of adjacent residential areas. The planning and zoning commission may, under extenuating or special circumstances unique to the site or event, recommend waiver of the 300-foot requirement on a temporary or permanent basis to the city council who shall have the ultimate decision on the matter.
 - b. The above-mentioned businesses must be as close as possible to a major arterial, and shall not allow the traffic it generates onto residential sized streets, or allow it to exit into and disrupt residential areas.
 - c. The above-mentioned businesses must provide parking in accordance with the requirements of this and any other ordinances of the City of Peñitas, as a minimum, and make provisions to prevent use of adjacent streets for parking, especially those in adjacent residential areas, by providing additional on-site parking.
 - d. The above-mentioned businesses must do everything possible to prevent the unauthorized parking of its patrons on adjacent business or residential properties including when necessary, the installation of fences and hedges, and/or the reorientation of entrances.
 - e. The above-mentioned businesses should do everything possible and be designed to discourage criminal activities and vandalism, both on-site and on adjacent properties. Included would be provision of sufficient lighting and perimeter fencing, elimination of dark areas, and the orientation of the building such that it provides maximum visibility of as much as possible of the site from a public street.
 - f. The above-mentioned businesses must make provisions to keep litter to a minimum, and to keep it from blowing onto adjacent streets and properties.
 - g. The above-mentioned businesses shall restrict the number of persons within the building to those allowed by the planning and zoning commission at the time of permit issuance, after having taken into account the recommendations of the fire marshal, chief building inspector and director of planning. This number cannot exceed the number provided for in existing city ordinances.
4. *Guesthouses, garage apartments and separate servant's quarters:*
 - a. The above-mentioned uses require a 12,000 square foot lot in all districts except the R-3 district. They must otherwise comply with all area requirements of the district in which they are located.
 - b. With the exception of the R-2 and R-3 districts, none of the above-mentioned uses may be made available or used for lease, rent, hire, and the owner of such use may not receive remuneration for the use of one of the above. In addition, in no district shall such uses be sold or conveyed separately without meeting the requirements of the subdivision ordinance.

5. *[Amusement parks, circus or carnival grounds, commercial, recreational or amusement developments or tents:]* Amusement parks, circus or carnival grounds, commercial, recreational or amusement developments, or tents or other structures may not be located within 300 feet of any residentially used property. The measurement of such distance to be from lot line to lot line. The planning and zoning commission may, under extenuating or special circumstances unique to the site or event,

recommend waiver of the 300-foot requirement on a temporary or permanent basis to the city council who shall have the ultimate decision on the matter.

6. *[Existing railroads and private utilities:]* Existing railroads and private utilities, including telephone service, may continue to be operated and maintained in residential and commercial district but no new railroad or utility structure other than the usual poles, wires and underground utilities shall be established in such district without a special use permit.
7. *Household goods warehousing or storage in individually rented/leased storage units:*
- a. Storage units shall be located in such a manner to minimize traffic impact on residential streets and adjacent residential uses.
 - b. There shall be no loading docks or ramps for heavy vehicles.
 - c. There must be a security fence to protect the units.
 - d. There shall be no outside storage of materials, products, or goods.
 - e. Paved perimeter access for police and fire patrol shall be provided.
 - f. Storage units located in AO-1 and R-3 districts shall not be used for retail or wholesale purposes, except in accordance with Ordinance No. 957 and Ordinance No. 1052 governing garage sales and yard sales.
 - g. Security lights must be provided in a manner which minimizes impact on adjacent residential uses.
8. *[Pollution:]* No form of pollution shall emanate beyond the immediate property line of the permitted use.
9. *[Imposition of additional restrictions:]* The planning and zoning commission may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this ordinance and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping, and additional improvements such as curbing and sidewalks.

ARTICLE XI. - LANDSCAPING AND BUFFERING

Section 1.57. - [Generally; submission of plans.]

1. Any property to be used for commercial and/or industrial usage having exterior (out of a totally enclosed building) services and/or storage shall be buffered from any adjacent residentially used property.

2. This provision, however, shall not apply to the specific area of gasoline service islands. If such is proposed, the buffer may be installed at the property's side and rear boundary lines.
3. Exterior service and/or storage site(s) shall be buffered by the owner or operator prior to the city permitting occupancy of the structure.
4. Any ordinances concerning site obstructions of intersections shall be applicable to any buffer.
5. Prior to construction of a buffer, complete plans showing type of material, depth of beam, and structure support shall be submitted in order to determine whether:
 - a. The screen will withstand the pressures of time and nature.
 - b. The screen adequately accomplishes the purpose for which it was intended.

Should buffers be required on a series of lots or to a considerable length at any one time or by separate occasion which is on or near the rear property line(s), said buffer(s) shall be uniform in visual effect, material and location so a comfortable and appealing environmental ambience may exist.

6. In order to provide a more complimentary and aesthetic atmosphere, between commercial and residential uses, the planning department may impose landscape hedge buffers at a recommended height from four feet to six feet to be maintained by the affected owner(s) in addition to typical wood fence and/or masonry buffers. Any appeal to such complementary hedge or landscape buffering shall be to the planning and zoning commission for final disposition. Any appeal shall have a fee of \$25.00 to offset administrative costs.

ARTICLE XII. - COMMERCIAL AND INDUSTRIAL AREA REQUIREMENTS

Section 1.58. - General.

1. *Standards and specifications:*
 - a. Setback, area, and height limitations in commercial and industrial areas (in general). The limitations on setbacks, area, and height are intended to control all areas zoned and platted for commercial and industrial uses after the adoption of this ordinance. Recognizing the inherent problems affecting property in the central business district, these restrictions will not be applicable. Parcels zoned and platted for commercial or industrial purposes existing at the time of the adoption of this ordinance that are less than 50 feet in width are also exempted from these restrictions. In those instances, the area requirements of Ordinance No. 323, adopted April 7, 1955, will be required.
2. *Setback, area and height limitations in commercial and industrial areas (specific):*
 - a. A minimum ten-foot side yard setback shall be required on corner lots.
 - b. The minimum width of a building site shall be 25 feet of frontage on a public street.
 - c. The minimum front yard setback shall be equal to one-fourth (25 percent) of the width of the street right-of-way which it faces or in line with the majority setback of existing structures in the block face, whichever is greater. In a C-1 zone, the front yard setback shall be one foot back of

street right-of-way line for each two feet in height, or as specified above, if that distance is greater.

- d. Side yard setbacks from all lot lines shall be one foot back for each two feet in height including corner lots, except a building maybe built to a lot line when not adjacent to a residential zone and where a fire resistant wall meeting the requirements of the building code is provided between uses.
- e. Rear yard setbacks shall be a minimum of five feet.
- f. The height of buildings may not exceed the depth of the front yard plus the width of the street right-of-way which it faces. In a C-1 or C-2 zone, the maximum height shall not exceed two stories.
- g. See section 1.59 for exceptions and modifications.
- h. A minimum of five percent of lot area must be maintained as a permanent landscaped open space.

ARTICLE XIII. - EXCEPTIONS AND MODIFICATIONS

Section 1.59. - General.

1. *Setbacks:*

- a. At the time of submission of any original or amended subdivision plat to the planning and zoning commission for approval, the planning and zoning commission shall have the power and authority to accept and approve any building setback lines projected on said plat or plats, even though said building setback lines may not be in compliance with the requirements set out in the ordinance.
- b. Where setbacks were established by the planning and zoning commission on a plat of record, those setbacks shall be enforced even though not in compliance with the restrictions set forth in this ordinance.
- c. The city council has the power to pass an ordinance establishing a setback line greater than required in this ordinance where exceptional conditions so require.
- d. The minimum building setback line shall be increased to 40 feet when adjacent to a major arterial for any residential, commercial, industrial, institutional, or other proposed building uses. However, the front building setback shall be a minimum of zero feet when any structure is proposed to be built on properties having frontage to Conway Avenue north of 4th Street and south of 8th Street, said properties being more particularly described as Blocks 77, 78, 91, 92, 105, 106, 119 and 120, Peñitas original townsite.

2. *Front yards:*

- a. Reserved.
- b. On lots having double frontage, the required front yard shall be provided on both streets, unless one of the front sides is fenced-in and is not accessible from that street. Where such

fenced-in case occur, the normal rear building setback for permanent buildings shall be required unless that subject street is a major thoroughfare or minor arterial street. The fenced-in front building setback in such cases shall be as follows when the ROW is consistent to the Peñitas master thoroughfare plan:

Major thoroughfare: 25 feet

Minor arterial: 20 feet

- c. Filling station pumps and pump islands may be located within a required yard provided they are not less than 13 feet from any property line or 18 feet from the curb, whichever is greater, and not less than 100 feet from any residential district boundary.
- d. (1) Front yard setbacks for all uses shall be increased as follows when lots front on streets other than minor residential streets:
 - 1. Collector streets: 30-foot front yard setback.
 - 2. Minor arterial streets: 35-foot front yard setback.
 - 3. Major arterial streets: 40-foot front yard setback.(2) A maximum five-foot unenclosed porch/doorway support(s) may be permitted immediately within the setbacks of the above street classifications or as required during the subdivision process.
- e. Lots fronting culs-de-sac shall have a front building setback not less than those in alignment to the majority of the buildings on same block or set at the following, whichever is greater:
 - (1) R-1 zoned lots, not less than ten feet.
 - (2) R-1A zoned lots, not less than 15 feet.
 - (3) R-4 zoned lots, not less than five feet.
 - (4) R-2 zoned lots, not less than ten feet.
- f. Open carport structures for residential properties along designated major thoroughfares may be built within the minimum 40-foot front setback but shall be subject to the following:
 - (a) Shall be for open carports structures only.
 - (b) Shall be open and not subject to enclosure; an encumbrance document shall be recorded in the County Property Records of this mandate.
 - (c) Shall have site plan approval of the planning and zoning commission in a public hearing forum compliant to section 1.20 of the Peñitas Zoning Ordinance wherein said commission may consider construction materials matching the primary home, aesthetics, and general overall dimensions.
 - (d) Support columns for open carport structures shall not be less than 25 feet.
 - (e) The owner and/or applicant shall have the right to appeal a decision of the planning and

zoning commission with a levied administrative cost of \$50.00 to off-set the public hearing process which shall be compliant to section 1.24 of the Peñitas Zoning Ordinance.

- (f) Residentially zoned lot fronting an arterial street shall have a front building setback not less than 20 feet for open carports and shall be perpetually "open" with assurance of such by recording instrument during the building permit process.

3. *Side yards:*

- a. On a corner lot in all districts, the width of the side yard along the street shall not be less than ten feet provided that the buildable width of such a lot of record shall not be reduced to less than 38 feet. This regulation shall not apply to those lots of record which have existing buildings prior to the date of this ordinance. However, should these buildings be removed, destroyed or in any way eliminated from the property, they shall hereafter comply. Corner lots subdivided after the date of this ordinance shall be at least four feet wider than the minimum lot size in residential zones and ten feet wider in commercial zones.
- b. No accessory building shall project into the required yard along any street.
- c. A porte-cochere or canopy may project into a required side yard provided every part of such porte-cochere or canopy is unenclosed and not less than five feet from any side lot line.
- d. Side yard setback requirements may be increased where necessary to provide a minimum of 12 feet between structures on abutting lots where a firewall is not provided in accordance with applicable codes.
- e. Where a lot of record at the time of the effective date of this ordinance is less than 50 feet in width and is not zoned for mobile home or recreational vehicle usage, the required side yard may be

reduced to ten percent of the width of the lot, provided that no side yard shall be less than 3½ feet, and that the owner of the lot of record is not the owner of any adjacent lots.

- f. Side yard setbacks for all residential uses shall be increased as follows when lots are adjacent to the following street classifications:

Collector streets—15-foot side yard setback.

Minor arterial streets—20-foot side yard setback; 15 foot side yard setback when buffered.

- g. The separation between buildings via the building code may be enforced when deemed appropriate though said buildings may be on separate spaces within a park.

4. *Rear yards:*

- a. An accessory building not exceeding 20 feet in height may occupy not more than 30 percent of the rear yard and unenclosed parking spaces may occupy not more than 90 percent of the area of a required rear yard. An accessory building, however, shall be no closer than 12 feet to the main building and no closer than four feet to any rear lot line.
- b. The ordinary projections of sills, eaves, cornices and ornamental features may extend to a

distance not to exceed 24 inches into a required yard.

- c. Open or lattice-enclosed fire escapes. Outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may be permitted by the building inspector for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation.
 - d. Rear yard setback requirements may be increased where necessary to provide a minimum of 12 feet between structures on abutting lots where a firewall is not provided in accordance with applicable codes.
5. *Lot area per family:* Where a lot of record at the time of the effective date of this ordinance has less area or width than herein required in the district in which it is located and is not zoned for mobile home or recreational vehicle usage, and the owner of such lot does not own any other parcel or tract adjacent thereto, said lot may nonetheless be used for a one-family dwelling or for any nondwelling use permitted in the district in which it is located, as long as it meets all other requirements.
6. *Minimum lot size:* Where a minimum size is not specified, the intention of this ordinance is that each lot shall be of sufficient size and dimension and with access to a public right-of-way and utilities for its intended use after complying with the requirements set forth in this and other applicable ordinances and is compatible with those uses around it.

Section 1.60.1. - Portable buildings.

Portable buildings shall be a permitted use when said buildings shall be used as temporary offices during construction to commercial, industrial or institutional structures.

ARTICLE XIV. - DISPLAY, DISTRIBUTION OF CERTAIN OBSCENE MATERIALS [AND SEXUAL ACTIVITIES] RESTRICTED

[Section 1.61. - Definitions; display; penalties and remedies.]

1. *Definitions:* For the purpose of this ordinance, the following definitions shall apply:
- a. *Persons* means any individual, partnership, association or corporation.
 - b. *Offensive* means that the work in which the representations appear, taken as a whole, appeals to the prurient interest and patently depicts or portrays the prohibited sexually explicit material in a manner which, taken as a whole, lacks serious literary, artistic, political or scientific value.
 - c. *Sexually explicit material* means any pictorial or written material depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of clothed or unclothed genitals or public areas of the human male or female, flagellation or torture by or upon a person in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed

or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of this ordinance. Works of art or of anthropological significance are not included within the definitions of this ordinance.

- d. *Measurements*, for the purpose of this ordinance, shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of an adult commercial establishment to the nearest property line of a church, public school, private school, city-owned real property, or a district restricted to residential use under the zoning ordinance of the City of Peñitas, Texas.
 - e. *Public school* means any campus, grounds, or buildings of an institution for teaching or instruction which is a part of the Peñitas Consolidated Independent School District, the Sharyland Independent School District, or any other independent school district created under the laws of the State of Texas situated wholly or partly within the city limits of the City of Peñitas, Texas.
 - f. *Private school* means any campus, grounds or building of an institution for the teaching or instruction of children between the ages of three years to 12 years of age, said institution being a nonprofit school owned, controlled, operated and conducted by a bona fide religious, denominational, eleemosynary, or similar institution exempt from property taxation under the laws of the State of Texas.
 - g. *Sexual activities* shall mean the act of human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of clothed or unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person in the context of a sexual relationship or sexual stimulation which is conducted at any place that either has or is required to have an alcoholic beverage permit of any kind or type.
2. *Display or sale of offensive, sexually explicit material*: No person shall distribute or sell to any other person within 1,000 feet of a church, private or public school, any city-owned property, or within 600 feet of the outside boundaries as established in said zoning ordinance of a district restricted to residential use under the zoning ordinance of the City of Peñitas, Texas, any offensive, sexually explicit material.
- 2a. *[Display of sexual activities:]* No sexual activities shall be engaged in or displayed within 1,000 feet of a church, private or public school, any city-owned property or within 600 feet of the boundaries as established in said zoning ordinance a district restricted to residential use under the zoning ordinance of the City of Peñitas, Texas.
- 2b. *[Display of genital areas, buttocks, etc.:]* No one shall display their genital areas, or the buttocks of a male or female or the breast of a female to public view for a fee or the entertainment of a group of two or more observers, or at any commercial establishment within 1,000 feet of a church, private or public school, or any city-owned property or within 600 feet of the boundary of any residential zone under the zoning ordinance of the City of Peñitas, Texas, or any residence.
3. *[Offensive material in] places frequented by persons under 17 [years of age]*: No person shall

exhibit or display in any place frequented by persons 17 years [of age] or younger, any offensive, sexually explicit material.

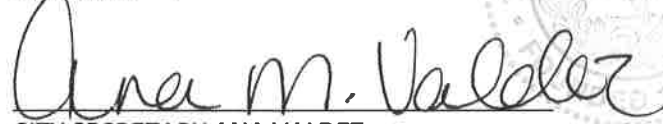
- 3a. *[Sexual activities in commercial establishments frequented by persons under 17 [years of age]:]* No sexual activities shall be engaged in or displayed in any commercial establishment frequented by persons 17 years [of age] or younger.
- 3b. *[Display of genital area, buttocks, etc., in commercial establishments frequented by persons under 17 [years of age]:]* No one shall display their genital area, or the buttocks of a male or female or the breast of a female to public view for a fee or the entertainment of a group of two or more observers, or at any commercial establishment frequented by persons 17 years [of age] or younger.
4. *Penalty:* Any person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$200.00.
5. *Judicial remedies:* In the event of a violation of this ordinance or any of its provisions by any person, corporation, association, or any other type of business entity, its agents, servants or employees, the city or any resident thereof may, in addition to other remedies, institute any appropriate action or proceedings to prevent such violation, including the right to restrain, enjoin, correct or abate such violation, in any court of competent jurisdiction in accordance with the laws of the State of Texas.
- 5a. *[Permits, conditional use permits, licenses not to be granted to persons in violation of this section:]* No permit or conditional use permit, or other license shall be granted by the city to anyone in violation of this ordinance. Any permit, conditional use permit or license theretofore granted by the city shall be terminated upon the determination that such party is in violation of this ordinance by any court, whether it is a record court or not. In the event of an appeal of such determination, this provision will be suspended only upon the posting of a \$25,000.00 surety bond with the city secretary conditioned upon a final determination that such person was not in violation of this ordinance.

READ, and CONSIDERED on First Reading this the 5th day of February, 2014 at a REGULAR CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

CITY OF PENITAS, TEXAS


MAYOR MARCOS OCHOA

ATTESTED BY:


CITY SECRETARY ANA VALDEZ

READ, and CONSIDERED on Second Reading this the 12 day of March, 2014 at a Regular CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

CITY OF PENITAS, TEXAS


MAYOR MARCOS OCHOA

ATTESTED BY:


CITY SECRETARY ANA VALDEZ

READ, CONSIDERED, and APPROVED on Third Reading this the 2nd day of April, 2014 at a Regular CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

EXECUTED THIS 2nd DAY OF April, 2014.

CITY OF PENITAS, TEXAS


MAYOR MARCOS OCHOA

ATTESTED BY:


CITY SECRETARY ANA VALDEZ