

# **CITY OF PORT ISABEL**

## **COMPREHENSIVE PLAN**

### **PLANNING PERIOD 2005-2015**

**APRIL, 2005**

#### **K.2 SAMPLE ZONING ORDINANCE**

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The data, information, analysis, and recommendations presented herein are exclusively for planning and budgeting purposes and do not constitute engineering analysis or detailed cost estimates. Engineering for each of the recommended tasks are beyond the scope of these studies and should be performed in the customary fashion as projects are defined and implemented.

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***SAMPLE***

ORDINANCE NO. 2005-

AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DIVIDING THE ***CITY OF PORT ISABEL*** INTO DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN AND REGULATING THE USE AND HEIGHT OF BUILDINGS, THE SIZE OF YARDS, AND DENSITY OF POPULATIONS, AND ADOPTING A ZONING MAP SHOWING THE LOCATION AND BOUNDARIES OF THE VARIOUS DISTRICTS AND USE AREAS, AND PROVIDING FOR EXCEPTIONS, METHODS OF ENFORCEMENT, INTERPRETATION OF ZONING MAP, A BOARD OF ADJUSTMENT, FUTURE CHANGES AND AMENDMENTS, DEFINING THE VARIOUS TERMS AND WORDS USED IN THE ORDINANCE, AND PROVIDING PENALTIES FOR VIOLATION.

**WHEREAS**, by reason of the increased growth and building activity in ***Port Isabel***, it is deemed necessary for the orderly development and growth of the ***City of Port Isabel*** that an adequate and comprehensive Zoning Plan be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE ***CITY OF PORT ISABEL***:

That the Zoning Ordinance of the ***City of Port Isabel*** shall be as follows:

**ARTICLE 1-PURPOSES**

*Section 1.* The Zoning Regulations and Districts as herein established are made in accordance with a comprehensive plan for the purpose of promoting the Health, Safety, Moral, and General Welfare of the ***City of Port Isabel*** and in accordance with the Chapter 211 of the Texas Local Government Code. They are designed to lessen the congestion in the streets; to secure safety from fire, panic, and other dangers; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, drainage, schools, parks and other public requirements. They are made with reasonable consideration for the character of the Districts, their suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of the land throughout the ***City of Port Isabel***.

**ARTICLE 2- GENERAL**

*Section 1.* The Zoning regulations and districts as set forth in this ordinance are hereby approved and established and no building, structure or premises shall be hereafter used, and no building or structure shall be hereafter erected, altered or enlarged which is intended or designed to be used in whole or in part except in conformity with the rules and regulations herein prescribed for the district in which such building, structure or premises is located as shown by the City Zoning Map.

Section 2. There are hereby created eleven (11) districts termed respectively:

- |  |                                       |
|--|---------------------------------------|
| (1) Class "N" District                                   | (7) Class "LR" Local Retail District, |
| (2) Class "R-1" Single Family Residence District         | (8) Class "B" Business District       |
| (3) Class "R-1-S" Small Single Family Residence District | (9) Class "I" Industrial District     |
| (4) Class "R-1-A" SFR District                           | (10) Class "P" Public District        |
| (5) Class "R-2" Multi-Family Residence District          | (11) Class "PDD" Planned Dev. Dist.   |
| (6) Class "MH" Manufactured/Mobil District               |                                       |

certain of which at the passage of this Ordinance are designated upon the Zoning Map hereinafter set forth in this ordinance and hereby declared to be a part hereof for all purposes, and all notations, references, legends, and information shown upon said Zoning Map are declared to be a part hereof to the same extent as if said matters and information were set forth in words and figures herein.

Section 3. All construction subject to this Ordinance shall comply with the current Building Codes adopted by the City.

Section 4. Accessory Buildings. Accessory building areas allowed in all districts and are restricted to the rear of the lot behind the main building. The total floor area of an accessory building shall not exceed twenty percent (20%) of the main building. Accessory buildings shall observe the same minimum side-yard requirements by the district, shall be distanced at least ten feet (10') from the main building and any other structure, shall be no closer than five feet (5') from the rear lot line unless otherwise allowed by this Ordinance, and shall occupy no more than twenty-five (25%) of the rear yard area. No accessory buildings shall be used for dwelling purposes except as servant quarters and meeting the definition of servant quarters as defined herein. No accessory building may be constructed upon a lot until construction of the main building has commenced.

Section 5. Temporary Buildings. Temporary buildings used in connection with construction are allowed in all districts for the duration of construction. Temporary buildings used as field offices for the initial sale or lease of property being developed are allowed for six (6) months. No more than one temporary building per project site is allowed. A permit fee, along with other building and utilities fees as determined by the Building Inspector shall be required prior to the installation of a temporary building.

Section 6. Satellite Dishes. All satellite dish installation locations with dish assemblies larger than one meter in diameter shall be restricted to the rear of the house or building in a manner so as to be unobtrusive as possible. All dish bases shall be constructed of concrete.

Section 7. Fences. Fences may be constructed to a height not to exceed six (6) feet on the front yard line and eight (8) feet on the side and rear yard property line. Fences on corner lots must be located no less than fifty (50) feet

form the center of the street intersection or at a 45 degree angle from the corner of the curb edge. In no instance shall any fence be constructed to obstruct the view of vehicles approaching any intersection. Where a fence would square on the corner that abuts an intersection, the section of the fence entering the fifty (50) feet limitation from the intersection shall allow for seventy percent (70%) visibility.

Section 8. Multiple Buildings. More than one (1) industrial, commercial, multiple-dwelling or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings, nor shall any building be less than ten feet (10') from any other structure, nor shall there be any change in the intensity of use for that zoning district.

Section 9. Water Frontage. The following regulations shall apply to all property in all districts with water frontage.

- a. In those areas where docks, wharfs, seawalls or other similar improvements are required or allowed, no such improvements shall be installed, erected or constructed without a building permit.
- b. All plans for boat docks, boat decks, boathouses, wharves, or other similar improvements on the water shall be certified by a professional engineer.
- c. All waterfront property with a building or dwelling located thereon shall have an approved seawall.
- d. A seawall shall be erected, installed or constructed prior to or simultaneously with the construction of any building on the property.
- e. The seawall shall run the full width of the water frontage, separating land from water. Due regard shall be given to adjacent, like improvements with respect to size, similarity of design and in the method of connecting the adjacent improvements.
- f. There shall be no building meant for habitation built above the seawall, where it extends over the water and/or beyond the seawall.

Section 10. Seawalls. The following regulations shall apply to seawalls:

- a. All seawalls shall be constructed with such materials and in such a manner so as to embody its defined abilities and to serve its defined purpose. Seawalls constructed of vertical panels, of sufficient strength for their particular application, made of steel, concrete, treated lumber, or synthetic products, or a combination of these materials, submerged below the level of the sea floor and protruding above the sea floor to the earth level, each panel securely fitted or fastened to the next panels and all panels horizontally secured as one by a cap of similar material, and secured to the elevated earth using a "dead-man" technique or a similar securing method shall be acceptable. Any other method of seawall construction which has

been or can be shown to possess the definitional qualities and abilities of a seawall, except use of asbestos sheets or any other harmful material which is expressly forbidden herein may be approved by the Building Official. In all permit applications for a seawall, the Building Official shall have the right to require sufficient information or an engineer's certification satisfactorily assuring the proposed construction meets the definitional qualities and abilities set forth in this Ordinance as well as meeting the construction and strength requirements for the particular application as set forth herein.

- b. Broken concrete or other discarded building materials (rip-rap) placed at the shoreline does not qualify as a seawall or bulkhead. Such materials may only be placed in areas above the water line as a method of storm wave dissipation. Such materials may not be used near any other way which may pose a hazard to navigation.

Section 11. Parking Regulations. Where parking regulations are not included in the following Zoning Districts, the following regulations will prevail:

- a) Churches shall provide one (1) off-street parking space for each five (5) seats
- b) Theaters shall provide off-street parking in a ratio of one (1) space for each ten (10) seats.
- c) Restaurants and cafes shall provide off-street parking in a ratio of one and one-half (1½) space for each one-hundred square feet of dining area.
- d) Retail stores and office buildings shall provide off-street parking on the lot in a ratio of one (1) space for each three-hundred (300) square feet of sales or office area, excluding restrooms, mechanical equipment rooms, closets and storage rooms.
- e) Schools shall provide one (1) off-street parking space for each ten students, plus one (1) for each employee.
- f) Hospitals shall provide two (2) off-street parking spaces for each five (5) beds.
- g) Clinics shall provide two (2) off-street parking spaces for each two hundred fifty square feet of floor space within the building but in no case shall there be less than five (5) off-street parking spaces provided.
- h) Hotels and Motels shall provide two (2) off-street parking for each rental unit in the building.
- i) Lodging and boarding houses shall provide two off-street parking spaces, plus one (1) parking space for each guest bedroom.
- j) Condominiums shall provide two (2) off-street parking spaces for each dwelling unit consisting of one bedroom and an additional ½ space for each additional bedroom.
- k) No parking garage or structure shall be erected in a required front or

- side yard.
- 1) All parking spaces shall be a minimum of nine feet (9') in width and eighteen feet (18') in length. They shall be paved and be directly accessible from the street by means of a paved driveway.

### ARTICLE 3 - DEFINITIONS

Section 1. Certain words in this Ordinance are defined for the purpose hereof, as follows:

Words used in the present tense include the future, words in the singular include the plural number, and words in the plural number include the singular; and the word "BUILDING" includes the word "STRUCTURE"; and the word "LOT" includes the word "PLOT" and the word "SHALL" is mandatory and not directory.

- (1) ABUTTING: Lying adjacent or contiguous along a common border.
- (2) ACCESSORY: A detached subordinate use or building customarily incident to the location on the same lot with the main building or use and not used as a dwelling unit.
- (3) ALLEY: A public thoroughfare not over 20 feet in width.
- (4) APARTMENT: A room or suite of rooms in an apartment house arranged, designed and occupied as the residence of an individual or family.
- (5) APARTMENT HOUSE: A building or portion thereof arranged, designed or occupied by three or more individuals or families, living independently of each other.
- (6) AUTOMOBILE SALES AREA: An open area or lot used for the display or sale of automobiles, where no repair work is done except minor reconditioning of the cars to be displayed and sold on the premises. No dismantling of cars or sale or keeping of used car parts or junk on the premises is permitted.
- (7) BOARD: The Planning and Zoning Board.
- (8) BOARD OF AJUSTMENTS: The Board of Adjustments as established in this ordinance.
- (9) BOARDING HOUSE: A building other than a hotel where lodging and meals for five or more persons are served for compensation.
- (10) BUILDING: Any structure built for the support, shelter and enclosure of persons, animals, chattels or moveable property of any kind.
- (11) CERTIFICATE OF OCCUPANCY OR COMPLIANCE: An official certificate issued by the City through the enforcing official which indicates a conformance with or approved conditional waiver from the Zoning Regulations and authorizes a legal use of the premises for which it is issued.
- (12) CITY COMMISSION: The governing body of the City of Port Isabel, Texas.

- (13) CLINIC: Offices for one or more physicians, surgeons, or dentists engaged in treating the sick or injured, which do not remain overnight, does not include rooms for hospitalization of patients.
- (14) CONDOMINIUM: A condominium, as applied to the ownership of real estate means a living unit with ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular unit or apartment in such building. In this context, it is confined to ownership of a residential unit such as an apartment.
- (15) DEPTH OF REAR YARD: The mean horizontal distance between the rear line of a building other than an accessory building and the rear lot line.
- (16) DEPTH OF LOT: The mean horizontal distance between the front and rear lot lines.
- (17) DISTRICT: A section of the City of Port Isabel for which the regulations governing the area, height or uses of buildings on lots are uniform.
- (18) DWELLING: Any building or portion thereof designed and used exclusively for residential purposes.
- (19) DWELLING UNIT: A building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.
- (20) DWELLING UNIT / MULTIPLE FAMILY: Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as two or more dwelling units or apartments or which is occupied as a home or residence or two or more families.
- (21) FAMILY: A family is any number of individuals living together as a single housekeeping unit.
- (22) FRONT YARD: An open unoccupied space on the same lot with a building, between the building and the front line of the lot.
- (23) FRONTAGE: All property abutting upon one side of a street or intersecting streets measured along the street line.
- (24) GARAGE, PRIVATE: A building primarily used for the housing of motor vehicles which are the property of and for the private use of the occupants of the lot on which it is located. Not more than one (1) of the vehicles may be commercial vehicles and such vehicle shall be parked in completely enclosed garage which on the lot.
- (25) GARAGE, PUBLIC: A garage other than a private garage where motor vehicles are equipped for operation, repairs, or kept for remuneration, hire or sale.

- (26) GUEST HOUSE/SERVANT QUARTERS: An attached building or addition, used as a secondary living quarters and having only one bedroom, with kitchen and restroom facilities.
- (27) HOME OCCUPATION: Any occupation or profession carried on by a member of the immediate family residing on the premises; provided no product or property is sold upon the premises; no person is employed other than a member of the immediate family and two assistants; and no mechanical equipment is used which will be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, or fumes.
- (28) LODGING(or Bed & Breakfast) HOUSE: A building other than a hotel/motel where temporary lodging and meals for three (3) or more persons are provided for compensation.
- (29) LOT: Land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this Ordinance, and having its principal frontage upon a public street.
- (30) LOT LINES: The lines bounding a lot as defined herein.
- (31) LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Clerk of Cameron County or a parcel of land, the deed for which is recorded in the Office of the County Clerk of Cameron County prior to the adoption of this ordinance.
- (32) LOT DEPTH: The mean distance between the front and rear lot line.
- (33) LOT WIDTH: The width of a lot at the front building line.
- (34) MAIN BUILDING: The building or buildings on a lot which are occupied by the primary user.
- (35) MANUFACTURED HOMES: HUD-Code: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing & Urban Development (HUD), transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet and which is built on a permanent chassis an designed to be use d 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. The terms does not include a recreational vehicle as the term is defined by 24 C.F.R. Section 3282.8(g).
- (36) MOBILE HOME: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet and which is build 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.
- (37) MOBILE HOME and/or RECREATIONAL VEHICLE SUBDIVISION: A unified development of single-family mobile homes, manufactured homes,

and/or recreational vehicles lots for sale, lease or rental meeting all the requirements of this Ordinance and other Ordinances as may apply.

- (38) MOTEL: An inn or group of cabins designed for temporary occupancy by paying guests; a hotel.
- (39) NON-CONFORMING USE: A building, structure or use of land lawfully occupied at the time of the effective date of this Ordinance or amendments thereof, and which does not conform to the use regulations of the district in which it is situated.
- (40) NOISE, AMBIENT LEVEL: The general pressure and frequency level of noise in the vicinity of the premises on which a use is located including traffic noise from nearby streets.
- (41) OCCUPANCY: The use or intended use of the land or building by proprietors or tenants.
- (42) OPEN SPACE: Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves and porches.
- (43) PARKING SPACE: An area on a lot sufficient in size to store an automobile not less than nine (9) feet wide and twenty (20) feet long connected to a public street or alley by a driveway no less than ten (10) feet wide and so arranged as to permit ingress and egress of the automobile at all times without moving any other automobile. The parking spaces connecting driveways for all business described in this Ordinance, shall be of asphalt or concrete surfaces. Parking spaces and connecting driveways for single family residential and heavy industry shall be constructed of a hard, level, all weather surface.
- (44) PAVED: An area permanently topped with a material such as asphalt or concrete or as determined by the City Engineer.
- (45) PORTABLE BUILDING: A structure that was built off site and moved to a lot, tract, or a piece of land for use as storage or office space, that does not have a concrete slab or a perimeter beam with footings, and is not habitable according to the Housing Code or Building Inspector. All portable buildings shall be anchored.
- (46) PUBLIC BUILDING: A structure owned by a governmental entity designed or intended for the support, enclosure, shelter or protection of persons, animals or property.
- (47) RECREATIONAL VEHICLE: A vehicle, such as a camper trailers, a motor home, fifth wheel trailers and truck campers used for traveling and recreational activities.
- (48) RECREATIONAL VEHICLE (RV) PARK: Any single lot or parcel of land which is used or offered for the accommodations of one (1) or more recreational vehicles used as living and sleeping purposes or intended for occupancy as living quarters by individuals or families for short periods of time.

- (49) RESIDENCE: (Same as Dwelling)
- (50) RETAINING WALL: A structure placed anywhere with the purpose of separating an elevated area of earth from a lower area of earth, having the ability to withstand the force and weight of the elevated earth.
- (51) ROOM: A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.
- (52) SCREENING FENCE: A fence or wall of at least six (6) feet in height which obscures the view of the fenced location from the area outside of the fenced location. Brick walls and wooden plank fences with no more than a one-half inch space between planks are examples of screening fences. Examples of non-screening fences are chain link fences and picket fences.
- (53) SEAWALL: A structure placed at or near the shoreline with the purpose of separating the earth from the water and protecting the earth by its imperviousness to water, having the ability to withstand the force of normal wave and tidal action from the seaward side, and having the ability to withstand the force and weight of the elevated earth on the landward side.
- (54) SEMITRAILER: A device designed to be drawn by a truck tractor to transport persons or property and constructed so that part of the vehicle's weight and load rests on or is carried by the motor vehicle.
- (55) SIGN: An outdoor advertising that is a structure or that is attached to or painted on a building or that is leaning against a structure for display on a premise.
- (56) SITE: One or more or part of a parcel of land utilized for a particular use as herein defined.
- (57) SPACE: Land occupied or to be occupied by a mobile home or recreational vehicle and their accessory buildings, and including such open spaces as required under this Ordinance or other Mobile Home or Manufactured Home Ordinance, on "MH" District.
- (58) STORY: The height between the successive floors of a building or from the top floor to the roof.
- (59) STORY, STANDARD: A story not exceeding ten (10) feet in distance between the floor and ceiling immediately above.
- (60) STREET: Any thoroughfare or public driveway, other than an alley, and more than thirty (30) feet in width, which has been dedicated or deeded to the public for public use.
- (61) STREET LINE: A dividing line between a lot, tract or parcel of land and a contiguous street, the right-of-way-line.
- (62) STRUCTURAL ALTERATIONS: Any change in the supporting member of a building such as a bearing wall, column, beams or girders.

- (63) STRUCTURE: (Same as Building)
- (64) THOROUGHFARE: (Same as Street)
- (65) TRAILER: A device designed to be drawn by a motor vehicle and to transport persons or property.
- (66) TRAVEL TRAILER (RECREATIONAL VEHICLE): A trailer equipped to be transported and used for temporary occupancy; in size not to exceed eight (8) feet in width and not to exceed forty (40) feet in length and is designed to be used as a mobile dwelling without permanent foundation, and may or may not be connected to the utilities systems contained therein.
- (67) TRAILER PARK: (Same as RV Park)
- (68) TRUCK CAMPER: Any unit primarily designed as temporary living quarters for recreation, camping, or travel use, which is capable of being occupied and designed to be temporarily attached to the bed or frame of a truck.
- (69) TOWNHOUSE: A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.
- (70) WATER FRONTAGE: A residential, commercial, or industrial property that fronts or abuts (rear and side) a navigable water source accessible to the Laguna Madre Bay, the Intercostal Canal or the Gulf of Mexico.
- (71) YARD: An open space other than a court, on the lot in which a building is situated and which is not obstructed from a point thirty (30) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features.
- (72) YARD, FRONT: An open, unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the main building to the front lot or street line and the main building as specified for the district in which it is located.
- (73) YARD, REAR: An open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and rear lot line as specified in the district in which the lot is situated.
- (74) YARD, SIDE: An open,, unoccupied space or spaces on one or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front lot line shall be deemed a side yard.
- (75) **CITY OF PORT ISABEL ZONING MAP:** The official certified map upon which the boundaries of the various Zoning Districts are drawn and which is an integral part of the Zoning Ordinance.

#### **ARTICLE 4 - CLASS “N” DISTRICT**

Section 1. Class “N” District shall include undeveloped, un-subdivided open-

space land and newly annexed territory until such time as it is zoned by the City Planning and Zoning Board and City Commission. Until such zoning, newly annexed territory shall be subject to all the rules, regulations and restrictions herein provided with respect to Class “R-1” Single Family Residence Districts.

*Section 2.* Class “N” District shall also allow for Municipal buildings, Public Parks; telephone exchange (provided no public business and no repair or storage facilities are maintained); Fire Stations; Water Supply Reservoir; Tower or Artesian Well;

*Section 3.* No permit for construction, remodeling, or expansion of buildings for any uses shall be issued by the building inspector in such territory. No permit for any business will be issued within said district.

*Section 4.* No existing buildings in the area annexed to the *City of Port Isabel, Texas*, not used for business purposes shall be altered, remodeled or converted for business purposes within said district.

*Section 5.* The Owner, Lessee, or any other person, firm or corporation, owning, controlling, constructing, supervising or directing the construction of any building or structure in process of construction and incomplete at the time when the land on which it is situated is annexed to the *City of Port Isabel, Texas*, before proceeding further with the construction, alteration or completion thereof, shall apply to the Building Inspector for permit authorizing further work and shall attach to his application plans and specifications for the construction of said building or structure, along with an application for rezoning. This application shall be referred to the City Planning and Zoning Board for consideration and recommendation to the City Commission. Construction work shall be suspended until action by the City Commission of the *City of Port Isabel, Texas*, authorizing the Building Inspector to issue a building permit for construction of the proposed building or structure.

#### **ARTICLE 5 - CLASS “R-1” SINGLE FAMILY RESIDENCE DISTRICT**

*Section 1.* Use Regulation In Class “R-1” Single Family Residence District. No building, structure or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- (1) A detached dwelling for only one family or for one housekeeping unit;
- (2) Municipal buildings and Public Parks;
- (3) Public schools and Churches, provided the site includes a corner lot.
- (4) Home Occupations
- (3) Railway Right of Way and tracks; passenger station but not including yards;
- (4) Golf Course (but not including miniature golf course; driving range or any other form of commercial amusement)
- (5) Accessory buildings including a private garage; as described in Article 2, Section 4, herein.

- (6) Temporary buildings to be used for construction purposes only and removed as soon as the construction is completed or when ordered by the Building Inspector. Field offices for sale of real estate, which shall be removed on order of the Building Inspector of the City of Port Isabel; and as described in Article 2, Section 5, herein.

Section 2. Height Regulation. No building shall exceed 30 feet or three standard stories in height.

Section 3. Area Regulations:

- (1) *Front Yard:*
  - (A) There shall be a front yard having a minimum depth of 25 feet. Provided, that if a building line has been established by ordinance or by two or more buildings in one block on the same side of the street, this line shall establish the minimum depth of the front yard.
  - (B) Where lots have a double frontage, running through from one street to the other, the requirement of front yard shall apply on both streets.
- (2) *Side Yard:* There shall be a side yard on each side of the lot having a width of not less than 5 feet or 10% of the average width of the lot whichever is larger except that the side yard adjacent to the side street shall in no case be less than 10 feet. For the construction of boat houses, and other similar related construction, except for boat docks, there shall be a side setback on each side of the lot having a clear width of not less than three (3') feet, including cornices, porches, stairways, and eaves.
- (3) *Rear Yard:* There shall be a rear yard having a depth of not less than 20 feet or 20% of the depth of the lot, whichever is greater. Where canals, bay front, and yacht basins occur at rear of lots, buildings may extend to the seawall, but no further.
- (4) *Area of the Lot:* The minimum lot area shall be 6,000 square feet.
- (5) *Width of Lot:* The minimum width of the lot shall be fifty (50) feet.
- (6) *Depth of Lot:* The minimum depth of lot shall be one hundred (100) feet.
- (7) *Parking Space:* Parking space shall be provided on the lot to accommodate two (2) motor cars for each dwelling unit consisting of one bedroom and an additional one-half (1/2) space for each additional bedroom and accessible from a public right-of-way or a paved driveway. A driveway may be used as a parking space.

**ARTICLE 6 - CLASS "R-1-S" SMALL SINGLE FAMILY  
RESIDENCE DISTRICT**

Section 1. Use Regulation In Class "R-1-S" Small Single Family Residence District. No building, structure or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- (1) A detached dwelling for only one family or for one housekeeping unit;
- (2) Municipal buildings and Public Parks;
- (3) Public schools and Churches, provided the site includes a corner lot.
- (4) Home Occupations
- (5) Railway Right of Way and tracks; passenger station but not including yards.
- (6) Golf Course (but not including miniature golf course; driving range or any other form of commercial amusement)
- (7) Accessory buildings including a private garage; as described in Article 2, Section 4, herein.
- (8) Temporary buildings to be used for construction purposes only and removed as soon as the construction is completed or when ordered by the Building Inspector. Field offices for sale of real estate, which shall be removed on order of the Building Inspector of the *City of Port Isabel*; and as described in Article 2, Section 4, herein.

Section 2. Height Regulation. No building shall exceed 30 feet or three standard stories in height.

Section 3. Area Regulations:

- (1) *Front Yard:*
  - (A) There shall be a front yard having a minimum depth of 25 feet. Provided, that if a building line has been established by ordinance or by two or more buildings in one block on the same side of the street, this line shall establish the minimum depth of the front yard.
  - (B) Where lots have a double frontage, running through from one street to the other, the requirement of front yard shall apply on both streets.
- (2) *Side Yard:* There shall be a side yard on each side of the lot having a width of not less than 5 feet or 10% of the average width of the lot whichever is larger except that the side yard adjacent to the side street shall in no case be less than 10 feet.
- (3) *Rear Yard:* There shall be a rear yard having a depth of not less than 20 feet or 20% of the depth of the lot, whichever is greater.
- (5) *Area of the Lot:* The minimum lot area shall be 3,000 square feet.
- (6) *Width of Lot:* The minimum width of the lot shall be twenty (25) feet.
- (7) *Depth of Lot:* The minimum depth of lot shall be one hundred-twenty (120) feet.

- (8) *Parking Space:* A paved off-street parking space shall be provided on each site for at least two (2) motor vehicles per dwelling unit and the parking spaces shall be directly assessable from the street by means of a paved driveway. Dwelling units which contain more than one kitchen area shall provide two (2) such parking spaces for each kitchen area.

**ARTICLE 7 - CLASS “R-1-A” SINGLE FAMILY  
RESIDENCE DISTRICT**

Section 1. Use Regulation In Class “R-1-A” Single Family Residence District. No building, structure or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- (1) A detached dwelling for only one family or for one housekeeping unit;
- (2) Home occupations.
- (3) Public Parks and Refuge Harbor owned and operated by the City.
- (4) Mobile Homes and HUD-Cod Manufactured Homes are allowed in the East Addition, but are prohibited in the West Addition to the Modern Venice Subdivision.
- (5) Accessory buildings including a private garage; not for rent but for use of servants employed on the premises, as described in Article 2, Section 4, herein.
- (6) Temporary buildings to be used for construction purposes only and removed as soon as the construction is completed or when ordered by the Building Inspector. Field offices for sale of real estate, which shall be removed on order of the Building Inspector of the *City of Port Isabel;* and as described in Article 2, Section 4, herein.

Section 2. Height Regulation. No building shall exceed 30 feet or three standard stories in height.

Section 3. Area Regulations:

- (1) *Front Yard:* There shall be a front yard having a minimum depth of 25 feet. The structure on mobile home overhangs, porches, carports, or garage, or nay other building, shall be a minimum five (5) feet from the front of the lot line.
- (2) *Side Yard:* There shall be a side yard on each side of the lot having a clear width of not less than 5 feet, including cornices, porches, stairways, carports, etc. Eaves may overhang the structure, but not to exceed one and one-half (1 ½’) feet into the side yard. For the construction of boat houses, and other similar related construction, except for boat docks, there shall be a side setback on each side of the lot having a clear width of not less than three (3’) feet, including cornices, porches, stairways, and eaves. The side yard adjacent to a street shall not be less than seven (7’) feet.

- (3) *Rear Yard*: No rear yard depth restrictions. Dwelling structures may extend to the seawall, but no further.
- (4) *Area of the Lot*: No minimum lot size is established due to the topographical lay out of the subdivision. Boat basins are allowed from the water property lines into the lot. (Modern Venice—Port-of-Call)
- (5) *Width of Lot*: The minimum width of the lot shall be fifty (50) feet.
- (6) *Depth of Lot*: The minimum depth of lot shall be one hundred (125) feet.
- (7) *Parking Space*: A paved off-street parking space shall be provided on each site for at least two (2) motor vehicles per dwelling unit and the parking spaces shall be directly assessable from the street by means of a paved driveway. Dwelling units which contain more than one kitchen area shall provide two (2) such parking spaces for each kitchen area.

## **ARTICLE 8 - CLASS “R-2” MULTI-FAMILY RESIDENCE DISTRICT**

Section 1. Use Regulations in a Class “R-2” Multi-Family Residence District. No building, structure or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- (1) Any use permitted in Class “R-1”, Single Family Residence District.
- (2) Two family residences (duplexes, three family residences (triplexes), four family residences (four-plexes)
- (3) Multi-family apartment buildings, condominiums, and townhouses.

Section 2. Height Regulation: There are no maximum height restrictions of buildings, but buildings higher than six (6) stories shall have a minimum lot area of ten thousand (10,000) square feet and in no case shall the height of the building exceed the total width of the street right of way on which it faces plus the depth of the front yard.

Section 3. Area Regulation:

- (1) *Front Yard*
  - (A) There shall be a front yard having a minimum depth of ten (10) feet. Provided that if a building line has been established by ordinance or by two or more buildings on one side of the street in one block, this line shall establish the depth of the front yard.
  - (B) Where lots have double frontage, running from one street to the other the required front yard shall be provided on both streets.

- (C) The minimum front yard shall be increased one (1) foot for each two (2) feet in height if building exceeds six (6) standard stories.
- (2) *Side Yard:* There shall be a side yard on each side of the lot having a width a not less than five (5) feet, including projections from the side of the building, such as, eaves, cornices, porches, stairways and carports. For the construction of boat houses, boat sheds and similar construction, there shall be a side setback on each side of the lot having a width of not less than three (3')feet, including cornices, porches, stairways, and eaves, but excluding boat docks. The side yard adjacent to a side street shall not be less than ten (10) feet, provided that the buildable width of such a lot or a lot of record shall not be reduced in less than thirty-five (35) feet. Except for boat houses and similar area here it extends over the water or beyond the seawall. The seawall must extend to the property line on each side of the property. The side yard shall be increased four (4) feet for each story the building exceeds three (3) stories in height, including eaves, cornices, porches, stairways and carports.
- (3) *Rear Yard:* For single family residences, there shall be a rear yard having a depth of not less than 20 feet or 20% of the depth of the lot, whichever is greater. For multi-family residences, there shall be a rear yard having a minimum depth of ten (10) feet from the rear property line.
- (4) *Lot Area:* Minimum area of the lot shall be 10,000 square feet; however, a lot having an area of less than 6,000 square feet that was on record prior to the effective date of this Ordinance may be used for any uses permitted in this Article.
- (5) *Width of the Lot:* The minimum width of the lot shall be 100 feet, however a lot having a width of more than 50 feet but less than 100 feet that was on record prior to the effective date of this Ordinance may be allowed.
- (6) *Depth of the Lot:* The minimum depth of the lot shall be 100 feet.
- (7) *Parking Regulations:* Parking space shall be provided on the lot to accommodate two (2) motor cars for each dwelling unit consisting of one bedroom and an additional one-half (1/2) space for each additional bedroom.

## **ARTICLE 9 – CLASS “MH” MANUFACTURED/MOBILE HOME DISTRICT**

Section 1. Use Regulation: A Class “MH” Manufactured/Mobile Home District shall be restricted to Manufactured homes, mobile home parks with multiple lots for manufactured homes, mobile homes or recreational vehicles parks with multiple lots for recreational vehicles (RV).

### Section 2. Area Regulation:

- (1) *Front Yard:*
- (A) There shall be a front yard having a minimum depth of 10 feet for each owned or leased space, provided that if a building line has been established by ordinance or by two, or more buildings on the same side of a street in a block, such line shall establish the building line.

- (B) Where lots have double frontages, running through from one street to the other, the foregoing requirement shall apply to both sides.
- (2) *Side Yard:* There shall be a side yard on each side of the lot or leased space, the minimum width of the side yard shall be five (5) feet. The side yard adjacent to the street shall have a minimum width of ten (10) feet.
- (3) *Rear Yard:* There shall be a rear yard having a depth of not less than 10 feet.
- (4) *Area of the Lot:* The minimum lot or leased space area shall be 2,500 square feet; however, a lot or space in such District having a less area and in a subdivision of record prior to the effective date of this ordinance may be used for any use permitted in this article.
- (5) *Width of Lot:* The minimum width of lot or space shall be 30 feet.
- (6) *Depth of Lot:* The minimum depth of a lot shall be 80 feet.
- (7) *Parking Regulations:* Parking space shall be provided on the lot to accommodate two (2) motor cars for each dwelling unit consisting of one bedroom and an additional one-half (1/2) space for each additional bedroom. A driveway leading to a garage may be used as a parking space.

#### **ARTICLE 10 - CLASS "LR" LOCAL RETAIL DISTRICT**

Section 1. Use Regulations: In a Class "LR" Local Retail District. No building, structure, or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- a. No dwelling units shall be allowed;
  - b. Gasoline service stations permitted only if they are located on a corner lot.
  - c. Art Galleries; Barber and Beauty Shop, Cleaning and dyeing or laundry pick-up office (for receiving and delivering articles to be cleaned, dyed or laundered, but no actual work to be done on the premises; Business or Profession Office; Drug Store;. Florists-retail; Grocery Store, Library-rental; Meat Market; Novelty Store; Parking lot without garage or other automobile service facilities; Photographic Studio; Restaurant without curb or drive-in service (all service to be entirely within the building); Automatic Self Service Laundry; Banks, Bakeries, Liquor sales, theaters. All specified stores or business shall be establishments selling merchandise or services at retail and conducted wholly within an enclosed building.
- (3) No other uses shall be permitted and no liquor, beer or wine shall be sold in a Class "L" Local Retail District for *on-premise consumption*; and none of these stores or uses shall be open before 7:00 A.M. nor close after 10 P.M. on any day of the week.

Section 2. Height Regulations. No building or structure shall exceed 75 feet in

Height.

Section 3. Area Regulations:

- (1) *Front Yard:*
  - (A) There shall be a front yard having a minimum depth of not less than 30 feet from the property line. Provided, that if a building line has been established by ordinance or by two or more buildings on the same side of the street in a block, such line shall establish the depth of the front yard.
  - (B) Where lots have double frontage, running from one street to another the required front yard shall be provided on both sides.
- (2) *Side yard:* No side shall be required on retail use, except that on corner lots, a 10 foot side yard is required on the street side. For single family, two family or multiple or multiple dwelling use, there shall be a rear yard on the rear of the lot not less than 20% of the lot area.
- (3) *Rear Yard:* No rear yard setback shall be required for retail use.
- (4) *Area of lot:* The minimum lot size shall be 6,000 square feet; however a lot with less than 6,000 square feet which was duly recorded in the County Courthouse as part of legal subdivision prior the effective date of this Ordinance is hereby except from this requirement, but under no circumstances shall the lot be less than 2,500 square feet.
- (5) *Width of the lot:* The minimum width of a lot shall be fifty (50) feet; however a lot having less than fifty (50) feet prior to the effective date of this Ordinance and duly recorded as part of a legal subdivision is hereby exempt from this requirement, but under no circumstances shall the width be less than twenty-five (25) feet.
- (6) *Parking Regulations:* As per Article 2, Section 11. Any business building shall also provide off-street facilities for the loading and unloading of merchandise and goods within building or adjacent to a public alley to facilitate movement of traffic on the street.

**ARTICLE 11 - CLASS "B" BUSINESS  
DISTRICT.**

Section 1. Use Regulations: In a Class "B" Business District. No building, structure, or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses, provided that the permitted use shall not become noxious or offensive by reason of emission of odors, filth, soot, dust, gas fumes or is unsightly, or cause the property to become unsightly, to wit:  
Any use permitted in a Class "LR" District;

- (1) No dwelling units shall be allowed, except hotels and motels.

- (2) Antique shop; aquarium; bakery, retail only; bank, office; wholesale offices and/or sample room; bird and pet shop; cafeteria; cafe with or without drive-in curb service; cleaning and pressing shop having an area of less than 6000 square feet; commercial bill board or advertising sign; curtain cleaning shop having an area not more than 6000 square feet; dyeing plant having a floor area of not more than 6000 square feet; electric substation; exterminating company-retail; film developing and printing; hotel, motel; ice delivery station; liquor and beer; mortuary; moving picture theatre; nursery or green house; parking lot; private club; restaurant with or without drive-in facilities; retail stores; shop for custom work or making articles to be sold at retail on the premises; shoe repair shop; studio, art, dance, music, dance, health, massage and reducing; tailor; taxi stand; telephone exchange;
- (3) Any other retail use, provided such use is not noxious or offensive by reason of emission of odors, filth, soot, dust, noise, gas fumes, or is unsightly or cause the property to become unsightly.
- (4) Accessory buildings and uses customarily incident to the above uses; No accessory use shall be construed to permit the keeping of articles, goods, or merchandise in the open or exposed to public view: When necessary to store or keep such articles, materials, or merchandise in the open, the lot shall be fenced with tight fences, approved by the *City of Port Isabel*, not less than 6 feet high, or otherwise screened from view by opaque shrubs or a hedge.

Section 2. Height Regulations: No building shall exceed two (2) stories, or twenty-five (25) feet in height in block numbers 7, 21, 34,47,56,73, or eighteen (18) feet in block 119, all such lots being located between State Highway 100 and Maxan Street running from Yturria Street to the Laguna Madre. All other buildings and structures with the “B” business district shall not exceed thirty (30) feet in height.

Section 3. Area Regulations:

- (1) *Front Yard:* Where all the frontage on one side of the street for a block is located in the Business “B” District, no front yard shall be required. When the frontage on one side of the street for a block is located partly in Business “B” District and partly in a more restricted district, the front yard shall conform to the more restricted use district regulations.
- (2) *Side Yard:* No side yard shall be required for business use.
- (3) *Rear Yard:* No rear yard shall be required for business use.
- (4) *Area of the Lot:* Same as in “LR” District.
- (5) *Lot Width:* Same as in “LR” District
- (6) *Parking Regulations:* As per Article 2, Section 11. Any business building shall also provide off-street facilities for the loading and unloading of merchandise and goods within building or adjacent to a public alley to facilitate movement of traffic on the street.

**ARTICLE 12 - CLASS “I” INDUSTRIAL DISTRICT**

Section 1. Use Regulation: In a Class (I) Industrial District. No building, structure or premises shall be used and no building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified uses:

- (1) Any use permitted in a Class “B” Business District;
- (2) Any manufacturing or industrial use not prohibited by law or ordinance, provided that such use is not noxious or offensive by reason of odors, filth, soot, dust, noise, gas fumes, or is unsightly or causes the property to become unsightly, including but not limited to the following:
- (3) All lots in this District that abut, adjoins, or faces a residential district shall provide screening fence or wall to immediately provide a visual separation between the districts.
- (4) Any use not in conflict with the laws of the State of Texas, or any Ordinance of the *City of Port Isabel, Texas*; provided, that no building or premises shall be used for any of the following specific purposes until approved by and subject to such requirements as the *Port Isabel* City Commission may consider necessary to protect adjacent property and prevent hazardous, polluting, noisy or offensive conditions; to wit;

Chemical manufacturing, dead animals, distillations of animal parts, fat rendering, fertilizer manufacturing, food processing plants, garbage disposal, glue manufacturing, junk yards or auto salvage, stock yards or slaughtering or animals kennels, storage of semi-trailers, propane sales; see Section 4 below; or any other use of buildings, or land that could constitute a nuisance or would be hazardous to the public health, safety or general welfare.

Section 2. Height Regulation: No building shall exceed 75 feet in height unless set back from all lot lines one (1) foot for each foot beginning above such height limit. When building is located adjacent to a residential district or apartment district, it shall not exceed 40 feet in height unless it is set back one foot (1') from all required yard lines for each one (1') foot of additional height beginning above of each height limit.

Section 3. Area Regulation:

- (1) *Front Yard:* No front yard shall be required for business or industrial uses unless the street is less than 60 feet in width, in which case an industrial or business building shall be placed not less than 30 feet from the center line of the adjacent street or streets;
- (2) *Side Yard:* No side yard is required.
- (3) *Rear Yard:* - No rear yard is required.

- (4) *Area of the Lot:* Same as in “B” District.
- (5) *Parking Requirements:* As per Article 2, Section 11. Any business building shall also provide off-street facilities for the loading and unloading of merchandise and goods within building or adjacent to a public alley to facilitate movement of traffic on the street.

*Section 4. Other Restrictions.* Propane sales and storage, whether mobile or stationary shall be allowed only in this District. When mobile, the truck shall either continue to service customers at various addresses throughout the City, or return to its location in the District. It shall be deemed illegal to service multiple customers from any one location in the City outside this District. Propane storage, whether stationary or mobile, shall be a minimum of five-hundred (500) feet from any residential lot line.

### **ARTICLE 13 – CLASS “P” DISTRICT**

*Section 1.* No building or structure shall be erected, altered or enlarged which is intended or designated to be used in whole or in part for any other than one or more of the following specified used allowed in Class “P” District – Public:

(1) Federal, county, municipal, school district or other public entity use including, but not limited to police or sheriff station, city hall, fire station, EMS station, school, park, water tower, sanitary sewer facilities, water treatment facilities, and community center,

(2) Any public use as determined by the *City of Port Isabel, Texas.*

(3) Accessory building and uses incident to the primary public use.

*Section 2.* Height Regulation. No building shall exceed forty (40) feet in height unless approved by the *City of Port Isabel.*

*Section 3.* Area Regulations.

(1) There shall be no requirement for a minimum front yard. Side yard, lot area or width of lot for Class “P” District.

(2) Parking Regulations: There shall be provided off-street parking adequate to accommodate the normal parking demand generated by; the public use on the property.

### **ARTICLE 14 - CLASS “PDD” PLANNED DEVELOPMENT DISTRICT**

*Section 1. Purpose.* The purpose of the Planned Development District is to:

- (a) Provide flexibility in planning for development of medium and large scale developments incorporating a single type of a variety of residential and related uses which are planned and developed as a unit. Such developments may consist of individual lots or may have common building sites.

- (b) Establish a procedure for the development of parcels of land under unified control in order to reduce or eliminate the inflexibility that would otherwise result from strict application of land use standards and procedures designed primarily for individual lots.
- (c) Ensure orderly and thorough planning and review procedures that will result in quality urban design and the creation and improvement of common open space and pedestrian circulation in residential areas;
- (d) Encourage mixed use and avoid monotony I large developments by allowing greater freedom in selecting the means to provide access, light, open space and amenities; and
- (e) Provide fro flexibility in the strict application of certain of the land use regulations, development regulations, and standards found in the base zoning.

*Section 2. Planned Development District:* The City Commission of the **City of Port Isabel**, after public hearing and proper notice to all parties affected and after recommendation form the City Planning and Zoning Board, may authorize the creation of a Planned Development District of designated size, permitting but not limited to the following;

- (a) Shopping center;
- (b) Residential development with neighborhood services;
- (c) Medical center and hospital;
- (d) Civic center and community center;
- (e) Recreation center;
- (f) Industrial center;
- (g) Office or Business center
- (h) A combination of any of the developments listed above.

*Section 3. Requirements of a Planned Development District.* In establishing a Planned Development District in accordance with this section, the City Commission shall require a comprehensive site plan of the development. Such site plan shall be approved and filed as part of an ordinance prior to issuance of any building permits in a Planned Development District. Such required plan and ordinance shall set forth the requirements for ingress and egress to the property, public or private, streets or drives, with adequate right-of-way to conform to the thoroughfare plan of the **City of Port Isabel**, and shall include sidewalks, utilities, drainage, parking space, height of building, maximum lot coverage, yards and open spaces, screening walls or fences and other development and protective requirements considered necessary to create a reasonable transition into an protection of adjacent properties. In approving the Planned Development District, the City Commission may impose conditions which shall be complied with before a Certificate of Occupancy is issued for the use of the land or any structure which is part of the Planned Development District.

*Section 4. Minimum Development Size:* Any Planned Development District shall be no smaller than five net acres in size.

Section 5. Mobile Home/Recreational Vehicle Planned Development District.

Manufactured Homes, Mobile Homes and Recreational Vehicles shall not be permitted in a Planned Development District if a residential development is submitted as part of such Planned submission. It is the intent of his Ordinance to allow the residential development with neighborhood services or a Manufactured Home, Mobile Home/ Recreational Vehicle Planned Development District within one overall Planned Development District, BUT NOT BOTH.

Section 6. Amendment to Ordinance: Every Planned Development District shall be approved under the provisions of this Ordinance as applicable to the property involved. In approving the Planned Development District, the City Commission may impose conditions relative to the standard of development and such conditions shall be complied with before a Certificate of Occupancy is issued for the use of the land or any structure which is part of the Planned Development District and such conditions shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a Certificate of Occupancy.

**ARTICLE 15 - NON-CONFORMING USES**

Section 1. Any uses of property that do not conform to the regulations of this ordinance and which were in use prior to the effective date of it, shall be called a non-conforming use.

Section 2. A non-conforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other elements.

Section 3. In case of partial destruction by fire or other causes, not exceeding 50% of its value, the Building Inspector may issue a permit for reconstruction. If greater than 50% and less than total, the Board of Adjustment may grant permit for repair after public hearing and having due regard for the property rights of the persons effected when considered in the light of the public welfare and in the character of the area surrounding the designated non-conforming use and the conservation and preservation of property.

Section 4. In the event that the non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of three (3) months, the use of the same shall thereafter conform to the regulations of the district in which it is located.

Section 5. Any duplex or apartment building existing on effective date of this ordinance and used as duplex or apartment building in area zoned for residential use shall be considered a conforming use.

Section 6. Any legal use existing at the time of passage of this Ordinance in any business or industrial district as defined herein above shall be deemed a conforming use upon the lot of area devoted to such use at the time of passage of this Ordinance.

Section 7. A violation of this Ordinance and a request for non-confirming use or designation or request for relief under this designation shall not create an estoppel of the trial of any lawsuit which may be filed in any court.

**ARTICLE 16 – SPECIAL PERMITS**

*Section 1.* The City Commission of *City of Port Isabel* may, by special permit, after public hearing and subject to such protective restrictions that are deemed necessary, authorize the location, extension or structural alteration of any of the following building or uses, or an increase in their height, in any district form which they are prohibited or limited by this Ordinance.

- a. Any public building erected and used by a department of a municipal, county, state or federal government.
- b. Hospitals, clinics and institutions, except institutions for criminals or these for persons who are mentally ill or have contagious diseases; provided, however, that such buildings may occupy not over fifty (50) percent of the total area of the lot or tract and will not have any serious or depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines heretofore established an additional distance of not less than one (1) feet for every foot of building height, and that adequate off-street parking space will be provided.
- c. Cemetery or mausoleum,
- d. Landing field or landing strip for aircraft.
- e. Greenhouses and Nurseries.
- f. Farms.
- g. Roadside stands, commercial amusement or recreational development for temporary or seasonal periods.
- h. Removal of greave, topsoil, or similar materials.
- i. Riding stables.
- j. Parking lots on land not more than three hundred (300) feet from the boundary of any commercial or industrial district, under such conditions as will protect the character of the surrounding property.
- k. Areas for the dumping or disposal of trash.
- l. Radio towers and radio broadcasting stations.
- m. Cooling towers, elevators, fire tower, monuments, stacks, stage towers, tanks water towers, ornamental towers, spires, and church steeples.
- n. Any use that is not a nuisance per se and which is generally similar to the uses permitted in the district in which such use is located by special use.

*Section 2.* Together with a petition request for special use permit, the person, persons or corporation making such request will present the City with a non-refundable administrative fee, *plus* postage and publishing costs.

## **ARTICLE 17 - SPECIAL AREA REGULATIONS AND EXCEPTIONS**

*Section 1. Vision Clearances.* On any corner lot on which front and side yards are required, no wall, fence, structure, sign, tree shrub or hedge may be erected or maintained that may cause danger to traffic and a hazard by obstructing the view.

Section 2. Front Yard: No porch enclosed or unclosed, stoop, canopy, patio, or other structure shall extend into the front yard except that the eaves may extend four feet.

Section 3. Side Yard: Rear Yard: The space in rear or side yard shall be unobstructed except for a porte-cochere and the ordinary projections of window sills, belt courses, eaves and other ornamental features. A building and an accessory building erected on the same lot shall be for the area consideration or regulation considered as a single building, except that accessory building shall not cover more than forty (40) percent of the rear yard.

Section 4. Lot Area: On any lot separately owned and of record on the date of final passage of this Ordinance a single family residence may be erected even though of less area than required by this ordinance.

Section 5. Lot Designation: On a single lot only one structure and accessory building for single or two family use shall be permitted.

Section 6. Area not to be Diminished: The lot, open space, or yard area required by this Ordinance for a particular building shall not be diminished and shall not be included as a part of the required lot, open space, or yard areas of any other building. If the lot, open space, or yard areas required by this Ordinance for a particular building are diminished the continued existence of such building shall be deemed a violation of this Ordinance.

Section 7. Erection of a duplex in a single family residence district. Two family dwellings may be erected in a single family residence area where forty (40) percent of the street frontage between intersecting streets is developed with or zoned to two family dwelling area and the corresponding frontage on the opposite side of the street may likewise be used for two family dwelling.

Section 8. Erection of an apartment in a single family dwelling area. Apartments may be erected in a Residence "R-1" District area or in any area where forty (40) percent of the street frontage between intersecting streets is developed with or zoned for apartment use and the corresponding frontage on the opposite side of the street may be likewise used for apartments.

Section 9. Requirement for parking space: Parking requirements as relate to space as set out in provision for any district shall not apply to any unimproved lot, or tract of land, in a block in any such district regardless of partial development of other lots or tracts of land in such block.

## **ARTICLE 18 – PLANNING AND ZONING BOARD**

Section 1. The City Commission of the City of Port Isabel (including the Mayor) shall appoint the Planning and Zoning Board of City of Port Isabel. The Board shall be consist of seven (7) members, each to be appointed for a two (2) year term. Vacancies shall be filled by appointment of the City Commission for the unexpired term of any member whose place on the Board has become vacant for any cause.

Section 2. The City of Port Isabel shall submit all amendments, supplements and charges to this Ordinance and changes in Districts to the Zoning Ordinance for public hearing and its recommendations and report.

*Section 3.* The Planning and Zoning Board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this Ordinance or with State law. All meetings of the Board shall be opened to the public all meetings are subject to Chapter 551, Local Government Code.

## ARTICLE 19- BOARD OF ADJUSTMENT

*Section 1.* It is the declared purpose of this Ordinance that non-conforming uses be eliminated and be required to conform to the regulations prescribed in the preceding articles of this ordinance, having due regard for the property rights of persons affected when considered in the light of public welfare and the character of the area surrounding the area designated non-conforming use and the conservation and preservation of private property.

*Section 2.* Organization: There shall be a Board of Adjustment consisting of at least five (5) members or as many as may be provided by law, appointed by the City Commission of the ***City of Port Isabel, Texas***. It shall have all the powers granted by and be organized and controlled by the provided by law, appointed by City Commission of the ***City of Port Isabel, Texas***. It shall have all the powers granted by and be organized and controlled by the provisions of Section 7, Chapter 283 of the law of 1927 in any amendments thereto and Sub-section 211 .008 of the Local Government Code.

*Section 3.* Jurisdiction: When in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially injured, the Board of Adjustment may, in specific cases, after public hearing and public notice, and subject to appropriate conditions and safeguards, authorize the following special exceptions to the regulations herein above established.

- (1) Permit the reconstruction, extension, enlargement of a building occupied by a non-conforming use on the lot occupied by such building provided such reconstruction of the building does not prevent the return of such property to a conforming use.
- (2) Permit such modification of the yard, open space, lot area, or lot width as may be necessary to secure appropriate development of a parcel of land where such parcel was separately owned and such ownership of record at the time of passage of this Ordinance and is of such restricted area or shape that it cannot be appropriately developed without such modification.
- (3) Permit the use of a lot or lots in any "R" District adjacent to a local retail district or a business district, even if separated there from by an Alley or Street, for the parking of passenger cars under such regulations, safeguards and conditions of the more restricted property, provided no other business or use is made of the lot.
- (4) Require the discontinuance of non-conforming uses under any plan whereby the full value of the structure can be amortized within a reasonable number of years, taking into consideration the general character of the neighborhood and the necessity for the property to conform to the / regulations of this Ordinance.
- (6) Permit the extension of a building existing on the date of passage of this ordinance by the construction of additional stories above the height limit

herein established, if the original plans provided for such additional stories and such building was actually designed and constructed to carry such additional stories.

- (7) The notice provided in this section shall be given by publication one time in a local newspaper, stating the time and place of the hearing which will not be sooner than ten (10) days from the date of the publication of such notice, in addition hereto, the Board of Adjustment shall mail notice of such hearing to the petitioner and to owners of property lying within two hundred (200) feet of any point of the lot or portion thereof, on which a variation is desired, and to all other persons deemed by the Board to be affected thereby such owners and persons shall be determined according to the current tax rolls of the *City of Port Isabel, Texas*, and substantial compliance therewith shall be deemed sufficient provided, however, that the depositing of such notice in the mail by the Board of Adjustment shall be deemed sufficient compliance with the purpose of this matter.
- (8) Any special exceptions authorized by the Board of Adjustment, either under the provisions of this chapter, or under the authority of the Board of Adjustment under the statutes of the State of Texas, shall authorize the issuance of building permit or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of favorable action on the part of the Board of Adjustment, unless said Board of Adjustment in its minutes shall, at the same time grant longer period. If the building permit or certificate of occupancy shall not have been issued within said ninety (90) day period, or extension period as the Board of Adjustment may specifically grant, then the special exceptions shall be deemed waived, and all rights there under terminated. Such terminating and waiving shall be without prejudice to a subsequent appeal to said Board of Adjustment in accordance with rules and regulations regarding appeals.
- (9) No appeal to the Board of Adjustment shall be allowed on the same piece of property prior to the expiration of six months from a ruling of The Board of Adjustment on any appeal to such body unless other property in the same zone area have, within such six months, been altered or changed by the ruling of the Board of Adjustment in which' case such change of circumstances shall permit the allowance of appeal but shall in no way have any force in law to compel the Board of Adjustment after hearing to grant such subsequent appeal, but such appeal shall be considered on its merits as in all other cases.
- (10) The in exercising its authority under this Ordinance, the Board of Adjustments 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 take and make the correct order, requirement, decision, or determination, and for that purpose the Board of Adjustments has the same authority as the administrative official. The concurring vote of seventy-five (75) percent of the members of the Board of Adjustments is necessary to:
  - (a) reverse an order, requirement, decision, or determination of an administrative official;
  - (b) decide in favor of an applicant on a matter on which the Board of Adjustments is required to pass under the Zoning Ordinance;
  - (c) authorize a variation form the terms of the Zoning Ordinance.

## **ARTICLE 20 – PLATS**

Each application for a building permit shall be accompanied by a plat in duplicate, or duplicate prints thereof, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the buildings to be erected, the size, shape and location of any existing buildings, and such other information as may be necessary to provide for the enforcement of this Ordinance. A record of applications and plats shall be kept in the offices of the City's designated Planning Official.

## **ARTICLE 21 - UNPLATTED PROPERTY**

All un-platted or un-subdivided property not specifically zoned otherwise is expressly zoned Class "N" District. At the time the owner of any such un-platted and/or un-subdivided property proposes to subdivide and/or develop the same as a subdivision or otherwise he shall submit a plat of the proposed subdivision to the City Planning and Zoning Commission for approval.

At the time of the approval, the City Planning and Zoning Board shall designate the recommended residential use district and any other use district for such subdivision. Thereafter, upon approval by the City Commission and the filing of said approved plat for record, said subdivision shall be zoned by the City Commission after notice and hearing as herein provided.

## **ARTICLE 22 - BOUNDARIES OF DISTRICTS. RULES WHERE UNCERTAINTY MAY EXISTED**

Section 1. Where uncertainty exists with respect of the boundaries of the various districts as shown on the map, accompanying and made a part of this Ordinance, the following rules apply:

- (1) The district boundaries are streets, alley and property lines unless otherwise shown, where the district boundaries are shown approximately to be on streets, alleys or property lines, it is understood that streets, alleys and property lines is intended.
- (2) Where the district boundaries are otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be considered and established on block and lot lines
- (3) In undivided property, the district boundaries shall be established by scale on the map.
- (4) In case of district boundary line dividing a property into two parts, the district boundary line shall be construed to be the property line nearest the less restricted district.

## **ARTICLE 23 CERTIFICATE OF OCCUPANCY**

Section 1. No building hereafter erected or structurally altered shall be used, occupied or changed in the use until a Certificate of Occupancy is issued by the Building

Inspector, 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 regulations shall be construed to mean any change in the occupancy or type of business.

## **ARTICLE 24 - COMPLETION OF BUILDINGS**

*Section 1.* Nothing herein contained shall require any change in plans, construction or designated use of a building actually under construction at the time of passage of this Ordinance and which can be completed within nine (9) months from the date of passage of this Ordinance.

Nothing herein contained shall require any change in the plans and occupancy of a building permit for which it has been issued before passage of this Ordinance and which can be completed within nine (9) months after the date of the passage of this Ordinance. If any amendment to this ordinance is hereafter adopted changing the boundaries or uses of the district, the provisions of the Ordinance existing or permit issued before the alterations shall apply. Commitments with reference with public utility buildings necessary for proposed expansion of the town made prior to the passage of this Ordinance shall be observed.

## **ARTICLE 25 - ENFORCEMENT**

*Section 1.* The provisions of this Ordinance shall be administered and enforced by the Building Inspector of the *City of Port Isabel, Texas*. All applications for building permits shall be accompanied by a plat drawn in duplicate, showing the actual dimensions of the lot to be built on, the size of the buildings to be erected, the use of the property, and such other information that may be necessary and requested by the Building Inspector of the *City of Port Isabel, Texas*, to permit enforcement of these regulations. The record of the application plat and other information shall be carefully preserved in the office of the Building Inspector.

## **ARTICLE 26 - PENALTY FOR VIOLATION**

*Section 1.* Any person, firm or corporation who shall violate the provisions of this Ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder, shall be GUILTY OF A MISDEMEANOR and shall be liable to a fine of not more than two thousand (\$2,000.00) Dollars and each day that such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or a part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, firm, association or corporation employed in connection here with and who may have assisted in violation shall be guilty of a separate offense and upon conviction shall be fined as herein above provided.

*Section 2.* A violator of these rules and regulations shall not plead failure to ask for a variance from the Board of Adjustment or a change in the Zoning Map from the City Planning and Zoning Board as a reason for continuation of case in court.

## ARTICLE 27-CHANGES & AMENDMENTS

*Section 1.* Any person or corporation having a proprietary interest in any property may petition the City Commission for change or amendment to the provisions of this Ordinance, or the City Planning and Zoning Board may on its own motion or on request from the City Commission institute a study and proposal for changes and amendments in the public interest.

*Section 2.* Together with a petition request for change or amendment, the person, persons or corporation making such request will present the City with a non-refundable administrative fee, ***plus*** postage and publishing costs.

*Section 3.* The City Commission may, from time to time amend, supplement or change by Ordinance the boundaries of the districts or the regulations herein established. Before taking any action on the proposed amendments, supplement or change, the City Commission shall submit the same to the City Planning and Zoning Board for its recommendation and report. A public hearing shall be held by the City Council before adopting any proposed amendments, supplement, or change. Notice of such hearing shall be given by publication one time in a paper published in the ***City of Port Isabel, Texas***, stating the time and place of such hearing, which time shall not be earlier, than fifteen (15) days after the publication.

*Section 3.* Variances and special use permits are to be used within ninety (90) days of issuance by the person requesting it. Variances and special use permits are not-transferable and, if not implemented within ninety (90) days, the use reverts back to its previous designation as if no variance or special use permit had been allowed.

*Section 4.* If the zoning change is for an existing structure and the new zoning is not utilized within one (1) year after rezoning, the property's zoning reverts back to its previous zoning designation. If the zoning change is for proposed development, the development must be substantially complete within (1) year after rezoning or the property's zoning reverts back to its previous zoning designation.

*Section 5.* Written notice of all public hearings before the Planning and Zoning Board on a proposed amendment or change shall be sent to all owners of real property lying within two hundred (200) feet of the property on which the change is requested. Such notice property addressed and postage paid to each taxpayer as ownership appears on the last approved Tax Roll.

*Section 6.* Unless such proposed amendment, supplement or change has been approved by the City Planning and Zoning Board or if a protest against such amendment, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty (20) percent or more either of the lots included in the proposed change or of all properties included within a radius of two hundred (200) feet in any direction from the property included in such proposed change, such amendment shall not become effective except by the affirmative vote of at least three-fourths (3/4) of all members of the Governing Body of the ***City of Port Isabel, Texas***. In determining the property included in the two hundred (200) foot radius, all measurements shall begin at the property line of the lots in the proposed zoning change.

*Section 7.* If a re-zoning request for a particular tract of property is made to the City Commission after standard Planning and Zoning Procedure, and such request for whatever reason, fails to be enacted by the City Commission, such re-zoning request may be considered a second time by the City Commission after such request has been re-

submitted to the Planning and Zoning Board for its recommendation pursuant to the provisions of this Zoning Ordinance. If such re-zoning request is not enacted by the City Commission upon said second submission, such request shall not be re-submitted to the Planning and Zoning Board or the City Commission for an intervening twelve (12) month period following the date of the denial of such second submission to the City Commission.

*Section 8.* The affirmative vote of at least three-fourths (3/4) of all members of the City Commission is required to overrule a recommendation of the Planning & Zoning Board that proposed change to a regulation or boundary be denied.

**ARTICLE 28 - SEVERABILITY**

If any provision of this Ordinance or the, application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of the Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are declared to be severable.

**ARTICLE 29 – EFFECTIVE DATE**

This Ordinance shall become effective from and after its passage, approval, and publication of its descriptive caption as provided by law.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_,2005

**City of Port Isabel**

\_\_\_\_\_  
Patrick H. Marchan, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Davalos, City Secretary