



CITY OF SAN ELIZARIO, TEXAS

ZONING ORDINANCE

Adopted May 24, 2016

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ARTICLE I. GENERAL PROVISIONS

Section 1-1. Purpose and Intent.

(a) This ordinance is intended to promote the health, safety and general welfare of the public and to implement the adopted comprehensive plan for the orderly and controlled development of the city.

(b) To accomplish these ends, this ordinance is designed to achieve the following goals and objectives:

(1) Promote the health, safety, morals and general welfare of the citizens of the city and to create and maintain conditions under which the citizens and their environment can exist in productive and enjoyable harmony while fulfilling the social, economic and other requirements of present and future generations.

(2) Ensure that all new developments are in general agreement and conformance with the comprehensive plan to ensure a harmonious pattern of development.

(3) Ensure that new development will be adequately served by streets, utilities, schools, parks and other community facilities and that older developed areas can be maintained as healthy neighborhoods.

(4) Ensure that appropriate allocations of various land uses will be provided to meet future population levels and types.

(5) Create quality zoning controls that allow some flexibility for superb creative development.

(6) Promote infill development of various types in appropriate areas to reduce urban sprawl and duplication of public services thereby saving tax dollars and preserving agricultural land.

(7) Protect residential areas from conflicting land uses by providing adequately landscaped buffer zones between conflicting areas.

(8) Encourage commercial, industrial and high-density development to locate at the most economic and environmentally desirable locations.

(9) Ensure that industrial activity does not deplete the resources and quality of the land intended for current and future generations.

(10) Discourage strip commercial development.

(11) Reduce excessive use of signs, which cause sight restrictions and urban clutter.

(12) Promote a quality of development both within the city and within the city's extraterritorial jurisdiction to direct orderly and systematic growth.

Section 1-2. Conflicting Ordinances.

Whenever any provision of this ordinance imposes a greater requirement or a higher standard than is required in any state or federal statute or any other city ordinance or regulation, the provision of this ordinance shall govern. Whenever any provision of any state or federal statute or other city ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such state or federal statute or other city ordinance or regulation shall govern.

Section 1-3. Effect of Interpretation.

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

Section 1-4. Definitions.

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined in this Article. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. All other words and terms not expressly defined shall have their general meaning, as interpreted by the zoning administrator, otherwise, Webster's Dictionary (latest edition) shall be used. It should be noted that there are other Articles within this ordinance that define terms that are specific to that Article.

Accessory building or structure means a structure on the same lots with, and of a size and nature customarily incidental and subordinate to, the principal structure. Examples of accessory structures include, but are not limited to, the following: detached garages and/or carports; storage structures and/or barns; freestanding greenhouses, pool houses, tennis courts; gazebos and workshops.

Accessory use means a use incidental or secondary to the principal use of a lot, building or structure and located on the same lot as the principal use.

Adjacent means touching, adjoining, contiguous or abutting.

Administrative or research facilities means a facility used for the management of an enterprise or research and development activities such as improving technologies, developing products and scientific research.

Agriculture means the production, raising, breeding or maintenance of plants and animals including, but not limited to, forage and sod crops; grain and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horse or goats, game animals, exotics, fish and any mutations or hybrids, including the breeding and grazing of any or all such species; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; nurseries; florals; ornamental and greenhouse products; or lands devoted to a conservation easement, soil conservation or forestry management program. This does not include hunting and the commercial slaughter of poultry, livestock or other animals.

Alley means land dedicated to public use and devoted to secondary access to lots.

Alterations means any change, addition or modification in construction, any change in the structural members of a building, such as walls or partitions, columns or beams or girders.

Assisted living facility means an establishment that furnishes food and shelter to four or more persons who are unrelated to the proprietor and provides personal care services.

Bakery means a place for baking and/or selling baked goods.

Bar means an establishment where alcoholic beverages are sold for on-premises consumption, other than a restaurant as defined in this section.

Barn means a structure intended for the purpose of storing farming and ranching related equipment or housing livestock; such a structure shall conform to all construction and design standards of the district in which it is constructed. This term also includes agricultural structure(s).

Bed and breakfast means a detached dwelling in which rooms are rented to transient guest on an overnight basis.

Board means the Board of Adjustment of the city.

Buffer yard means an area of land, together with a specified amount of planting thereon, and any structures that may be required between land uses to eliminate or minimize conflicts between adjacent uses.

Building means any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building footprint means the area of the building in contact with the ground.

Church means a structure owned and/or used by a religious organization or congregation that provides regular organized religious worship, religious training, or education of its members. The term also includes a rectory, convent, meeting hall, or offices for administration of the institution. A church may include the following accessory use in addition to the principal structure: dwelling units for religious organization personnel located within an accessory structure.

City means the City of San Elizario, Texas.

City limits means the incorporated boundary limits of the City of San Elizario, Texas.

Commercial indoor recreation means indoor commercial uses which by their nature are recreational, including but not limited to, bowling alleys, skating rinks, health clubs, racquetball or squash courts, indoor swimming pools, video arcades, pool halls, etc.

Commercial outdoor recreation means outdoor commercial uses which by their nature are recreational, including but not limited to, golf courses, driving ranges, miniature golf courses, outdoor swimming pools, tennis courts, basketball courts, recreational camps, etc.

Commission means the Planning and Zoning Commission of the city.

Comprehensive plan means a periodically updated document that unifies all elements and aspects of city planning and serves as a policy guide to zoning and subdivision decisions.

Conditional use permit also a special exception means a use that is not automatically permitted by right, but which may be permitted within a zoning district subject to meeting specific conditions contained in this ordinance.

Condominium means the use of a site for attached or detached condominiums, as defined under Section 82.003 of the Texas Property Code.

Conservation easement means a nonpossessory interest held by a governmental body empowered to hold an interest in real property under the laws of this state or the United States; other qualified entity, pursuant to Section 170(h) of the Internal Revenue Code (26 USC 170h), as amended; or a charitable corporation, charitable association, or charitable trust in real property that imposes limitations or affirmative obligations designed to retail or protect property or assure its availability for agricultural, forest, recreational or open space use.

Council means the City Council of the City of San Elizario, Texas.

Coverage, lot, means the total area of all structures, paved driveways, or other soil disturbances that will not allow normal water infiltration. The coverage is expressed as a percentage of such area in relation to the total gross area of the lot or site. Landscaping shall not be deemed part of the lot coverage.

Day care, nursery or kindergarten means a facility that provides, for less than 24 hours a day, whether for profit or not, care training, education, custody, treatment or supervision for more than

six children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility.

Density means the quantity of an item per unit area, for example, the number of dwelling units per acre.

Distribution center means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

District means a classification applied to any certain land area within the city stipulating the limitations and requirements of land usage and development.

Dwelling means a building or portion which is designed or used exclusively for residential purposes, including single-family, two-family, attached dwellings, multifamily dwellings and manufactured homes.

Dwelling, accessory, means a detached or attached residential unit, other than a manufactured home, used as an accessory to a single-family dwelling such as a guest house or garage apartment.

Dwelling unit means a building or portion of a building that is arranged, occupied or intended to be occupied as living quarters and that includes facilities for food preparation, bathing, use of the toilet and sleeping.

Equestrian facilities means a structure or area for horseback riding activities including boarding, training, lessons and shows.

Extraterritorial jurisdiction (ETJ) means the unincorporated area outside of and contiguous to the corporate boundaries of the city as defined and established in accordance with Texas Local Government Code Chapter 42.

Fabricating means the process of assembling using standardized parts.

Family means one or more persons related by blood, marriage or adoption occupying an individual dwelling unit.

Floor area ratio means the ratio which is the result of dividing the total floor area of a structure by the area of the lot on which it is located. For example, a structure with a floor area of 20,000 square feet, located on a lot of 40,000 square feet has a floor area ratio (FAR) of 0.5.

Garage means an accessory building or a portion of a main building such as a carport for storage of motor vehicles or parking as may be required in connection with the permitted use of the main building.

Garage, private, means an accessory building or an accessory portion of a main building designed for shelter or storage of vehicles, owned or operated by the occupants of the principal building.

Garage, public, means an accessory building or an accessory portion of a main building, except a private garage, used or designed to be used for the storage of motor vehicles.

Garage sale means the sale of tangible personal property at retail by a person who is not in the business or does not hold himself or herself out to be in the business of selling tangible personal property at retail.

Grain elevator means a facility for the temporary storage of large quantities of agricultural grain.

Greenhouse, commercial, means a facility for the growing and commercial distribution of plant materials.

Grocery/supermarket means an establishment for the display, preparation and retail sale of foods and associated items.

Group home means a building that provides food and shelter, personal guidance, care, habitation services and supervision to persons with disabilities. It must be a community-based residential home operated by the Texas Department of Mental Health and Mental Retardation or a community center organized under Section 3.01 of the Texas Mental Health and Mental Retardation Act (Texas Health and Safety Code Section 534.001), or an entity subject to the Texas Non-Profit Corporation Act, or an entity certified by the Texas Department of Human Services as a provider, under the medical assistance program servicing persons in intermediate care facilities, for persons with mental retardation.

Home occupation means a commercial enterprise commonly carried on within a home by a member of the occupant's family occupying the dwelling.

Hospital means an institution licensed by the state as a hospital where humans are given medical treatment.

Hotel/motel means a building occupied or used as a temporary abiding place of individuals or groups of individuals who are lodged with or without meals for compensation.

Hotel/motel, extended stay, means a building occupied or used as a temporary abiding place of individuals or groups of individuals who are lodged with or without meals for compensation for periods of one week or more.

Landscape area means an area that is covered by living grass, ground cover, or other plant materials.

Landscaping means a planted area containing trees, shrubs, and ground covers providing a transition between structures on a site and the property line, adjacent structures and/or public rights-of-way.

Laundry facilities means a commercial laundering establishment which cleans clothing, carpeting, drapes and other cloth or synthetic fiber materials using a chemical process. Such establishments may also include self-service laundering facilities.

Live/work units means a dwelling unit that allows 25 percent (25%) of the floor area to be used as work space, subject to home occupation limitations.

Loading and unloading space, off-street, means an open, hard-surfaced area of land other than a street or public right-of-way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys.

Lot means a designated parcel, tract or area of land established by a plat or otherwise permitted by law to be used, developed or built upon as a unit.

Lot area means the net area of a lot exclusive of any portion of streets, alleys or rights-of-way.

Lot, corner, means a lot abutting upon two or more streets at their intersection.

Lot depth means the average horizontal distance between the front and rear lot lines.

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

Lot line means a boundary of a lot.

Lot line, front, means that lot line adjacent to street right-of-way. In the case of a corner lot, only one lot line shall be designated as the front lot line.

Lot line, rear, means that lot line opposite the front lot line of said lot not intersecting with the front lot line.

Lot line, side, means any lot line which intersects the front lot line of said lot.

Lot of record means a parcel of land, the dimensions of which are shown on a recorded plat on file with the county clerk.

Lot width means the straight line distance between the side lot lines, measured at the two points where the front building line intersects the side lot lines.

Manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. This term does not include a recreational vehicle.

Manufactured home subdivision means a tract of land that is subdivided and platted for individual ownership of HUD-code manufactured homes.

Massage parlor means an establishment that provides massage or other physical therapy by licensed physical therapists.

Medical office/center means a walk-in facility for medical, obstetrical or surgical care limited to day use only.

Mobile home means a structure that was constructed before June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and in the traveling mode at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet.

Motor freight terminal means any premises where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. This definition shall also include facilities for the temporary storage of loads and cargo prior to shipment.

Multifamily dwelling means a building that contains more than two dwelling units.

Nursing home means a home for the aged, chronically ill or incurable persons who are unable to care for themselves and in which three or more persons not of the immediate family are kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or other similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Off-street parking means an enclosed or unenclosed area, not on a public street or alley, established for or used for the parking of a motor vehicle.

On-Site parking means an area used for the storage of motor vehicles located wholly within a single lot whose use is dedicated to that particular lot.

Outdoor storage means the storage of large quantities of materials or products associated with an industry or business. Such storage requires a structure designed for and/or devoted to the containment of the item or items, such as an oil storage tank or grain elevator.

Parking lot means an area not within a building designed and used for the storage of motor vehicles.

Parking space means usable space within a public or private parking area, or a building of sufficient size and area, exclusive of access drives, aisles or ramps, for the storage of one properly spaced passenger automobile or commercial vehicle.

Permeable pavement means a paving material that permits water penetration.

Permitted use means that use of a lot which is among the uses allowed as a matter of right, and subject to the restrictions of the zoning district.

Railroad freight terminal means an establishment or facility which is designed for the storage and handling of goods and cargo which are transported by railroad. The outside storage of railroad cars, engines or other railroad equipment shall be prohibited.

Recreation vehicle means a motorized vehicle or non-motorized trailer designed and/or maintained for use as a temporary dwelling or sleeping place for travel or recreation purposes exclusively, having no foundation other than wheels or jacks.

Restaurant means a structure that prepares and serves food to customers, including sit down, fast-food, drive-through and drive-in facilities. At least 51 percent (51%) of the gross income shall be derived from the sale of prepared food.

Retail sales and service means a business established for the sale of goods or services to consumers, usually in small quantities (as opposed to wholesale).

Right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which a governmental entity has an interest.

Right-of-way, parkway, means that area within the public right-of-way (ROW) between the back of curb or edge of pavement and the right-of-way boundary line.

Sale of produce grown on-site means roadside stands or other temporary structures constructed for the sale of agricultural or horticultural products raised substantially on the premises.

Schools, public and private, means a facility that provides curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.

Screening means the establishment of an opaque fence or barrier for the purpose of obscuring a particular land use, structure or activity from sight.

Self-service storage means a structure or portion of a structure used for storage, mainly of excess personal property of an individual or family, but also of small amounts of goods or merchandise for businesses or individuals.

Setback means the minimum distance between by which any building or structure must be separated from a street right-of-way or lot line.

Shopping center means a group of commercial establishments planned, developed and managed as a unit, related in location, size and type of shops to the trade area that the unit serves, and which provides on-site parking.

Single-family dwelling means a building that contains only one living unit.

Site plan review means the comprehensive evaluation and compliance of a development and its impact on neighboring properties and the community as a whole, from the standpoint of land use, site design, landscape design, architecture, lighting, signs, health and safety, other adopted standards and criteria of this ordinance, and all other adopted codes and ordinances of the city.

Special exception also a conditional use permit means a use that is not automatically permitted by right, but which may be permitted within a zoning district subject to meeting specific conditions contained in this ordinance.

State means the State of Texas.

Story means that portion of a structure included between the surface of any floor and the surface of the floor directly above it, or if there is no floor above it, the space between the floor and the ceiling above it; provided that a room, suite or story with more than one-half of its height below grade shall not be considered a story for the purposes of height regulations.

Street means a public or private thoroughfare right-of-way which affords the principle means of access to abutting property. The term "street" shall include avenue, drive, circle, road, boulevard, highway or any other similar term.

Subdivision means the division or redivision of land into two or more lots, tracts, sites or parcels.

Telecommunication tower means radio, wireless telephone, television, microwave, short wave radio and/or any other tower used exclusively for communication purposes.

Theaters means a structure or area for the presentation of plays, motion pictures, concerts, etc.

Truck or bus washing station means a facility for the washing of vehicles having a gross vehicle weight of greater than 11,000 pounds.

Truck stop means a facility for the parking, refueling and repair of tractor-trailer trucks. These facilities may also include retail sales of food or other items and temporary sleeping quarters.

Used asphalt means previously used asphalt or previously used asphalt mixed with dirt, sand, gravel, rock, concrete or similar nonhazardous material.

Variance means a form of approval granted by the Board of Adjustment (BOA) waiving all or certain provisions of an ordinance. An adjustment in the application of the specific regulations of the zoning ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district; a variance is granted by the BOA.

Warehousing means the storage in an enclosed building of materials and goods. This definition also includes all office, distribution and sales space. This definition does not include motor freight terminals or railroad freight terminals.

Wholesaling means the sale of commodities for the purpose of resale, as to retailers rather than directly to consumers.

Yard, front, means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front building line.

Yard, rear, means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the rear building.

Yard, side, means an open space extending from the required front yard to the required rear yard, the width of which is the minimum horizontal distance between the side lot line and the side building line.

Zoning means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

Zoning administrator means the city administrator or such other person designated by the City Council to receive and process plats, site plans, applications for amendments to this ordinance, the zoning map or the comprehensive plan.

Zoning district means a classification applied to any certain land area within the city stipulating the limitations and requirements of land usage and development.

Zoning map means the official zoning map of the city upon which the boundaries of the various zoning districts are drawn.

Section 1-5. Zoning Upon Annexation.

- (a) All territory annexed into the city shall be classified as Agricultural (AG).
- (b) The zoning of a land parcel after annexation must meet the requirements for notification and public hearings as set forth in this ordinance and all other applicable state laws.
- (c) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation. No annexation application may be made conditioned upon the approval of any particular zoning classification.

ARTICLE II. ZONING DISTRICTS

Section 2-1. Zoning Districts Created.

The city may be divided into classes of residential, office, commercial, industrial and special zoning districts as presented in this ordinance. The location and boundaries of the zoning districts established by this ordinance are as indicated on the map attached as *Exhibit A* entitled "Official Zoning Map of the City of San Elizario, Texas" and incorporated fully herein.

The zoning districts and regulations are described herein beginning with Section 2-4 following Section 2-3.

Section 2-2. Interpretation of Zoning District Boundaries.

In the event that uncertainties exist with respect to the intended boundaries of the various zoning districts as shown on the official zoning map, the following rules shall apply:

- (1) Where zoning district boundaries of the city appear to follow streets, alleys, railroads or highways, such boundaries shall be construed as the centerlines of those streets, alleys, railroads or highways.
- (2) Where zoning district boundaries appear to follow lines of lots or parcels of record, such lot or acre lines shall be construed to be such boundary.
- (3) Where a zoning district divides a parcel of land, the location of such boundary shall be determined by the use of the zoning map scale as measured to the nearest foot unless such line can be more accurately determined by geometric or land surveying computations.
- (4) Where indicated district boundaries are approximately following city boundaries, such boundaries shall be construed to be the district boundaries.
- (5) Where district boundaries are indicated as approximately following a creek, stream, or marsh, the centerline of the creek, stream or marsh shall be construed to be the district boundary.
- (6) All areas of the city which are under water are considered to be within a zoning district and controlled by applicable district regulations.

Section 2-3. Interpretation of District Regulations.

(a) Permitted uses and conditionally permitted uses are listed for the various zoning districts governed by this ordinance. Any use not specifically permitted in a specified district or districts as a use by right or a conditional permit use shall be prohibited.

(b) No structure shall hereafter be built or moved, and no structure or land shall hereafter be occupied, except for a use that is permitted as a use by right or a conditional use permit as regulated by the provisions for such use and the applicable district requirements of this ordinance.

(c) No use of a structure or land that is designated as a conditionally permitted use in any district shall be established or hereafter changed to another use designated as a conditional use, unless a conditional use permit has been secured from the Board of Adjustment.

(d) No sign, fence, wall, accessory use or structure or home occupation shall be hereafter established, altered or enlarged unless in accordance with the provisions of this ordinance.

(e) Within each zoning district there are additional regulations referenced that are directly applicable to uses permitted in the district.

Section 2-4. Single-Family Residential District (SF).

(a) The purpose of the SF district is to stabilize and protect the owner occupied housing characteristics of the district and to promote and encourage a suitable environment for living.

(b) See schedule of uses in Article IX for permitted and conditional uses.

(c) General regulations of the SF District:

SF DISTRICT

Minimum lot square footage	10,000 square feet
Minimum lot width	85 feet
Minimum lot depth	110 feet
Minimum front yard	25 feet
Minimum side yard	10 feet
Minimum side yard, adjacent to street	10 feet
Minimum rear yard	25 feet
Minimum dwelling unit size	800 square feet
Maximum lot coverage	60 percent (60%)
Maximum structure height	Two stories

(d) Landscaping requirements are contained in the City’s landscaping ordinance.

(e) Parking requirements are contained in the City’s parking ordinance.

Section 2-5. Multifamily Residential District (MF).

(a) The purpose of the Multifamily Residential (MF) District is to encourage housing development at higher densities. A mix of housing types, including duplex, triplex, quadplex, or small multi-family apartment buildings, are permitted.

(b) See schedule of uses in Article IX for permitted and conditional uses.

(c) General regulations of the MF District:

MF DISTRICT

Minimum lot size	One acre
Minimum front yard	30 feet
Minimum side yard	15 feet; 45 feet when building is more than 1 story and adjacent to SF district
Minimum rear yard	25 feet; 45 feet when building is more than 1 story and adjacent to SF district
Minimum dwelling unit size	500 square feet

(d) Landscaping requirements are contained in the City’s landscaping ordinance.

(e) Parking requirements are contained in the City’s parking ordinance.

Section 2-6. Manufactured Home District (M).

- (a) The purpose of the M district is to encourage the most appropriate use of land for manufactured housing development purposes, to encourage design standards which will create pleasing appearances, and to provide sufficient open space for light, air and recreation.
- (b) See schedule of uses in Article IX for permitted and conditional uses.
- (c) General regulations of the M District:

M DISTRICT

Minimum lot width	40 feet
Minimum lot depth	100 feet
Minimum front yard	10 feet
Minimum side yard	10 feet
Minimum side yard, adjacent to street	10 feet
Minimum rear yard	25 feet
Minimum dwelling unit size	600 square feet
Maximum lot coverage	60 percent (60%)
Maximum structure height	1 story

- (d) Additional regulations of the M District:

- (1) A manufactured housing development shall occupy a site of not less than two acres in size and subdivision standards shall meet the city’s subdivision regulations.
- (2) Manufactured housing units shall meet all standards set by the U.S. Department of Housing and Urban Development and shall be installed per Article 1201 of the Texas Occupations Code and Title 10, Article 80 of the Texas Administrative Code, as amended.
- (3) All manufactured housing units shall provide proper skirting around the base of the home within 30 days of placement on property (no plywood, lattice, plastic sheeting, roofing materials, or vinyl floor materials permitted). Permissible skirting materials include, but are not limited to, brick, stone, masonry, cement, faux stone, vinyl material made specifically for manufactured home skirting, or other suitable materials approved by the City.
- (4) No manufactured housing units older than ten (10) years of age, from the date of the issuance of the installation permit, shall be allowed to be installed within the City of San Elizario city limits.

- (e) Landscaping requirements are contained in the City’s landscaping ordinance. In addition, landscaping plans for a lot shall be provided to the City within 30 days of placement of a manufactured house on a lot and shall include a minimum of three trees on a lot.

- (f) Parking requirements are contained in the City’s parking ordinance.

Section 2-7. Commercial 1 District (C-1).

(a) The C-1 District is established to provide areas for retail facilities that are larger than those generally located in the C-2 District, such as large grocery stores, book stores, automotive services, large-scale offices and the like. Areas zoned for C-1 should have convenient regional access via major thoroughfares, and major collector streets are primary locational considerations. Hotel/motel uses and community scale retail are permitted within C-1 Districts. Office uses, commercial services, and industrial uses shall not be permitted. See the permitted use chart for a full list of permitted uses in C-1.

(b) General regulations of the C-1 District:

C-1 DISTRICT

Minimum lot area	½ acre
Minimum lot width	None
Minimum lot depth	100 feet
Minimum front yard	5 feet
Minimum side yard	15 feet
Minimum side yard, adjacent to SF district	15 feet plus one additional foot for each additional one foot in height above 15 feet
Minimum rear yard	10 feet
Minimum rear yard, adjacent to SF district	25 feet
Maximum lot coverage	75 percent (75%)
Maximum structure height	2 stories

(c) Additional regulations of the C-1 District:

- (1) All uses within this district shall be of a retail, service or office character.
- (2) All business shall be conducted entirely within a building. Outside storage and/or display of any type shall be prohibited unless in accordance with the outdoor storage section of this ordinance.
- (3) Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be totally encircled or screened by fence, planting or other suitable visual barrier.
- (4) All exterior lighting designed for security, illumination, parking lot illumination or advertising and which is placed within this zoning district shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned properties.

(d) Landscaping requirements are contained in the City’s landscaping ordinance.

(e) Parking requirements are contained in the City’s parking ordinance.

Section 2-8. Commercial 2 District (C-2).

(a) The C-2 District is established to provide areas for low intensity, specialized retail sales that are intended to service local neighborhoods, citizens, and visitors of the city. Bed-and-breakfasts and small-scale offices that will generate limited traffic are permitted within C-2 Districts. Large-scale office, regional commercial, or commercial services uses are not permitted. See the permitted use chart for a full list of permitted uses in C-2.

(b) General regulations of the C-2 District:

C-2 DISTRICT

Minimum lot area	¼ acre
Minimum lot width	80 feet
Minimum lot depth	80 feet
Minimum front yard	10 feet
Minimum side yard	15 feet
Minimum side yard, adjacent to street	10 feet
Minimum rear yard	10 feet plus one foot for each foot of building height above 20 feet
Maximum lot coverage	60 percent (60%)
Maximum structure height	2 stories

(c) Additional regulations of the C-2 District:

(1) All uses within this district shall be compatible with the surrounding residential neighborhood. Permitted uses shall be small-scale and should not have a negative impact on traffic in neighboring residential areas.

(2) All businesses shall be conducted entirely within a building, with the exception of outdoor seating for a restaurant. Outside storage and/or display of any type shall be prohibited unless in accordance with the outdoor storage section of this ordinance.

(3) All exterior lighting designed for security, illumination, parking lot illumination or advertising and which is placed within this zoning district shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned properties.

(4) Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be totally encircled or screened by fence, planting or other suitable visual barrier.

(d) Landscaping requirements are contained in the City’s landscaping ordinance.

(e) Parking requirements are contained in the City’s parking ordinance.

Section 2-9. Industrial District (I).

(a) The purpose of the I District is to provide for a wide range of industrial uses which generate few objectionable conditions. Such uses include assembling, research and development, warehousing and distribution. The I District also accommodates support services for industrial development such as office, commercial and professional services. Regulations are designed to ensure compatibility among the various uses allowed in the I District and to protect adjacent nonindustrial development from potentially incompatible uses and conditions.

(b) See schedule of uses in Article IX for permitted and conditional uses.

(c) General regulations of the I District:

I DISTRICT

Minimum lot area	1 acre
Minimum lot width	None
Minimum lot depth	None
Minimum front yard	60 feet
Minimum side yard	50 feet
Minimum rear yard	10 feet
Minimum rear yard, adjacent to SF or M districts	100
Minimum side yard, adjacent to SF or M districts	100 feet
Maximum lot coverage	60 percent (60%)
Maximum structure height	65 feet

(d) Additional regulations of the I District:

(1) All exterior lighting designed for security, illumination, parking lot illumination or advertising and which is placed within this zoning district shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned properties.

(2) Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be totally encircled or screened by fence, planting or other suitable visual barrier.

(3) No industrial operation or use shall cause, create or allow the emission of air contaminants which at the emission point or within the bounds of the property are:

(A) In violation of the standards specified by the Texas Commission on Environmental Quality (TCEQ) or successor agencies including but not limited to those in the Texas Administrative Code Title 30 or standards specified by the Texas Department of Health including, but not limited to, those in the Texas Administrative Code Title 25; or

(B) Of such capacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in the subsection above, except that when the presence of steam is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere, performance shall be considered in compliance with this section.

(4) The emission of particulate matter from all sources shall not exceed the level specified by TCEQ regulations including but not limited to those in the Texas Administrative Code Title 30 or the regulation specified by the Texas Department of Health including, but not limited to, those in the Texas Administrative Code Title 25.

(5) Open storage and open processing operations, including on-site transportation movements which are the source of wind or airborne dust or other particulate matter; or which involve dust or other particulate air contaminant generating equipment including but not limited to paint spraying, grain handling, sand or gravel processing or storage or sand blasting, shall be so conducted such that dust and other particulate matter so generated are not transported across the boundary property line of the tract on which the use is located.

(6) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the property line boundary or any point beyond the tract on which such use or operation is located. The odor threshold shall be determined by observation. In any case, where uncertainty may arise or where the operator or owner of an odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, a quorum of the Planning and Zoning Commission shall determine whether the odor threshold has been crossed.

(7) No commercial or industrial use involving the manufacture or storage of petrochemical compounds or products which decompose by detonation shall be permitted in the city, except that chlorates, perchlorates, phosphorous, and similar substances and compounds in quantities of one gallon or less for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the zoning official and the fire department. The storage of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film solvents and petrochemical products for industrial purposes shall be allowed only after a conditional use permits for such use has been granted in conformance with the terms of Article IV of this ordinance.

(8) No commercial or industrial operation or use permitted under the terms of this ordinance shall emit toxic or noxious matter in concentrations across the boundary property line of the tract on which such operation or use is located.

(9) No use permitted under the terms of this ordinance shall at any time create earthborne vibration which when measured at the boundary property line of the source operation exceeds the limits of the displacement set forth in the table below:

Table 1. Displacement Limits for Vibration

Frequency Cycles per Second Displacement in Inches

Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0007
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(10) No use or operation shall be located or conducted so as to produce intense glare or direct illumination across the boundary property line from a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of the adjacent property.

(e) Landscaping requirements are contained in the City’s landscaping ordinance.

(f) Parking requirements are contained in the City’s parking ordinance.

Section 2-10. Historic Overlay District (HD) - El Paso Mission Trail Historical District.

(a) The Historic District is meant to preserve and reinforce the El Paso Mission Trail Historical Area Zoning Regulations, “Mission Trail Regulations” adopted pursuant to Chapter 231, Texas Local Government Code, Subchapter I, Zoning and Other Regulation in El Paso Mission Trail Historical Area. The zoning regulations are referenced in Appendix 1 to this ordinance and are also contained in the records of the City.

(b) The purpose of the HD district overlay is to recognize the historical, cultural and aesthetic importance of certain buildings, structures or districts within the city. The City Council desires to protect and preserve such landmarks of both historical and cultural preservation and the City’s economic well-being. This district does not replace the requirements set forth in the Mission Trail Regulations. It serves to reinforce those regulations, and to also continue the rustic and pedestrian-oriented characteristics of the Historic District beyond the Historic District’s boundaries to create a historical core area.

(c) The HD overlay district encourages pedestrian-friendly design through the incorporation of architectural elements such as awnings, porches, and sidewalk displays. As provided in the Mission Trail Regulations, a mix of land uses, such as retail, professional services, public, and institutional uses are permitted.

(d) Any modifications to existing buildings or structures, or any construction of new buildings or structures within this district must follow the rules and regulations set forth in the Mission Trail Regulations. Structural renovations, maintenance, enhancement, tear-down, and new construction should be in harmony with the characteristics of the rest of the district. An addition, modifications shall be in accordance with the City’s Historic Preservation Ordinance

(e) Permitted uses in the Historic District are found in the Mission Trail Regulations. A partial listing of permitted uses is included in Article IX Schedule of Uses.

(f) To the extent that these regulations do not conflict with those contained in the Mission Trail Regulations, general regulations of the HD District are:

HD DISTRICT

Minimum lot size (area)	None
Minimum lot width	None
Minimum lot depth	None
Minimum front yard	None
Minimum side yard	-
Minimum rear yard	-
Minimum side yard, adjacent to SF, MR, M districts	-
Maximum lot coverage	80 percent (80%)
Maximum structure height	35 feet

(g) Architectural standards are as follows:

(1) Use of brick/masonry, solid wood planking, and fiber cement siding are permitted. Materials used should be in keeping with the rest of the district to maintain historic character of the downtown area.

(2) Permitted building elements include gallery, awning, porch, stoop, and balcony.

(3) A minimum 30% transparency is required for the building façade.

(4) Additional standards are contained in the City's Historic Preservation Ordinance and in the Historic Preservation section of the Mission Trail Historical Area Zoning Regulations.

(h) Landscaping requirements are contained in the City's landscaping ordinance.

(i) Parking requirements are contained in the City's parking ordinance.

Section 2-11. Agricultural (AG) District.

(a) The purpose of this district is to preserve valuable agricultural land in certain areas of the City. This land is presently used for agricultural purposes and does not yet have access to urban services such as utilities. These agricultural lands should continue to be used for agricultural purposes until needed for urban purposes in conformity with the orderly growth of the City.

(b) General regulations of the AG District:

AG DISTRICT

Minimum lot area	None
Minimum lot width	None
Minimum lot depth	None
Minimum front yard for SF	35 feet
Minimum front yard for accessory structures	60 feet
Minimum side yard	10 feet
Minimum rear yard	25 feet
Minimum side yard adjacent to SF district	100 feet
Maximum lot coverage	60 percent
Maximum structure height	65 feet

Section 2-12. Pipeline Overlay (PO) District

- (a) The purpose of this district is to prevent high density development over proposed gas pipelines. This district will act as a buffer between more intensive zoning districts, and will consist of open space, and vegetation.
- (b) The PO District will be an overlay district.
- (c) The overlay will be put in place upon determination of the routes of major gas pipelines through the city.
- (d) Regulations applicable to the PO District will be established pursuant to a city pipeline safety ordinance or buffer ordinance.

Section 2-13. Public District (P)

- (a) The purpose of the Public district is to provide for the siting of public parks and recreational facilities and for governmental buildings of the City, County, State, or Federal governments. This district is also intended to provide for other public and institutional uses such as EMS and fire stations, health care facilities, schools and churches, without regard to public or private ownership. With City Council approval, this zoning classification may be applied to properties situated anywhere within the city limits.
- (b) See schedule of uses in Article IX for permitted and conditional uses.
- (c) Landscaping requirements are contained in the City's landscaping ordinance.
- (d) Parking requirements are contained in the City's parking ordinance.

Section 2-14. Planned Unit Development District (PUD).

(a) The PUD district is a zoning district that allows flexibility in development standards and accommodates multiple uses as integrated land use units either by a single owner or a combination of owners. A PUD district may be used to permit new or innovative concepts in land use not permitted by other zoning districts, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

- (1) To provide flexibility in the planning and construction of development projects by allowing a combination of uses developed in accordance with an approved plan that protects adjacent properties;
- (2) To provide an environment within the layout of a site that contributes to a sense of community and a coherent living style;
- (3) To encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape, and size; and to provide for open space;
- (4) To provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure;
- (5) To encourage infill projects and the development of sites made difficult for conventionally designed development because of shape, size, abutting development, poor accessibility, or topography.

(b) The following evaluation and design criteria will be applied to master site plans in the PUD district:

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal.
- (2) Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings.
- (3) In regards to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of the proposed structures and neighboring properties.
- (4) Private streets and gates may be approved as part of the application but are not required.
- (5) The maximum height of structures shall be as prescribed for each land-use category or category of uses.

(6) Setbacks shall be governed by the PUD district plan.

(7) A minimum of twenty (20) percent of gross platted area shall be open green space/parkland. This shall include community recreational areas that are continuously maintained. Open space shall not include areas specifically designated or used as parking lots, garages, streets, or driveways.

(8) Lighting. All outdoor lighting shall be shielded to limit impacts on residential units and reduce light pollution.

(9) Utilities and infrastructure shall meet the standards of the City's subdivision regulations and most recently adopted International Codes.

(c) The zoning of a PUD district shall be that shown on the development site plan approved and made a part of the adoptive ordinance and any written special conditions within or attached to the adoptive ordinance or development plan. The ordinance granting a PUD district shall include a statement as to the purpose and intent of the PUD district granted therein, as well as a general statement citing the reason for the PUD request.

ARTICLE III. REGULATIONS

Section 3-1. Purpose and Intent.

No building or structure hereafter shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used or arranged for any purpose or manner other than those permitted within the assigned zoning districts and specific provisions of this ordinance.

Section 3-2. Prior Approvals.

Nothing in this ordinance shall be deemed to require any change to plats, lots or buildings previously approved administratively prior to the effective date of the ordinance.

Section 3-3. Administration and Enforcement.

The provisions of this ordinance shall be administered and enforced by the zoning administrator. The zoning administrator shall have all necessary authority to administer and enforce the provisions of this ordinance, including the remedying of any condition found in violation of this ordinance, the bringing of legal action to ensure compliance with this ordinance or other appropriate action or proceeding. Enforcement may be sought through civil and/or criminal courts, as provided by law.

Section 3-4. Certificates of Use and Occupancy.

(a) No building hereafter erected or structurally altered shall be used, occupied or changed in use until a certificate of occupancy has been issued by the city, stating that the building or proposed use of a building or premises complies with the building code and the provisions of these regulations. A change in use shall be construed to mean any change in the occupancy of a business.

(b) If the provisions of this ordinance are violated, the certificate of use and occupancy shall immediately become null and void. Upon termination, a new certificate shall be required for any further use of such building, structure or land. A termination may be appealed to the Planning and Zoning Commission.

Section 3-5. Accessory Uses and Structures.

(a) Accessory uses are permitted in any zoning district, but only in connection with, incidental to, and on the same lot as, a principal structure which is in use and permitted in such district. Walls and fences are regulated separately.

(b) Except as necessary for ongoing construction activity, the storage or overnight parking of buses and commercial vehicles rated over one ton is prohibited in any residential zoning district.

(c) In residential districts, no motor homes, recreational vehicles, trailers or boats shall be parked on the street right-of-way. Parking of any of the above cited vehicles shall be permitted on an approved parking area of a front yard of a residential lot. No such vehicle shall be used for any form of extended habitation on a residential lot and no such vehicle may be connected to a private or public utility for an extended period of time.

(d) No accessory structure shall be located in a front yard.

(e) No accessory building may be placed within the limits of a recorded easement, alley or required fire lane.

(f) No accessory structure other than garages, barns and structures for agricultural use shall exceed a single story of 16 feet in height. Garages may be as tall as 30 feet in height provided that the garage shall meet the primary structure's side yard setback on all lot lines and that the height of the garage shall not exceed the height of the primary residential structure. Barns and other agricultural structures must not exceed the district height requirements.

(g) Satellite dish antennas, satellite receiving dishes and similar antenna structures are considered accessory structures. These structures shall be permitted in any zoning district under the following conditions:

(1) No satellite dish antennas, satellite receiving dishes or similar structures may be located within a front yard;

(2) No satellite dish antennas, satellite receiving dishes or similar structure may be located closer than 10 feet from any property line;

(3) In residential districts, no satellite dish antennas, satellite receiving dishes or similar structures may be more than ten feet in height measured at ground grade if they are attached to the ground, nor may they exceed district height requirements if attached to a residence, nor may they extend more than three feet in diameter when attached to the residence;

(4) The design and placement of the antenna, satellite dish or similar structure incorporates appropriate landscaping and screening measures as outlined in the landscaping ordinance of the city.

(h) Swimming pools, that are in-ground and 2,000 gallons of water or over, may occupy a required rear or side yard, provided that such pools are not located closer than ten feet to a rear lot line or ten feet to a side lot line. Swimming pools are not permitted in the front yard. A pedestrian space of at least three feet in width shall be provided between pool walls and the protective fences or barrier walls of the pool. Swimming pools shall be fenced.

Section 3-6. Accessory Apartments.

One accessory apartment may be maintained within a single-family detached dwelling in the Single-Family Zoning Districts, contingent upon approval as a conditional use, and subject to the following:

- (1) The principal dwelling shall be occupied during the maintenance of the accessory apartment.
- (2) An accessory apartment shall have a floor area of not less than 450 square feet.
- (3) The accessory apartment shall have a bathroom.

Section 3-7. Walls and Fences.

Walls and fences, berms and similar items that may restrict passage or vision or simply enhance private property may be located within required yards as defined by building setbacks except as follows:

- (1) No walls or fences located within the front yard shall exceed a height of 36 inches as measured from the grade at the point of placement. No walls or fences or similar items other than landscaping within rear yards shall exceed a maximum height of eight feet. Rear yard fences that are taller than 36 inches may extend to the front corners of the primary structure. Fences in the rear yard on a corner lot shall meet the side yard setback adjacent to the right-of-way line in the zoning district.
- (2) In the Industrial District, fences in the front yard must be of 75 percent visibility, up to six feet in height, constructed of 36 inches of approved building materials. Approved building materials exclude pallet type material, corrugated material and chain link fences.
- (3) These provisions shall not be interpreted to prohibit the erection of an open-mesh type fence enclosing any school or playground site or business or industrial activity for security purposes.
- (4) Walls and fences, hedgerows and other dense landscaping which occur on corner lots and exceed 36 inches in height and present an obstruction to vision shall be relocated at least 20 feet from the intersection of street right-of-way lines.
- (5) In all residential districts, walls and fences that adjoin property lines shall not be electrified, barbed or otherwise secured in a manner inappropriate or dangerous to the neighborhood.
- (6) No fence, shrub or wall shall be constructed or planted in a recorded easement.
- (7) Any new construction of homes must include a back yard fence with a minimum height of six feet. Fencing shall be constructed of opaque, solid materials of one of the following

materials: brick, adobe, slump block, wood, and rock, stuccoed concrete or stuccoed concrete block. Un-stuccoed concrete, un-stuccoed concrete block, though solid shall not be permitted. Open materials such as chain link, metal wire, picket fencing, slate-rail fencing, pallet type or corrugated material or similar materials shall not be permitted.

(8) Barbed wire or razor edged fencing above six feet is permitted in Commercial and Industrial Districts.

(9) Barbed wire, razor edge, or low voltage electric fencing for the enclosure of livestock or farming equipment with no height restriction is permitted in the Agricultural District.

Section 3-8. Outside Storage and Display.

The outside storage, display or sale of goods, products or equipment is permitted only in the Industrial and Commercial Districts (C-1 and C-2) of occupied property and within the property lines.

Section 3-9. Telecommunication Towers.

(a) For the purpose of this ordinance, telecommunication towers shall include radio, wireless telephone, television, microwave, short wave radio and/or any other tower used exclusively for communication purposes as interpreted by the zoning administrator.

(b) No telecommunication tower shall be located within 500 feet of a residential district unless the applicant can otherwise demonstrate by providing coverage, interference and capacity analysis that the proposed location of the antenna is necessary to meet the frequency reuse and spacing needs of the wireless telecommunications facility and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the tower in a less sensitive area.

(c) Towers or structures supporting telecommunication antenna or otherwise conforming to all the applicable provisions of this ordinance are hereby subject to approval of a conditional use permit.

(d) The minimum setback from the base of the tower to any property line or to any adjacent nonresidential structure shall be equal to one-half (1/2) the height of the tower.

(e) The following general criteria shall be considered in determining the appropriateness of sites for a communication tower when considering a conditional use permit:

(1) Whether the proposed tower is to be located in an area where it would be unobtrusive to surrounding uses and would not substantially detract from the local aesthetic or neighborhood character;

(2) Where the application represents a request for multiple use of a proposed tower;

(3) Whether the application exhibits how the site and the tower and/or antenna will be designed and arranged to accommodate future multiple users.

(f) In the event the tower and antenna array shall serve as the primary use of the property, any accessory facility or building greater than 100 square feet will be designed so as to be architecturally compatible with principle structures on the site and shall be compatible with the surrounding natural or built environment.

(g) Advertising or signage provided for any use other than to provide warning or equipment instruction and/or other information pertinent to the safe operation of the facility on any portion of the tower and/or antenna or any other accessory facility shall be prohibited.

(h) Each tower shall maintain a gray or other neutral colored finish.

(i) If at any time the use of the tower and/or antenna ceases, the owner or lessee of the tower and/or antenna shall dismantle and remove it within six months after ceasing to use it, unless a binding lease agreement with another wireless communications provider on the same tower has been executed in which case an additional six months shall be granted. If the use does not begin within the additional six months, the owner or lessee of the tower and/or antenna shall dismantle and remove it immediately.

Section 3-10. Home Occupations.

(a) A home occupation shall be conducted only by persons residing on premises. The use of the home for commercial enterprise purposes shall be incidental and subordinate to the use of the home as a dwelling.

(b) The home occupation shall not result in the alteration of the appearance of the residential dwelling unit or the lot on which it is located. There shall be no storage or display of goods outside of a completely enclosed structure.

(c) The home occupation shall be conducted within the dwelling or fully enclosed accessory building.

(d) The home occupation shall not involve the use or storage of explosives, flammable or hazardous materials and may not involve any process that produces smoke, dust, odor, noise or vibration, which is harmful to surrounding properties.

(e) The home occupation shall not involve the delivery and storage of materials at a frequency beyond that which is reasonable to the residential use of the property.

(f) Any use which generates traffic to and from the home in excess of what is normally associated with a single-family dwelling shall not be permitted as a home occupation.

(g) There shall be no group instruction, assembly or activity, nor any display that will indicate from the exterior that the dwelling is being utilized in part for any purpose other than that of a residential dwelling. There shall be no advertising on the premises.

(h) Home occupation uses include, but are not limited to, the following:

(1) Artist, sculptor or photographer.

(2) Author or composer.

(3) Computer programmer or Internet service provider.

(4) Child care provider -- babysitting for not more than five children; conditional use permit required.

(5) Tailor or seamstress.

(6) Professional office.

(7) Tutoring.

(8) Telephone answering service.

(9) Music teacher, limited to two students at any one time.

(10) Caterer, with a conditional use permit.

(i) Specifically prohibited home occupation uses include, but are not limited to, the following:

(1) Auto repair or auto paint shop.

(2) Adult entertainment businesses.

(3) Medical and dental clinics.

(4) Restaurants.

(5) Wrecking and towing service.

(6) Welding and machine shops.

(7) Lawn equipment repair.

Section 3-11. Group Homes.

(a) No structural alterations shall be permitted that will cause the group home to be substantially distinguishable from other surrounding residential properties.

(b) All group homes shall meet every state statutory licensing requirement.

(c) No signs shall be permitted.

(d) All exterior lighting designed for security, illumination, parking lot illumination shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned properties.

Section 3-12. Present Illegal Uses.

By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless such use is allowed in the district pursuant to this Article.

Section 3-13. Signs.

(a) All new signs and modifications or repairs to existing signs are subject to the regulations set forth in the Sign Ordinance, as amended, of the City of San Elizario.

(b) The address of each lot in a district shall be identified by signage posted on a lot and containing lettering and/or numbering clearly visible from the street and/or roadway in accordance with the City's Sign Ordinance.

Section 3-14. Landscaping.

All landscaping performed will be subject to the regulations contained in the Landscaping Ordinance, as amended, of the City of San Elizario.

ARTICLE IV. ZONING APPLICATIONS AND AMENDMENTS

Section 4-1. Initiation of Zoning Amendments and Changes.

The City Council may amend, supplement, or change by ordinance, the text of the zoning ordinance, the zoning district boundaries of the official zoning map or the zoning district classification of property whenever the public necessity, convenience, general welfare or good zoning practice requires. Any such amendment may be initiated by:

- (1) City Council on its own motion;
- (2) Recommendation by the Planning and Zoning Commission to the City Council;
- (3) Petition of the owner, contract purchaser with the owner's written consent or the owner's agent with owner's written consent of the property which is the subject of the proposed amendment via a zoning amendment application;
- (4) Any person who is a real property owner within the city limits, may petition the City Council for a change or amendment to the provisions of this ordinance via a zoning amendment application.

Section 4-2. Requirements for Zoning Amendment Application.

(a) Each application for a change in a zoning classification (rezoning) or a change to a zoning regulation shall be made in writing on a form provided by the City. An application shall be filed with the zoning administrator of the city and shall be accompanied by payment of the appropriate fee to be charged by the city for administering the zoning application. The zoning application shall contain sufficient information relative to the amendment requested.

(b) A date for a public hearing before the Planning and Zoning Commission on a filed application will be set within 30 days of receipt of a completed written application.

(c) Before the 10th day before the public hearing, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. When any amendment relates to a change of a zoning regulation or to the general text of this ordinance, notice of the public hearing of the Planning and Zoning Commission shall be given by publication in a newspaper of general circulation in the city before the 15th day before the date of the hearing, without the necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered. Notice requirements under this subsection are in addition to those requirements contained in Chapter 211 of the Texas Local Government Code, as amended.

(d) The Commission shall hold a public hearing on an application prior to making its recommendation and report to the City Council.

(e) Following the public hearing, the Commission may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application and forward its recommendation to the City Council for a public hearing before the City Council.

(f) Notice of a public hearing before City Council shall be given by publication in a newspaper of general circulation in the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication. The Planning and Zoning Commission and City Council may hold a public joint hearing. Notice requirements in this subsection are in addition to those requirements contained in Chapter 211 of the Texas Local Government Code, as amended.

(g) After a public hearing before the City Council, the City Council action and vote shall be in accordance with Chapter 211 of the Texas Local Government Code, as amended. If the Planning and Zoning Commission recommends that a proposed change to a regulation or boundary be denied, or if a protest is filed with the zoning administrator against a proposed amendment, supplement or change, the proposed change shall not become effective except by a three-fourths (3/4) vote of all the members of the City Council. A protest must be written and signed by the owners of at least 20 percent (20%) of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots on land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

In computing the percentage of land area, the area of streets and alleys shall be included.

(h) A change to zoning districts and zoning regulations shall comport with the City's Comprehensive Plan.

(i) Upon a denial of an application, the City Council may not reconsider an application on the same matter until after six months of its decision unless a substantive change in conditions is shown.

Section 4-3. Nonconforming Uses.

The purpose of this section is to regulate and limit the development and continued existence of uses, structures and lots established prior to the date of adoption of this ordinance and annexed subsequent to the adoption of this ordinance and which do not conform to the requirements of this ordinance. Certain nonconformities may continue, but the intention is to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity and the desired character of the city. This section is not intended to impose unnecessary hardships on individuals who have established certain uses before the enactment of this Ordinance, or before the annexation of the subject property to the City. Certain privileges are accorded such uses. Rather, it is the long-range objective that such uses will be eliminated by attrition or other means.

(a) Conditions for Continuation. Any use of land or structures lawfully existing on the effective date of this ordinance or the effective date of any amendment to this ordinance, that is not permitted in the district in which the use is located, may be continued subject to the following conditions:

(1) A nonconforming use of land may be continued, including through a transfer of ownership, provided that no nonconforming use of land shall be extended to occupy a greater area of land than was occupied on the effective date of this ordinance or the effective date of an amendment to this ordinance.

(2) No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of this ordinance or the effective date of an amendment to this ordinance.

(3) When a nonconforming use of land, or structure, or structure and land is discontinued, it shall be deemed to be abandoned and subsequent use shall conform to the regulations of the district in which the land, structure or both are located. A nonconforming use shall be considered abandoned when:

(A) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within 90 consecutive days; or

(B) A nonconforming building, structure, or land, or portion thereof, which is, or hereafter, becomes vacant and remains unoccupied for a period of 90 consecutive days; or

(C) Any building, structure or land on the nonconforming premises becomes vacant for a period of 90 consecutive days; or

(D) A nonconforming use has been replaced by a conforming use; or

(E) Statutory permits and/or licenses required for operation of a nonconforming use have been revoked or have not been obtained; in this event, the use is deemed abandoned immediately.

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

(5) 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 chapter, but no such use shall be extended to occupy any land outside such building.

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

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

(b) Conversion. Passage of this ordinance does not convert nonconforming uses existing at the time of its adoption into a conforming use.

(c) Extent of Non-Conforming Use. The existence of a non-conforming use on a part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot.

(d) Operation of Non-Conforming Use. The nonconforming use of land or buildings must be maintained and operated in accordance with statutory and/or municipal regulations to retain its nonconforming status. Upon a finding by the Zoning Administrator of a lack of noncompliance with rules and regulations required for operation, the nonconforming use will be deemed illegal and may not be resumed. Continuation of an illegal use will be subject to penalties as provided by this ordinance.

(e) Screening. The city council, after notice and hearing, may require that a nonconforming use be screened from view of the street or surrounding property, or may require the elimination of any nuisance factor caused by a nonconforming use.

(f) Conditional Use Permits/Special Exceptions. The limitations of this ordinance shall not apply to structures or lots whose nonconforming features are the subject of a special exception that has been granted by the Board of Adjustment or a modification or condition that has been approved by the BOA.

Section 4-4. Conditional Use Permits - Special Exceptions.

Conditional use permits are authorized within given designated zoning districts and issued under the standards, controls, limitations, performance criteria, restrictions and other regulations of this ordinance.

(a) All applications for conditional use permits shall be reviewed using the following criteria:

(1) The proposed use shall be closely related to:

(A) The City's comprehensive plan;

(B) The intent and purpose of the zoning district in which the use is proposed to be located;
and

(C) The character of adjacent properties, the surrounding neighborhoods and existing and proposed development.

(2) The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.

(3) The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

(4) The proposed use shall be designated, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

(b) Standards for consideration in issuing a conditional use permit include, but are not limited to:

(1) More restrictive sign standards.

(2) Additional open space, landscaping or screening requirements.

(3) Additional yard requirements.

(4) Special lighting requirements.

(5) Time limitations on hours of operation.

(6) Additional off-street parking and loading requirements.

(7) Additional utility, drainage and public facility requirements.

(8) Additional right-of-way and public access requirements.

(9) Additional requirements to ensure compatibility with the comprehensive plan.

(10) Conditions for renewal, extension, expiration and/or revocation of the conditional use permit.

(c) Requirements for a conditional use permit:

(1) An application for a conditional use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located and shall be accompanied by an application fee in accordance with the City's fee schedule.

(2) If the request for a conditional use permit has been denied by the City Council, a request in substantially the same form shall not be resubmitted within one year of the date of denial.

(3) The application shall include:

(A) A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.

(B) A written statement of the compatibility uses with the following:

(i) The comprehensive plan.

(ii) The applicable zoning district.

(iii) The surrounding properties.

(iv) Current and future neighborhood conditions.

(v) Pedestrian and vehicular traffic patterns, on-site and off-site.

(vi) Adequate public facilities.

(vii) In addition, upon request by the City:

(a) The architectural elevations and floor plans of proposed building(s).

(b) Parking and site circulation analysis.

(c) Photographs of the property and surrounding area.

(d) Action by the Board of Adjustment, “BOA”:

(1) The BOA shall hold a public hearing on an application in accordance with this Article, after which the BOA may make appropriate changes to or impose appropriate conditions upon the proposed conditional use.

(1) A concurring vote of 75% of the members of the BOA shall be required to approve a conditional use permit.

(e) Expiration and revocation:

(1) Whenever a conditional use permit is approved by the BOA, the conditional use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the BOA may have specified, or, if no such time has been specified, then within two years from the approval date of such permit.

(2) If the conditional use or construction has not commenced in accordance with the above provisions, then the conditional use permit shall automatically expire without notice and become null and void.

(3) If the use or activity should cease for any reason for a continuous period of two years or more, the conditional use permit shall automatically terminate without notice and become null and void.

(4) The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.

(5) A conditional use permit shall be revocable upon written order of the BOA at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.

Section 4-5. Variances.

(a) There shall be a presumption against variances.

(b) Interpretative criteria. In reviewing requests for variances, the Board of Adjustment may be guided by these interpretative criteria:

(1) Variances from the terms of this ordinance should be granted sparingly.

(2) Variances may be granted if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

(3) The granting of a variance must be predicated on a finding that the applicant's hardship arises from unusual conditions or circumstances, such as exceptional irregularity of shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood or district, or because no other reasonable alternative is available that will alleviate the unnecessary hardship complained of.

(4) A variance is to be denied if conditions or circumstances relied on for a variance were self-created by the person having an interest in the property in disregard of city regulations.

(5) The variance shall not violate the goals of the comprehensive plan for the city.

(6) The variance shall not have an adverse effect on neighborhood properties or unreasonably interfere with the respective owners' enjoyment thereof.

(7) The fact that lots, structures, uses or dimensional conditions on properties or structures within 200 feet of the property involved are, because they are nonconforming or because of previously granted variances similar to the condition which would be created by the variance requested shall be relevant to but not determinative of the granting of the requested variance.

(8) When considering variance requests for nonresidential projects, consideration shall be given to whether granting the variance furthers achievement of the land planning principles set forth in the City's comprehensive plan.

(c) Application. An application for a variance shall be made in writing in a form prescribed by the city and shall be accompanied by an application fee in accordance with the City's fee schedule. The application shall include a site plan and additional information as may be requested in order to properly review the application. Such information may include but is not limited to plat plans, site and building plans, and contour maps. If the applicant is not the legal owner of the property, a statement from the owner that the applicant is the authorized agent of the owner should be provided with the application.

(d) Burden on applicant. The applicant bears the burden of proof in establishing the facts that may justify a variance.

(e) Public hearing and Notice. The BOA shall hold a public hearing on an application for a variance.

(1) Written notice of such hearing shall be given to the owners of all real property located within 200 feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. For nonresidential variances, written notice of the hearing shall be given to the owners of all real property located within 300 feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. Notice shall be given not less than ten days prior to the date of the hearing either by personal service or by depositing a copy of

the notice in the mail addressed to each owner at the owner's address shown on the last approved city tax roll, with postage paid.

(2) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed variance, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the BOA shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the BOA will be available at a later date.

(3) The applicant shall be responsible for drafting the notice and serving it after it has been approved by the zoning administrator for form and content. An affidavit of proof of service shall be filed by the applicant with the City prior to the hearing.

(4) Notice in the form of weather resistant signs provided by the city shall be posted by the applicant. The sign shall state the purpose, date, time and place of the hearing before the BOA, and shall contain a brief description of the variance requested. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least 10 days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as posted.

(5) Notice shall not be sent out until the zoning administrator has reviewed the submitted and completed application for a variance.

(f) Conditions. The BOA may impose such conditions, limitations and safeguards as it deems appropriate upon the grant of any variance.

(g) Violation. Violation of any such condition, limitation or safeguard imposed by the BOA shall constitute a violation of this ordinance.

(h) Writing required. The BOA shall make its findings in writing on a variance application after the hearing.

(i) Expiration. Any rights authorized by a variance which are not exercised within one year from the date of granting such variance shall lapse.

ARTICLE V. PLANNING AND ZONING COMMISSION

Section 5-1. Planning and Zoning Commission Creation.

- (a) A Planning and Zoning Commission, “Commission”, is hereby created.
- (b) The Commission shall consist of five members, each appointed by a majority vote of the City Council for a term of two years and may be removed from office at any time by a majority vote of the full City Council. Commission members shall serve on a voluntary basis with no compensation.
- (c) Members of the Commission may serve simultaneously on any other city board or commission, except for the City Council or the Board of Adjustment.
- (d) Expiration of terms shall be staggered. Members may be reappointed with no limitation on the number of terms one member may serve.
- (e) A Commission member’s position is automatically considered vacant if the member is absent for:
 - (1) Three consecutive, regular meetings; or
 - (2) Four regular meetings (cumulative) during the preceding 12 month period. Exceptions shall be granted if absences are due to unusual circumstances beyond the member’s control.
- (f) The Commission shall elect from among its membership, a chairperson, vice-chairperson, and may elect a secretary. Each officer shall hold office for one year.
- (g) The Commission shall make rules, regulations and bylaws for its own governance, subject to approval by the City Council, and shall include provisions for the following:
 - (1) Regular and special meetings (other than executive sessions);
 - (2) A record of its proceedings, to be open for inspection by the public;
 - (3) Reporting to the City Council regularly; and
 - (4) Reviewing the comprehensive plan regularly.

Section 5-2. Planning and Zoning Commission Powers and Duties.

- (a) The Commission shall have the powers and authority relating to zoning boundaries and zoning regulations and subdivision regulations within the city limits and the extraterritorial jurisdiction in accordance with Sections 211 and 212 of the Texas Local Government Code, as amended.

(b) The Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations to the City Council regarding amendments to the comprehensive plan, zoning boundary changes, amendments to zoning regulations, and zoning to newly annexed areas, and shall make recommendations regarding the approval of plats of subdivisions as may be submitted for review and other planning related matters delegated to the Commission by the City Council and shall also perform the duties and functions contained in the City's Historic Preservation Ordinance upon transfer of those duties from the Historic Preservation Board to the Commission.

(c) The duties of the Commission shall be to:

(1) Recommend revisions or amendments to the Comprehensive Plan and the land use map.

(2) Review all subdivision plans, plats, replats or resubdivisions to be presented to the council and to submit the plan, plat, replat or resubdivision with its recommendation at a council meeting following submission to the Commission provided that such plan, plat, replat or resubdivision was submitted by the developer or owner in proper form according to the city's ordinances and Texas Local Government Code, Chapter 212, and provided that the plan, plat, replat or resubdivision was timely submitted to the Commission.

(3) Review and make recommendations to the city council on all matters and applications concerning zoning, except applications and requests for conditional use permits and variances, in accordance with the city's ordinances and state law and to determine whether such zoning requests are in conformity with the Comprehensive Plan.

(4) Hold public hearings as may be required by the city's ordinances and state law.

(5) Review and approve or deny requests for signs in accordance with the city's sign ordinance.

(6) Assist in the drafting and revision of ordinances relating to the above mentioned duties.

Section 5-3. Planning and Zoning Commission Voting Procedures.

(a) The Commission will follow the parliamentary procedure adopted by the City Council, such as *Robert's Rules of Order, Newly Revised*.

(b) A quorum shall consist of a majority of members of the Commission. Motions shall carry with a simple majority vote.

Section 5-4. Planning and Zoning Commission Conflict of Interest.

(a) A Commission member shall not vote or participate in any deliberations regarding a matter before the Commission if the member has any substantial interest in any tract within 200 feet of the property in question.

(b) A substantial interest exists where the Commission member:

(1) Has an equitable or legal ownership interest in a tract with a fair market value of \$2,500.00 or more; or

(2) Acts as a developer of the tract; or

(3) Receives in a calendar year funds exceeding ten percent (10%) of the member's gross annual income for the previous year from a business that has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or

(4) Has an ownership interest in a business entity and:

(A) The business entity:

(i) Has an equitable or legal ownership interest in the tract with a fair market value of two thousand five hundred dollars (\$2,500.00); or

(ii) Acts as a developer of the tract; and

(B) The Commission member:

(i) Owns ten percent (10%) or more of the voting stock or shares;

(ii) Owns ten percent (10%) more of the fair market value; or

(iii) \$5,000.00 or more of the fair market value; or

(5) Is related within the first degree of consanguinity (blood or adoption) or affinity (marriage) to a person who has a substantial interest.

Section 5-5. Planning and Zoning Commission Meetings.

(a) Meetings of the Planning and Zoning Commission shall be held monthly unless no application is up for review and consideration.

(b) Meetings shall be conducted in accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended.

ARTICLE VI. BOARD OF ADJUSTMENT

Section 6-1. Board of Adjustment Creation.

- (a) There is hereby created a Board of Adjustment, “BOA”, in accordance with Section 211.008 of the Texas Local Government Code, as amended.
- (b) The Board of Adjustment will consist of the five members of the governing body of the City of Elizario, *i.e.*, the City Council.

Section 6-2. Board of Adjustment Authority.

- (a) The BOA shall have the authority to:
 - (1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance;
 - (2) Authorize, in specific cases, a variance from the terms of this ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done;
 - (3) Hear and decide conditional use permits – special exceptions to the terms of a zoning ordinance; and
 - (4) Hear and decide other matters authorized by this ordinance.
- (b) The concurring vote of 75 percent of the BOA members is necessary to:
 - (1) Reverse an order, requirement, decision or determination of an administrative official;
 - (2) Decide in favor of an applicant on a matter on which the board is required to pass under this zoning ordinance; or
 - (3) Authorize a variance from the terms of this ordinance.
- (c) The BOA shall have the power to grant or modify conditional use permits – special exceptions.
- (d) In the event that a zoning amendment request is pending before the Planning and Zoning Commission or the City Council, the BOA shall neither hear nor grant any conditional use permit - special exceptions with respect to the subject property until final disposition of the zoning amendment.

Section 6-3. Board of Adjustment Conflict of Interest.

(a) A BOA member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any personal interest in the property in question, whether such interest is direct, indirect, financial or otherwise.

(b) A BOA member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any substantial interest in any tract within 200 feet of the property in question.

(c) A substantial interest exists where the BOA member:

(1) Has an equitable or legal ownership interest in a tract with a fair market value of \$2,500.00 or more; or

(2) Acts as a developer of the tract; or

(3) Receives in a calendar year funds exceeding ten percent (10%) of the member's gross annual income for the previous year from a business that has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or

(4) Has an ownership interest in a business entity and:

(A) The business entity:

(i) Has an equitable or legal ownership interest in the tract with a fair market value of two thousand five hundred dollars (\$2,500.00); or

(ii) Acts as a developer of the tract; and

(B) The BOA member:

(i) Owns ten percent (10%) or more of the voting stock or shares;

(ii) Owns ten percent (10%) more of the fair market value; or

(iii) \$5,000.00 or more of the fair market value; or

(5) Is related within the first degree of consanguinity (blood or adoption) or affinity (marriage) to a person who has a substantial interest.

Section 6-4. Board of Adjustment Meetings.

(a) Meetings of the BOA shall be held at the call of the chairperson and at such other times as the BOA may determine. All cases to be heard by the BOA shall always be heard by at least four of the members.

(b) When meeting as the Board of Adjustment, the BOA cannot function as the City Council. BOA hearings may be held on the same day as City Council meetings and identified separately from council meetings and hearings.

(c) BOA meetings shall be conducted in accordance with Texas Open Meetings Act, Section 551 of the Texas Government Code, as amended.

Section 6-5. Appeals to the Board of Adjustment.

(a) The appellant must file, with the BOA and the official from whom the appeal is taken, a written notice of appeal specifying the grounds for the appeal.

(b) The appeal must be filed within 15 days after the decision has been rendered.

(c) Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the BOA all papers constituting the record of action that is appealed.

(d) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the BOA facts supporting the official's opinion that a stay would cause imminent peril to life or property.

(e) The appellant party may appear at the appeal hearing in person, by agent or attorney, or *in absentia*.

(f) The BOA shall decide the appeal within 30 days after the written request (notice of appeal) was received, after which time the written request shall be deemed automatically approved if no formal action is taken.

(g) The BOA may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

(h) A member or members of the BOA may not bring an appeal on behalf of a property owner, other than himself/herself, to the BOA. An appeal must be requested by the owner of the property being considered.

(i) Board of Adjustment findings on appeals.

(1) The final decision of the board shall be in writing and shall concisely state all pertinent and material facts upon which its findings are based and references to applicable sections of the

chapter or rules that the board relied upon in reaching its decision. The final decision shall be verified by the city secretary.

(2) The board shall forward its findings to the applicant in writing and the secretary of the board of adjustment.

(3) The board's final decision shall be immediately filed with the board of adjustment office, which shall be maintained by the board's secretary. The time and date that the board's final decision is filed with the board's office shall be stamped on the face of the decision.

(j) No appeal may be filed by the same applicant within 365 days of the date upon which the Board denied such appeal, request or application, unless other property in the immediate vicinity has, within the 365-day period, been changed or acted on by the Board so as to alter the facts and conditions upon which the previous Board action was based. Such change of circumstances shall permit the rehearing of an appeal, request or application by the Board prior to the expiration of the 365-day period, but such conditions shall in no way have any force in law to compel the Board to reconsider the appeal, request or application. Such subsequent rehearing shall be considered entirely on its merits and the peculiar and specific conditions related to the property with reference to which such proceeding is brought.

Section 6-6. Judicial Review.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, or board of the city may present, within ten days of the date the BOA decision is filed in the board's office, a petition to a court of competent jurisdiction for review in accordance with Chapter 211 of the Texas Local Government Code, as amended.

ARTICLE VII. PARKING REQUIREMENTS

Off-street parking requirements shall be conducted in accordance with the parking ordinance, as amended, of the City of San Elizario.

ARTICLE VIII. LANDSCAPING REQUIREMENTS

All landscaping improvements, tree removal, and tree preservation shall be done in accordance with the landscaping and tree preservation ordinance, as amended, of the City of San Elizario.

ARTICLE IX. SCHEDULE OF USES

The chart in this Article outlines the types of uses allowed in each of the zoning districts contained in Article II.

The legend is as follows:

Districts

AG:	Agricultural District
C-1:	Commercial 1 District
C-2:	Commercial 2 District
HD:	Historic Overlay District
I:	Industrial District
M:	Manufactured Home District
MF:	Multifamily Residential District
SF:	Single-Family Residential District
P:	Public District
PO:	Pipeline Overlay District

Uses

C:	Conditional Use Permit
X:	Permitted Use

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
	Agricultural District	Single Family	Multifamily	Manufactured Housing	Commercial 1 District	Commercial 2 District	Public	Historic District	Industrial District	Pipeline Overlay
Accessory apartment		X								
Administrative or research facilities					C					
Airport or landing field										
Animal clinic/hospital	X				X					
Animal kennel	X				X					
Antique shop					X	X				
Apartments			X			X				
Art gallery or museum					X	X				
Art supply store					X	X				
Auto parts and accessory sales					C				X	
Automobile and motorcycle sales and repair (new)					C				X	
Automobile and motorcycle sales and repair (used)					C				X	
Automobile Repair					C				X	
Automobile wrecking yard									C	
Bakery					X	X				
Bakery, wholesale									X	
Bank					X	X				
Bar or tavern					X	C				
Barbershop or beauty shop					X	X				
Bed and breakfast		C				X				
Bingo hall					X					
Book or video store (not adult)					X	X				
Bowling alley					X	C				
Building materials sales									X	

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
Bus station or terminal					C					
Cabaret									C	
Cabinet, furniture, upholstery shop					X					
Camera shop					X	X				
Car wash					C				X	
Catering service					X					
Cemetery	X									
Child care center, nursery or kindergarten		C			X	C				
Church	X	X	X	X	X	X	X		X	
Civic clubs/fraternal lodges					X	C				
Commercial amusements, indoor					X	C				
Commercial amusements, outdoor					C					
Community building		C			X	X	X			
Condominium			X							
Dancehall or nightclub					C					
Department store					X					
Detention center										
Discount store					C					
Drugstore					X	X				
Electrical energy generating plant					C				X	
Electrical substation					C				X	
Electrical transmission line	C	C	C	C	C	C	C		C	C
Equestrian facility	X									
Exercise facility					X	X				
Fabrication									C	
Farmers market	X				X	X				
Fire/EMS station	X	X	X	X	X	X	X		X	C
Flea market					C					

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
Florist shop					X	X				
Furniture, carpet or appliance store					C	C				
Gas line and regulation station										
Gas station					C				X	
Go-cart track					C					
Golf course	C									
Grain elevator	X								X	
Grocery/supermarket					X	C				
Group homes		C								
Heavy machinery sales										
Helipad					C				C	
Home improvement center					C					
Home occupation		X		X		C				
Hospital					C					
Hotel or motel			C		C	C				
Janitorial service					X	X				
Key shop					X	X				
Laboratory					C					
Laundry or cleaners					C	C			X	
Library		X	X	X	X	X	X			
Light fabrication and assembly processes									X	
Light industrial uses									X	
Liquor store					C					
Live/work unit			C			C				
Livestock	X									
Local utility line	X	X	X	X	X	X	X	X	X	X
Manufactured home				X						
Manufactured home sales									X	
Manufacturing of pottery/ceramic products									X	

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
Massage parlor					X					
Medical appliance sales									X	
Medical laboratory					X	C				
Medical office/clinic					X	C				
Model studio					C					
Motor freight terminal										
Movie theater/theater					C	X				
Multiple-family housing			X							
Nursing home/assisted living	X	C	X							
Office equipment sales and repair					C				X	
Offices, general					X	X				
One-family dwelling unit (attached)			X							
One-family dwelling unit (detached)		X								
Optical dispensary					X	X				
Park or playground (public)	X	X	X	X	X	X	X	X		
Pawnshop					C				X	
Personal service					C	C				
Pest control					C					
Pet sales					C	C				
Photocopies					X	C				
Photographer					X	X				
Piercing studio					C	C				
Playground	X	X	X	X		X	X			
Printer					C					
Produce stand, outdoor	X				C	C				
Public building		X	X		X	X	X	X		
Public park	X	X	X	X			X			
Radio or television transmitting station					C				X	

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
Radio, television, wireless phone or microwave tower					C				X	
Railroad freight terminal										
Railroad yard										
Recreational vehicle sales									X	
Recycling collection facility									X	
Repair and service shop					C					
Repair of appliances					C					
Restaurant					X	X				
Restaurant, fast-food					X					
Retail sales/personal service					X	X				
Retail shop, apparel, gift, accessory					X	X				
Riding academy/stables	X									
Roller or ice skating rink					C					
School, private							X			
School, public							X			
Self-storage					C				X	
Septic tank service					C				X	
Service station					C					
Sewage pumping station									X	
Sewage treatment plant									X	
Shooting range	C								C	
Single-family dwelling		X								
Swimming pool (commercial)					C	C	C			
Tattoo parlor					C	C				
Taxidermist									X	
Telecommunications tower	C	C	C	C	C	C	C	C	X	C

USES	AG	SF	MF	M	C1	C2	P	HD*	IP	PO
Telephone exchange, switching relay or transmitting station									X	
Theater (not adult)					X	C				
Tire dealer					C				X	
Tool and light vehicle rental and sales					C				X	
Town home			X							
Travel agency					X	X				
Travel trailer park										
Truck or bus washing									X	
Truck stop									X	
*Historic district permitted uses should follow the regulations and permitted uses as detailed in the El Paso Mission Trail Zoning Regulations.										

ARTICLE X. VIOLATION, ENFORCEMENT AND PENALTIES

Section 10-1. Violation.

- (a) It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, begin the excavation thereof, or use any building or land in violation of any regulation in or any provision of this Ordinance.
- (b) Any violation of this ordinance is hereby declared to be a nuisance.
- (c) An offense under this ordinance is a misdemeanor.

Section 10-2. Enforcement.

- (a) In case any building is erected, constructed or reconstructed, altered, repaired or converted, or any building or land is found to be in violation of this ordinance, the Building Inspector, Zoning Administrator, and/or the City Council shall institute any appropriate action to put an end to such violation.
- (b) Right of Entry. Upon presentation of proper credentials at the request of the land occupier or owner, the Zoning Administrator or other agent of the City may enter upon any property, vacant lots, or premises in the City to perform any duty imposed by this Ordinance.
- (c) Stop Work. The Zoning Administrator or authorized agent may issue a Stop Work Order to immediately halt work on a property that is in violation of this Ordinance. Such order may permit limited work to occur that is necessary to stabilize and secure the site.
- (d) Notice of Violation.
 - (1) If the Zoning Administrator or authorized agent has reason to believe that any of the provisions of this Ordinance are being violated, he/she shall provide or send a written Notice of Violation to the person responsible for such violation(s). Such notice shall state the nature of the violation(s) and provide a thirty (30) day grace period to correct the violation(s).
 - (2) Notice of violation shall be given:
 - (A) by certified mail addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located. A notice returned "refused" or "unclaimed" does not affect the validity of the notice and notice is considered delivered; or
 - (B) by publication at least once in the local or official newspaper.

(e) If at the end of the 30 day grace period the violation has not, in the judgment of the Building Inspector, Zoning Administrator, or authorized agent, been satisfactorily corrected, then civil and/or criminal penalties and other remedies available by law shall be sought.

Section 10-3. Penalties.

(a) Any person violating this ordinance is subject to the following:

(1) Civil and criminal penalties. The city shall have the power to administer and enforce the provisions of this ordinance and to seek civil and criminal penalties.

(2) Criminal prosecution. Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this ordinance is violated shall constitute a separate offense.

(3) Civil remedies. Nothing in this ordinance shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this ordinance, and to seek remedies as allowed by law, including, but not limited to the following:

(A) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and

(B) A civil penalty up to one thousand dollars (\$1,000.00) a day (with each day constituting a separate offense and separate violation) when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and

(C) Other available relief.

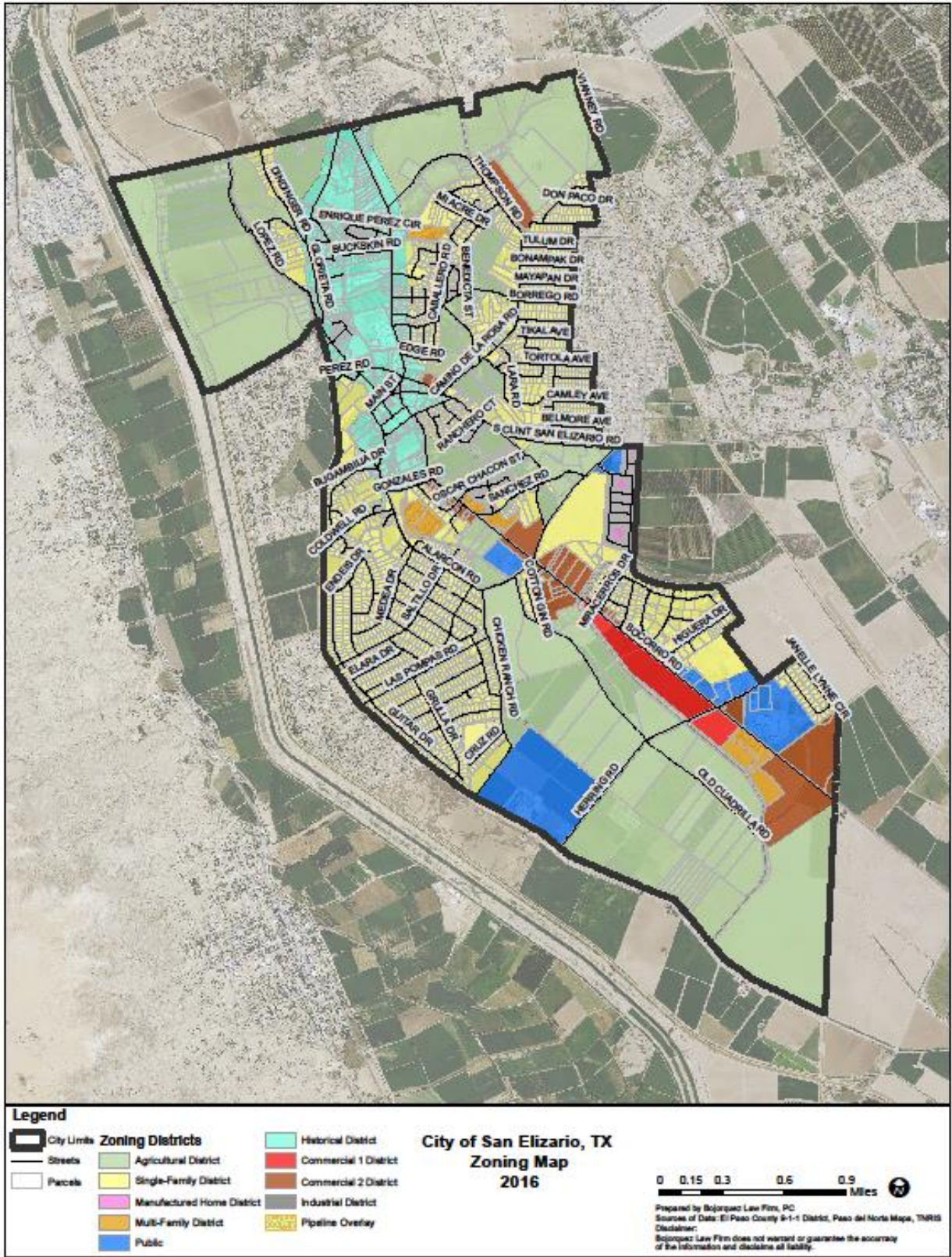
(4) Any person violating this ordinance is subject to suit for injunctive relief as well as prosecution for civil and criminal violations.

(b) In any civil or criminal action commenced by the City under this Ordinance, the City shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement, including, but not limited to, inspection costs.

Exhibit A

Official Zoning Map
of the
City of San Elizario, Texas

Reference of a Large-Scale Map is on file with City Records



Appendix 1

**El Paso Mission Trail Historical Area
Zoning Regulations**

These regulations are on file with city records at city hall.