

Zoning Ordinance of the Village of Pleak

Table of Contents

<i>Section</i>	<i>Page</i>
ARTICLE I. - TITLE, AUTHORITY, PURPOSE, POLICIES AND APPLICABILITY	
Section 1.00 – Title	6
Section 1.01 – Authority	6
Section 1.02 - General Purpose	6
Section 1.03 – Applicability	6
Section 1.04 - Effective Upon Enactment	6
Section 1.05 - Violations and Penalties	7
ARTICLE II. - DEFINITIONS AND INTERPRETATION	
Section 2.00 – Interpretation	8
Section 2.01 – Definitions	8
ARTICLE III. - DECISION-MAKING AND ADMINISTRATIVE BODIES	
Section 3.00 - Planning and Zoning Commission	22
Section 3.01 - City Council	22
Section 3.02 – Board of Adjustment	22
ARTICLE IV. - PLANNING DOCUMENTS AND OFFICIAL MAP	
Section 4.00 - Comprehensive Plan	23
Section 4.01 - Official Zoning District Map	23

ARTICLE V. - ZONING REGULATIONS**DIVISION 1. - ZONING DISTRICTS AND REGULATIONS OF GENERAL APPLICABILITY**

Section 5.00 - Districts Established	25
Section 5.01 - Permitted Uses	25
Section 5.03 - Specific Uses	26
Section 5.04 - Temporary Uses	26
Section 5.05 - Planned Development	26
Section 5.06 – Subdivision Regulations	26
Section 5.07 - Use of Nonconforming Residential Lots	27
Section 5.08 - Structure and Area Regulations	27
Section 5.09 - Use and Land Regulations	27
Section 5.10 - Accessory Uses and Structures	27
Section 5.11 - Performance Standards	28
Section 5.12 - Fence Regulations	30
Section 5.13 - Landscaping, Screening and Buffering	30
Section 5.14 - Off-Street Parking and Loading	34
Section 5.15 - Parking requirements, non-single family	37
Section 5.16 - Special Off-Street Parking Regulations	40
Section 5.17 - Parking on Un-surfaced Area Prohibited	40
Section 5.18 - Home Occupations	40
Section 5.19 - Expansion of Nonconforming Residential Structures	42
Section 5.20. - Communication Towers and Antennas	42
Section 5.21 - Site Plan Review	44
Section 5.22 - Schools and churches in residential districts	47

DIVISION 2. - ZONING DISTRICT REGULATIONS

Section 5.30 - R-1 Residential District	48
Section 5.31 – R-2 Residential District	50
Section 5.32 - R-3 Residential District	52
Section 5.33 - R-4 Residential District	54
Section 5.34 - R-MF Residential Multi-Family District	56
Section 5.35 – C1 Commercial District	58
Section 5.36 – C2 Commercial District	62
Section 5.37 – C3 Commercial District	66
Section 5.38 – LI Light Industrial District	70
Section 5.39 – AG Agricultural District	72
Section 5.40 – OS Open Space	72

ARTICLE VI. - AMENDATORY PROCEDURES

Section 6.00 – Purpose	73
Section 6.01 - Types of Amendment	73
Section 6.02 - Application for Amendment to Written Text or Official Zoning District Map	73
Section 6.03 - Application for Planned Development Amendment	74
Section 6.04 - Application for Specific Use Permit	74
Section 6.05 - Call of Public Hearings	75
Section 6.06 - Reports and Recommendations of the Planning and Zoning Commission	75
Section 6.07 - Standards Applicable to All Planned Development Amendments and Specific Use Permits	76
Section 6.08 - Amendments to This Chapter	76
Section 6.09 - Final Action by the City Council	76
Section 6.10 - Notification of Decision	77
Section 6.11 – Successive Applications	77

ARTICLE VII. - VARIANCES, SPECIAL EXCEPTIONS, APPEALS AND NONCONFORMITIES

DIVISION 1. - VARIANCES

Section 7.11 – Authority	78
Section 7.12 – Purpose	78
Section 7.13 – Initiation	78
Section 7.14 – Standards	78
Section 7.15 – Application	79
Section 7.16 - Limitations on Variances	79
Section 7.17 - Action of Board	79
Section 7.18 - Conditions on Variances	79

DIVISION 2. - SPECIAL EXCEPTIONS

Section 7.21 – Authority	79
Section 7.22 – Initiation	80
Section 7.23 - Standards for Special Exceptions	80
Section 7.24 – Application	80
Section 7.25 - Action of Board	80
Section 7.26 - Conditions Attached to Special Exceptions	80
Section 7.27 - Special Exceptions in the Case of Adjustments of Minimum Yard Dimensions for Residential Structures	80

DIVISION 3. - NONCONFORMITIES

Section 7.31 – Purpose	81
Section 7.32 - Nonconforming Uses and Structures	81
Section 7.33 - Nonconforming Accessory Uses and Structures	82

DIVISION 4. - APPEALS

Section 7.41 – Authority	82
Section 7.42 – Initiation	82
Section 7.43 – Procedures	83
Section 7.44 - Effect of Filing an Appeal	83
Section 7.45 - Action of the Board	83

ARTICLE I. - TITLE, AUTHORITY, PURPOSE, POLICIES AND APPLICABILITY

Section 1.00 - Title

This ordinance shall be known as the "Zoning Ordinance of the Village of Pleak."

Section 1.01 - Authority

This ordinance is adopted pursuant to the Texas Constitution, the Texas Local Government Code and all other provisions of the laws of the State of Texas which are currently applicable or which may be later enacted or determined applicable.

Section 1.02 - General Purpose

This ordinance is adopted for the purpose of promoting and protecting the health, safety, morals and general welfare of the residents, citizens and inhabitants of the Village of Pleak. The provisions of this ordinance are the requirements necessary to accomplish these purposes as specifically delineated in this and other applicable ordinances. This ordinance is further adopted in order to regulate the use of land within the Village of Pleak so as to promote orderly and healthy development, good governmental policies, peace and order of the Village and the trade and commerce thereof, as may be necessary or proper to carry into effect the powers vested in the Village of Pleak by the Constitution and laws of the State of Texas.

Section 1.03 - Applicability

(a) General Application. This ordinance shall apply to all structures and the uses of land within the corporate limits of the Village of Pleak, Texas. Existing structures and uses which are inconsistent with the provisions of this ordinance shall be permitted only as provided for in Article VII of this ordinance. All applications for development approval shall be required to meet the requirements of this ordinance which are in effect on the date of any permit or authority issued hereunder.

(b) General Prohibition. It shall be unlawful to carry out any development, or to modify in any way, any use or structure existing upon any land within the Village of Pleak, which is inconsistent with the requirements of this ordinance.

(c) Building Permits Issued Prior to Enactment of this ordinance. This ordinance shall not affect lawfully issued building permits which have been finally issued prior to the effective date of this ordinance, save and except those issued building permits which have expired, lapsed or been revoked.

Section 1.04 - Effective Upon Enactment

The provisions of this ordinance shall become final, binding and effective upon all property within the Village of Pleak upon the same being finally enacted as evidenced by the ordinance of enactment duly executed by the Mayor and the City Secretary of the Village of Pleak.

Section 1.05 – Violations and Penalties

- (a) It is unlawful for any person to knowingly, intentionally or recklessly violate, or cause or allow any other person under his or her control or authority to violate, any provision or requirement of these zoning regulations.
- (b) In particular, it is unlawful for any person:
 - 1. To make use of any Premises for a purpose other than what is permitted in the zoning district in which the Premises is located;
 - 2. To erect, convert, enlarge, reconstruct, or structurally alter any Building or Structure for a purpose other than what is permitted in the zoning district where the Building or Structure is located;
 - 3. To construct or alter any Building unless the Building is located on a Lot platted in accordance with the regulations of the City;
 - C. The violation of any provision of these zoning regulations is unlawful and may be punished by a fine not to exceed \$2,000.00 for each offense. Each day a violation occurs is a separate offense.

ARTICLE II. – INTERPRETATION AND DEFINITIONS

Section 2.00 - Interpretation

The Planning and Zoning Commission and the Village Council reserve the power, duty and responsibility to provide such interpretation, meaning and understanding as shall from time to time be necessary or desirable as to the intent, understanding and/or application of this ordinance as follows.

- (1) In the event that this ordinance shall contain provisions which are in conflict or provide differing regulations as to the same type of requirement, property or use, then in such case, the most restrictive provision shall be deemed controlling.
- (2) In the event of obvious mistake in drafting or other misstatement in the text of this ordinance, in any amendment hereto or order or decision issued hereunder where it reasonably appears that such error was inadvertent and an obvious mistake, such error or mistake shall not prevent the plain intent from being given to such provisions of this ordinance, amendment, decision or order.
- (3) In the event of conflict between any of the provisions or sections of this ordinance, or in the event the meaning or intent of any of the provisions or sections of this text is not plain and obvious, the Village Council or the Planning and Zoning Commission, if any of them be the body designated to act with respect to applicable provisions or sections of this ordinance, shall interpret the same and shall note as part of their decision, order or recommendation, the interpretation provided. However, in the event that any decision, order or recommendation made by any board, commission or individual is subject to final action or review by the City Council, the City Council shall not be bound to the interpretation as established by such board, commission or individual, but shall be free under the terms and provisions of this ordinance to act as if it were considering the question de novo and to provide appropriate interpretation. Any final interpretation provided hereunder shall be deemed controlling on any further action concerning such decision, order or recommendation.

Section 2.01 - Definitions

In addition to definitions as set forth by the Village of Pleak Subdivision Ordinance, the following definitions shall apply in the interpretation and the enforcement of this ordinance:

Access shall mean any point of ingress or egress between streets, driveways, sidewalks or any combination thereof.

Accessory use shall mean a structure or use which:

- a) Is subordinate and incidental to and serves a principal building or a principal use;

- b) Is subordinate in area, extent and purpose to the principal structure or principal use served;
- c) Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or use;
- d) Is located on the same lot as the principal structure or its use; and
- e) Is detached from the principal structure or attached only by means of another structure, such as a breezeway or a carport.

Antenna shall mean any exterior apparatus designed for wireless radio, television, microwave or telephonic communication through the sending and/or receiving of electromagnetic waves except direct satellite T.V., personal T.V., radio towers and antennas for non-commercial service or antennas located on independent support structures which are being used primarily for the transmission of electrical power by a public utility.

Antique shop shall mean an establishment offering for sale within a building, articles such as glass, china, furniture or similar furnishings and decorations which have value and significance as a result of age, design and sentiment.

Arcade shall mean an arched or covered passageway attached to a building facade.

Art gallery or museum shall mean an institution for the collection, display and distribution of objects of art or science.

Assisted living facility shall mean a multifamily, residential facility, the primary purpose of which is to provide long term housing, together with personal care (collectively, "assisted living services"), to persons who, because of their age or physical condition, desire or require such personal care. An assisted living facility shall also satisfy the requirements of the Texas Department of Health with respect to a Personal Care Home, Type A or B, as defined in the Texas Administrative Code under Title 25, Part 2, Chapter 145, Subchapter L.

An assisted living facility may also provide medical or nursing care services to its residents, in addition to personal care; provided that the primary purpose of the facility shall be to provide assisted living services. Such personal care and other services shall be administered by an employee, staff member, facility representative, or other responsible adult who is under the general supervision of a facility. An assisted living facility may be a part of hospital or nursing home, if such uses are otherwise permitted under this Code. Unless otherwise specifically approved by the Village Council and Planning and Zoning Commission, an assisted living facility shall not be used for the primary purpose of housing or treating (a) persons addicted to or dependent on drugs or alcohol; (b) mentally retarded or emotionally disturbed individuals; or (c) persons with long-term, chronic or terminal illnesses, whether or not communicable.

Athletic facilities/clubs shall mean commercial swimming, tennis, racquetball or other athletic facilities that are privately owned and operated as private clubs or that are open to the public.

Auto or motorcycles sales and auto-related sales and services shall mean a place or places wherein new automobiles or motorcycles are on the premises within a building or within a paved holding area and are available for sale to the ultimate consumer. Said place or places may engage in used car sales, auto parts sales and services to the extent that such sales and services are subordinate and incidental to the sale of new automobiles on the premises.

Auto parts sales shall mean a place wherein automobile parts, including but not limited to tires and/or mufflers, are on the premises within a building or within a screened storage area and are available for sale to the ultimate consumer.

Automobile service station shall mean any building, structure or land used primarily for supplying automobile fuel and motor oil, at retail direct to the customer, including the supplying of accessories, replacement parts and services essential to the normal operation of automobiles, but not including body or fender work, painting or major motor repairs.

Average equivalent lot size shall mean the number of square feet within a residential planned development district divided by the number of dwelling units within the district, excluding from the computation all public lands within the district that were in existence prior to the creation of the district.

Bakery or confectionery shop shall mean any place used for the purpose of mixing, compounding and baking for retail sale, any bread, biscuit, pretzels, crackers, buns, rolls, macaroni, cake, pie or any other food products of which flour or meal is a principal ingredient.

Boat shall mean a vessel of any size designed to transport people or cargo across water.

Bottling plant shall mean a place wherein beverages are bottled under pressure for sale at wholesale or retail.

Buffer shall mean the area, space or physical means which is established to protect or insulate one land use or one building from another.

Building material storage and wholesaling shall mean a place in which building materials customarily used in the construction and/or remodeling of dwellings or commercial structures are stored and are sold to contractors, builders or other persons engaged in the construction and/or alteration of structures or improvements.

Building Official shall mean a person appointed by the City Council who administers the provisions in the City's Code of Ordinances and state/federal regulations relating to private building construction, sign administration, landscape requirements and all other provisions as described in this and other city ordinances. City Council may appoint a designee to act as the Building Official as need arises or in the absence of an appointed Building Official.

Business and professional offices and services shall mean places wherein commercial enterprises or professional fields of endeavor are conducted, such as but not limited to the following: real estate services, management services, veterinary services, physician and dental

services, legal services, accounting, auditing and bookkeeping services, and education and scientific research services.

Cabinet or upholstery shop shall mean a place wherein cabinetry is manufactured and/or fabricated or where fabrics are applied to furniture and are finished.

Cafeteria shall mean a place where meals and drinks are served to the public generally or selected portions of the public, in a manner whereby such meals or drinks are served at a counter or in a line.

Camping trailer shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

Church shall mean a building or buildings where persons regularly assemble for organized religious worship, religious education and activities to promote fellowship among persons who are members or visitors of the organized religious body occupying the building or buildings.

Cleaning or laundry (small shop or pick-up) shall mean a cleaning or laundry establishment where the work is performed other than on the premises.

Clothing store shall mean a commercial establishment limited to the sale of clothing and clothing accessories to the ultimate consumer.

College or university shall mean an academic institution of higher learning accredited or recognized by the State and offering a program or series of programs of academic study.

Communication industry systems and operations shall mean places wherein telephone, radio broadcasting and transmitting, television broadcasting and transmitting, combined radio and television systems or other communication systems or operations are located.

Communication Tower shall mean any structure built on the ground that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting antennas, and related equipment except tower structures on real property owned, leased, held, used or dedicated for use by a public utility when such structures are used for rendering utility service, such as a structure being used primarily for the transmission of electrical power by a public utility.

Community Center (public) shall mean a building and grounds owned by the Village of Pleak for the social, recreational, health or welfare of the community.

Conference center facility shall mean a facility that is devoted to hosting conventions and special events and providing meeting, exhibition and public assembly space, either as a stand-alone facility or attached to a hotel, office building or other complementary land use.

Contractor's shop or yard shall mean a place wherein work may be performed or equipment stored or used in conjunction with services rendered by a contractor in conjunction with

agreements and undertakings by said contractor to perform services for third parties on a periodic by job basis.

Crime Prevention Through Environmental Design (CPTED) is multi-disciplinary approach to deterring criminal behavior through purposeful design of development sites, buildings, parking areas and public spaces to increase visibility and minimize potential hiding places.

Custom personal service shop shall mean a commercial establishment such as barber, beauty, tailor, dressmaker, cabinet and upholstery shops, to provide such types of services to the ultimate consumer.

Density shall mean the number of residential dwelling units per gross area of land.

Department store shall mean a commercial establishment housing general merchandise for sale to the ultimate consumer including, but not limited to, men's, women's and children's clothing, shoes, dry goods, furniture and household appliances.

Drive-in banking facilities shall mean a place where a person or persons may conduct banking transactions from an automobile without the necessity of leaving such automobile.

Dwelling, multi-family shall mean a residential structure on one (1) plot of land, containing separate living units for three (3) or more families, but which may have joint services or facilities.

Dwelling, single-family shall mean a residential structure in which the members of a single family reside and no more than two (2) of the occupants thereof are unrelated.

Dwelling unit shall mean a building or portion of a building which is arranged, occupied or intended to be occupied by persons as living quarters and includes facilities for food preparation and sleeping.

Duplex Lot shall mean a residential plot of land containing no more than two (2) adjoining dwelling units.

Expansion of nonconforming use shall mean the enlargement by the addition of floor area, coverage or addition of land wherein there is located a use or structure which, although lawful at the time of its inception, is now prohibited under this ordinance.

Family - Any number of individuals living together as a single housekeeping unit in which no more than two (2) individuals are unrelated by blood, marriage or adoption.

Field of vision shall mean the normal uninterrupted spectrum of sight enjoyed by a person while making visual observations without turning or eye movements of any kind.

Financial institution shall mean a commercial establishment where matters concerning money, economic management and the application of money are conducted: a bank, savings and loan or insurance company.

Floor area shall mean the sum of all gross horizontal surface areas of a building, including all stories, measured from the exterior walls or from the center line of party walls, excluding parking

structures or that portion of any structure devoted to parking. Stairwells, elevator shafts, atriums and other open areas shall only be included in the computation of floor area as to the actual floor space of such areas.

Floor area ratio (FAR) shall mean the floor area of the building or buildings on a lot divided by the area of the lot.

Florist or plant shop shall mean a commercial establishment where plants, flowers, greenery and other products of the art of horticulture are sold to the ultimate consumer.

Front shall mean that part or side of a building or lot which has both the main point of ingress to and egress from the building or structure and abuts a street or a court. Where the main point of ingress or egress is not certain, then the front shall be deemed to be the side of a building which has assigned to it the street number address for that building.

Front yard shall mean an open, unoccupied space on a lot facing a street, extending across the front of a lot between the side lot lines and from the outermost surface of the main building to the front lot line, with the minimum distance between the front lot line and the main building line as specified for the district in which the lot is located.

Furniture store shall mean a commercial establishment wherein home or office furnishings and related accessories are sold to the ultimate consumer.

Garage, commercial shall mean a garage structure (building) offering automobile parking facilities for the general public for payment of a daily, weekly, monthly or hourly tariff.

Garage, residential shall mean an attached or unattached structure being an enclosure designed to be used in the storage of at least one (1) standard size automobile.

Garden shop including greenhouses or nursery stock storage area shall mean a place wherein flowers, plants and other growing foliage, seeds, tools and implements are sold or kept for service or sale to ultimate consumers and individuals engaged in gardening and/or landscaping.

Grade shall mean the line or elevation of the inclination from the horizontal.

Grocery store shall mean a commercial establishment wherein fresh produce, meats, staples and various and sundry perishable and non-perishable items related to the daily needs of a household are sold to the ultimate consumer.

Hardware store shall mean a commercial establishment wherein supplies, tools and accessories for home and garden are sold to the ultimate consumer.

Height shall mean the vertical distance of a building measured from the top of the lowest level of the top of the foundation of the building enclosed within the outer walls of the structure to the top of the highest point of the structure, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers and antenna onto metal cupolas, domes and spires and parapet walls not exceeding ten (10) feet in height.

Home occupation shall mean a business, profession, or trade conducted within or from a residential building or accessory structure for gain or support by a resident of the dwelling, which is incidental and secondary to the residential use of the building and does not change the essential residential character of the use. Particular occupations permitted are listed in Section 5.18 and are subject to all applicable provisions of this ordinance.

Hospital shall mean an institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life.

Hotel shall mean a building in which lodging is provided or offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby.

Household appliance sales and/or service shall mean the sale and service of refrigerators, washing machines, ranges or other electrical or gas equipment for use in the home.

Kindergarten, nursery and/or day care center shall mean an establishment where ten (10) or more children are housed for care and pre-school activities, which meets licensing requirements as established by the State of Texas.

Laundry and dry-cleaning plant shall mean a physical facility containing equipment and machinery designed to launder and/or dry-clean clothing, fabric or other textiles.

Light manufacturing shall mean any place or plant wherein any product or thing, including food or beverage products, is manufactured or processed, wherein such operation conforms to the performance standards herein specified for noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire and explosive or hazardous matter, vibration and open storage.

Lot coverage (site coverage) shall mean the area of a particular lot or tract which is covered with buildings and other surfaces.

Lot coverage ratio (LCR) shall mean the ratio of buildings and other surfaces to the lot area, including all parts of the lot covered with other surfaces of any kind.

Manufactured Housing shall mean a HUD-code manufactured home or mobile home and collectively means and refers to both.

Mayor shall mean the presiding officer of the City Council and chief elected officer of the Village of Pleak.

Mini-storage business shall mean a commercial establishment which operates a facility that is subdivided into secure storage spaces that are rented to customers on a short-term or periodic basis (e.g., for storage of personal items, archive materials, vehicles and/or boats, etc.).

Mixed-use development shall mean a combined land use project containing two or more component land uses.

Mobile home shall mean a structure transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

Mortuary or funeral home shall mean an establishment where the dead are prepared for burial or cremation, where the body may be viewed and where funeral services are sometimes held.

Motel shall mean a building in which lodging is provided or offered to the public for compensation, which is characterized by ingress to and egress from the rooms usually through an outside entrance, and which is of a design oriented to the short term occupancy needs of tourists traveling by automobile.

Motor home shall mean a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the complete unit.

Movie theater, indoor shall mean a commercial establishment which provides one or more auditorium spaces for the showing of movies for public entertainment upon customer purchase of a ticket, and which may also involve preparation and serving of food and beverages for consumption on the premises (also known as a "cinema").

Neighborhood shall mean a predominantly residential area distinguishable from surrounding areas by recognizable functional boundaries, such as major arterials, fencing or landscaping, or city limits.

Nonconforming lot of record - A lot being a part of a plat duly filed for record in the office of the County Clerk of Fort Bend County, Texas, as provided for by law, which lot does not conform to the requirements of this ordinance.

Nonconforming use shall mean any use lawfully being made of any land prior to the enactment of this ordinance or any amendment hereto, which upon adoption of this ordinance or any amendment, does not comply with all the regulations of this ordinance or any amendment hereto, thus rendering such use nonconforming. A nonconforming use may relate to land, building, structure or any parts thereof.

Nursing Home shall mean an installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or infirmity.

Office residential shall mean a building or development wherein all of the first floor building/floor area is devoted to office use and not more than fifty percent of the total building/floor area of all floors combined is devoted to residential use.

Office supplies, commercial shall mean an establishment that sells to the ultimate consumer supplies for use at home or office including, but not limited to, writing paper supplies and other items generally used in relation to the administration of business or social activities.

Official Zoning District Map shall mean the map adopted as a part of this ordinance having delineated thereon all the zoning districts and the boundaries thereof within the Village of Pleak.

On-site parking, non-residential shall mean an area set aside for temporary parking (at no charge) of automobiles being used by persons shopping for goods or services or by persons there temporarily to conduct business on the premises.

On-site parking, residential shall mean a paved area on a residential lot set aside for the parking of motor vehicles.

Open space shall mean any area of land or water set aside, open and unobstructed to the sky, save and except any landscaping, walkways, trails, sidewalks, gazebos, or pavilions.

Other surface As used in determining lot coverage and lot coverage ratio, shall mean any material applied to the surface of land, which does not permit the natural infiltration of water into the ground, including, but not limited to, air conditioning pads, asphalt, bath houses, concrete, decks, patios, porches, driveways, garbage pads, gazebos, parking areas, non-permeable paving systems, sidewalks, swimming pools, spas, sports courts, except for the ground area of the buildings.

Owner shall mean any legal entity, person or otherwise who holds superior title to and can evidence superior title in real or personal property.

Package liquor store shall mean a commercial establishment wherein alcoholic beverages (beer, wine and spirits) are sold to the ultimate consumer.

Paint and/or wallpaper store shall mean a commercial establishment wherein paint products or other wall covering products are sold to the ultimate consumer.

Parcel shall mean any quantity of land capable of being described with such definiteness that its location and boundaries may be established.

Parking space shall mean an enclosed or unenclosed all-weather surfaced area not on a public street or alley together with an all-weather surfaced driveway connecting parking space with a street or alley, permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done directly on the public street shall not be classified as off-street parking in computing the parking requirement for any use.

Particulate matter shall mean any material except uncombined water which exists in a finely divided form as a liquid or solid at standard conditions when released into the atmosphere.

Passenger terminal, bus passenger station or heliport shall mean a place designated and used for embarkation onto and debarkation from a bus or other mode of mass transportation or to move passengers from one mode of transportation to another by debarkation and embarkation.

Pawnshop shall mean a location at which or premises in which a pawnbroker regularly conducts business. A pawnbroker is a person engaged in the business of (a) lending money on the security of pledged goods deposited with or otherwise delivered into the possession of the pawnbroker, or (b) purchasing goods on condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period. (Texas Finance Code, Section 371.003.)

Personal care shall mean the supervision of, or limited assistance with, routine living functions of a person who, because of his/her age or physical condition, desires or requires such personal care. The following are examples of personal care:

- a) Assistance with medication regimen;
- b) Assistance with hygiene;
- c) Assistance with grooming, including assistance with dressing; and
- d) Assistance with ambulation.

Pet shop and pet grooming shall mean a commercial establishment wherein household pets are sold, washed, groomed and kept within a building.

Pharmacy shall mean a commercial establishment wherein substances used for medicinal purposes are sold to the ultimate consumer.

Planned development district (Amendment) - A zoning district of the Village of Pleak approved in accordance with provisions of this ordinance for amendments to the ordinance and Official Zoning District Map, which has, as a part of the amendment, a site plan for development of the entire district.

Printing plants and shops shall mean places wherein the printing of circulars, news or other written material is performed.

Private club shall mean a place wherein members gather for friendship and recreation, which has such membership restricted to persons who are actually on the rolls of membership of such club or their guests.

Rear yard shall mean an open, unoccupied space, except for accessory buildings as permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a minimum depth between the end of the main building and the rear lot line as specified for the district in which the lot is located.

Recreational vehicle shall mean a vehicular type primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

Restaurant shall mean an eating establishment where food and drink are served to customers in a dining room or in a building or where food is prepared.

Restaurant with drive-in service shall mean an eating establishment where food and drink are served to customers for consumption in motor vehicles parked on the premises or where facilities are provided which encourage the serving or consumption of food in motor vehicles.

Retail Residential shall mean a building or development wherein all of the first floor building/floor area is devoted to retail use and not more than fifty percent of the total building/floor area for all floors combined is devoted to retail use.

Retail sales and service establishments shall mean establishments for the sale of consumer goods, commodities and services to ultimate consumers or users.

Right-of-way shall mean a strip of land either dedicated or owned by the City or other public agency and used for the purpose of a public way or roadway. The area designated as a right-of-way shall not be included in computing the area or size of a lot or tract.

School shall mean an institution, either public or private, organized and operated for the purposes of providing facilities for the education of children and/or adults based upon an organized curriculum or study plan, accredited by or application for accreditation pending before the appropriate state agency. A trade school shall mean a place of instruction or education wherein physical, mechanical or other skills that may be used in business or commerce are taught and which may be operated for profit.

Screen, screening shall mean a wall or fence located in the front, rear or side yard in accordance with standards herein set forth and erected for the purpose of giving privacy and reducing noise impact.

Setback shall mean the required distance between the outermost part of any building and the property line.

Side Yard shall mean an open space on each side of a building and on the same lot with the building, situated between the building and side line of the lot and extending through from the front yard to the rear yard. Air conditioning units may occupy space in the side yard at the discretion of the Building Official or designee, provided that such location does not create a violation of the City's fire code or any other code, ordinance, rule, or regulation of the Village of Pleak. Any lot line, not the rear line or a front line, shall be deemed to be a side line.

Sign shall mean a structure or any part thereof which is used or intended to be used to attract attention to a subject matter for advertising purposes, and properly permitted under the provisions of the Village of Pleak ordinances.

Site shall mean a lot, tract or parcel of property, being described by lot and block number, metes and bounds and/or parts thereof, developed and/or intended to be developed by the erection of a building or buildings and which shall include front, rear and side yards where applicable.

Site coverage (lot coverage) shall mean the area of a particular site or tract which is covered with buildings and impervious (impermeable) surfaces.

Site plan or plans shall mean a one-dimensional graphic illustration setting forth minimum and maximum requirements for ingress to and egress from the property, public or private streets or drives, with adequate right-of-way, sidewalks, utilities, drainage, maximum lot coverage, yards and open spaces, screening walls or fences, landscaping and other development and protective requirements including maintenance considered necessary to create a reasonable transition to and protection of the adjacent property.

Special exception shall mean a type of relief granted by the Planning and Zoning Commission pursuant to the terms and authorization contained in this ordinance for particular and unique situations, which may include expansion of nonconforming uses.

Specific use shall mean a use permitted by ordinance in a district where it is not necessarily incompatible but where it might cause harm if not permitted by regulation. Exceptions are authorized under conditions which will insure their compatibility with surrounding uses.

Specific use amendment shall mean an amendment authorizing a certain use which, because of its nature, is not subject to categorizing into specific zoning districts, subject to such conditions or limitations as the Planning and Zoning Commission shall provide.

Sports stadium or arena shall mean a facility that serves as a venue for the viewing of athletic competitions, concerts and other special events by providing a field or court area or stage which is either partly or completely surrounded by a structure with seating for spectators, usually in tiers.

Statement of ownership shall mean a sworn statement by a person swearing to or affirming the legal or equitable ownership of real property.

Story shall mean that part of a building between the surface of a floor (whether or not counted for purposes of computing floor area ratio) and the ceiling immediately above. A "working" story is for functional residential or nonresidential use, at least eight feet in height from the surface of the floor to the ceiling immediately above.

Structure shall mean anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, excluding paved surface access ways and surface parking areas, approved surface water detention facilities and architectural/landscaping embellishment.

Studio for photography, music, art or health shall mean a place where professionally trained persons provide certain services including instruction in photographic renditions of people or things, instruction in the use of musical instruments, instruction in artistic renditions including sculpture, painting and similar arts, and instruction or place for physical health and well-being.

Tattoo shop shall mean a commercial use involving the creation of an indelible mark, figure, word or graphic illustration upon a human body by the insertion of pigment under the skin or by the production of scars or scarring.

Technical research facilities shall mean a place or places wherein office uses, technical laboratories, computer centers, engineering operations, research and/or related light manufacturing uses are located.

Theater, for live performances shall mean a facility which provides one or more auditorium spaces in which plays and other dramatic, musical or entertainment performances are provided to an audience, either as a commercial operation involving customer ticket purchases, or as a free (public or nonprofit) venue. The facility may also involve preparation and serving of food and beverages for consumption on the premises.

Tire retreading or recapping shall mean a place wherein tires used on vehicles are repaired by the addition of new tread surface to such tires.

Trailer rental or sales shall mean a place wherein trailers, regardless of class or size, are rented on a temporary basis or sold.

Travel agency shall mean a place wherein persons provide services in planning travel, including the sale of tickets and passage on buses, ships, airplanes, trains or other multi-passenger modes of travel.

Travel trailer shall mean a vehicular unit up to forty (40) feet in length and eight (8) feet in width when in closed travel configuration, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.

Truck and construction equipment sales and service shall mean a place wherein vehicles, including trucks of any size, are sold and serviced, including any type of equipment used in the construction industry.

Truck camper shall mean a portable unit constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

Use shall mean the particular type of function or purpose to which land and/or structure is committed.

Variance shall mean relief granted by order of the Planning and Zoning Commission, not contrary to the public interest, where owing to special conditions the literal enforcement of the regulations of this ordinance will result in unnecessary hardship.

Veterinary clinic shall mean a place wherein animals are brought for the purposes of providing medical care and examination and for the purpose of providing treatment, diagnosis or other medical attention to sick, disabled or otherwise infirm animals.

Wall shall mean the side of a room or building between the floor, foundation and the ceiling and roof, generally a structure of stone, brick or other material built to enclose, divide, support or protect, and constructed in accordance with the requirements of this Code.

Warehouse/warehousing, wholesaling and distribution facilities shall mean a place or places wherein commodities are stored or maintained on an interim basis prior to manufacturing, assembling and/or distribution to other locations. No outside storage shall be classified as a warehouse, wholesaling or distribution facility.

Welding or machine shop shall mean a place wherein metal apparatus are welded and/or where machinery exists to perform various functions necessary to repair or modify various apparatus.

Yard shall mean an open space other than a court, on a lot or parcel of land on which a building is situated and which is unobstructed above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features and landscape features.

Zero lot line shall mean the side lot line of a lot or tract without required minimum side yards, in order that the wall or structure may be erected on the side property line.

Zoning district (Hereinafter referred to as District) shall mean any district delineated on the Official Zoning District Map under the terms and provisions of this ordinance or which may hereinafter be created subsequent to the enactment of this ordinance.

Zoning district boundaries shall mean the boundaries of each zoning district as more fully described within the official zoning map of this ordinance.

ARTICLE III. - DECISION-MAKING AND ADMINISTRATIVE BODIES

Section 3.00 - Planning and Zoning Commission

In accordance with state law, the Planning and Zoning Commission's authority is limited to recommending boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission further conducts public hearings on proposed changes to the zoning ordinance or on site specific applications for zoning amendments. The Planning and Zoning Commission is responsible to make a preliminary report for consideration by City Council (Texas Local Government Code § 211.007(a), § 211.007(b)).

Section 3.01 - City Council

In addition to any authority granted the City Council by state law or the Code of Ordinances of the Village of Pleak, the City Council shall have the powers and duties set forth in this ordinance, including but not limited to the following:

- (1) To call and conduct public hearings in accordance with state law on proposals to amend or modify the provisions of this ordinance. Such meetings may occur jointly with a public hearing required to be held by the planning and zoning commission;
- (2) To amend the provisions of this ordinance upon appropriate findings, by ordinance, after public hearing and recommendation by the Planning and Zoning Commission; and
- (3) To take such other action not otherwise reserved for the Planning and Zoning Commission that the City Council may deem desirable and necessary.

Section 3.02 - Board of Adjustment

In accordance with state law, the governing body of a municipality (city council) may provide for the appointment of a board of adjustment. City Council may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance (Texas Local Government Code § 211.008).

ARTICLE IV. - PLANNING DOCUMENTS AND OFFICIAL MAP

Section 4.00 - Comprehensive Plan

The Comprehensive Plan dated March 13, 2009, along with any updates thereto subsequently approved by the City Council, is adopted as the Comprehensive Plan of the Village of Pleak, and the requirements of such plan are here in incorporated by reference. The Comprehensive Plan shall be maintained of record in the office of the City Secretary and the user is directed to the City's official website for a link to the Comprehensive Plan.

The Planning and Zoning Commission shall periodically review the adopted comprehensive plan and prepare a report thereon, recommending to the City Council adoption of amendments to the plan if the Planning and Zoning Commission deems the same necessary.

Section 4.10 - Official Zoning District Map

4.11. Map status: The Official Zoning District Map described in this Section, a reduced copy of which is attached to this ordinance, is hereby designated and established as a part of this ordinance; and the originals thereof which are on file at City Hall, Village of Pleak and bear the signatures of the City Secretary and the Mayor, shall be as much a part of this ordinance as if the information contained therein was set out in full in this ordinance.

4.12 Procedures:

(1) Adoption and amendment to the Official Zoning District Map shall be in accordance with the provisions of this ordinance.

(2) Two (2) copies of the map shall be filed with the City Secretary, one of which shall be prominently displayed and available for public inspection. Any amendments to the map shall be considered amendments to this ordinance; and as soon as the same are properly enacted, the two (2) maps in the office of the City Secretary should be properly changed.

(3) The Official Zoning District Map shall be made available to the public for download on the city's website.

4.13 District boundaries: In the event that any uncertainty exists with respect to the intended boundaries of the various districts as shown on the Official Zoning District Map, the following rules shall apply:

(1) The district boundaries are the centerlines of the streets, alleys, waterways and rights-of-way, unless otherwise indicated. Where designation of a boundary line on the Zoning District Map coincides with the location of a street, alley, waterway or right-of-way, the centerline of such street, alley, waterway or right-of-way shall be construed to be the boundary of such district.

(2) Where the district boundaries do not coincide with the location of streets, alleys, waterways and rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundaries of such district.

(3) Where the district boundaries do not coincide with the location of streets, alleys, waterways and rights-of-way or lot lines, the district boundary shall be determined by the use of the scale shown on the Zoning District Map.

(4) Boundaries indicated as approximately following city limits shall be construed as following city limits.

ARTICLE V. - ZONING REGULATIONS

DIVISION 1. - ZONING DISTRICTS AND REGULATIONS OF GENERAL APPLICABILITY

Section 5.00 - Districts Established

In order to carry out the goals and objectives of the comprehensive plan and the purposes of this ordinance, the following districts are hereby created:

(1) Residential Districts

- a) R-1 Residential District (R-1)
- b) R-2 Residential District (R-2)
- c) R-3 Residential District (R-3)
- d) R-4 Residential District (R-4)
- e) R-MF Residential Multi-Family District (R-MF)

(2) Commercial Districts

- a) C-1 Commercial District (C-1)
- b) C-2 Commercial District (C-2)
- c) C-3 Commercial District (C-3)

(3) Other Districts

- a) Light Industrial District (LI)
- b) Agricultural District (AG)
- c) Open Space (OS)

Section 5.01 - Permitted Uses

No structure or land in the Village of Pleak shall hereafter be constructed, built, moved, remodeled by expanding the size thereof, reconstructed, used or occupied except in accordance with the requirements of the zoning district in which the structure is located. However, a structure, use or lot lawfully existing at the date of adoption of this ordinance may be occupied as a nonconforming use under the procedures and requirements of this ordinance.

It is further specifically provided that there shall be a right of continued occupancy for any nonconforming residential structure located in the Village of Pleak which is used as a place of residence and that such right shall not be terminated by reason of sale or other transfer of title or vacancy of the structure.

Section 5.03 - Specific Uses

Certain uses, which because of their nature and existing location are not appropriate for categorizing into specific zoning districts, are allowed in various zoning districts by specific use permit. The procedure for approval of a specific use permit includes notice, public hearings and recommendation of the Planning and Zoning Commission, the same basic procedure prescribed for amendments to this Code. Any use not permitted by this ordinance or approved as a specific use permit under the procedures hereinafter set out is prohibited.

Section 5.04 - Temporary Uses

Temporary uses may be authorized by the City Council in any zoning district subject to the standards hereinafter established, provided that all temporary uses shall meet the minimum requirements of this Code for any type of development within the zoning district in which the use is located and shall, in addition, meet the minimum requirements of this Code for the building and maintenance of any structure erected as a temporary use. All temporary uses shall be for a period of time not exceeding ninety (90) days from the date of commencement of construction of the temporary use structure or the actual inhabitation or use of the structure for temporary use purposes, whichever is shorter. The time limitation herein imposed may be extended or shortened by action of the City Council, for good cause shown, when it shall appear that extension thereof is in the best interest of the applicant and neither contrary to the purposes and objectives of the comprehensive plan nor injurious to the health, safety and well-being of the residents, citizens and inhabitants of the Village of Pleak.

Section 5.05 - Planned Development

A planned development mechanism is provided for residential districts in order to provide greater land use flexibility and opportunity in the planning and development of residential projects that serve to upgrade and enhance proposed and existing residential neighborhoods. Planned developments shall have a defined boundary where unique restrictions are applicable to all properties within the district as approved by city council.

Section 5.06 - Subdivision Regulations

In addition to the requirements as set forth in this ordinance, all property proposed for planned development approval or any property requiring subdividing or resubdividing for any purpose within the City, shall be laid out in accordance with both the Village of Pleak Subdivision Ordinance and the Subdivision Design Standards Ordinance.

Section 5.07 - Use of Nonconforming Residential Lots

Notwithstanding the minimum requirements for residential lot size, structures may be constructed, built, moved, remodeled by expanding the size thereof, reconstructed, occupied or used on a nonconforming lot of record platted prior to the enactment of this ordinance, or any amendment hereto, provided that all such structures shall meet all other applicable development and use regulations for the zoning district in which the structure is located.

Section 5.08 - Structure and Area Regulations

No structure or part thereof shall be constructed, built, moved, remodeled by expanding the size thereof, reconstructed, occupied or used in such manner that the maximum height, lot coverage, floor area or floor area ratio exceeds that specified for the zoning district in which the structure or use is located; nor shall a structure or part thereof be constructed, built, remodeled by expanding the size thereof, reconstructed, occupied or used in such manner that yards are provided which are smaller than the required yards in the zoning district in which the structure or use is located.

Provisions of this Section may be modified only to the extent that is permissible under the terms and provisions of this Code.

Section 5.09 - Use and Land Regulations

No structure or land shall be used for any purpose except as specified herein as a nonconforming use lawfully existing at the date of enactment of this ordinance or as granted by city council by a special use permit.

Section 5.10 - Accessory Uses and Structures

Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district provided that all accessory structures or uses shall meet the development regulations for the zoning district in which the structure or use is located, in addition to the further requirements of this Section.

Accessory structures, location and regulation:

- (1) All detached accessory structures and uses in any residential district shall be located in the rear or side yard of the residential unit.
- (2) No accessory structure in any residential district shall exceed the height of the principal structure to which it is accessory.
- (3) All accessory structures and uses shall be subordinate to and supportive of the primary use and structure.
- (4) Accessory structures within agricultural districts are exempt from this section.

Section 5.11 - Performance Standards

All uses in any district of the City shall conform in operation, location and construction to the performance standards herein specified for noise, air pollution and particulate matter and other air contaminants, odorous matter, fire and explosive hazard material, toxic and noxious matter, vibration, open storage and glare.

A. Noise:

(1) Environmental sound levels: It shall be a violation of this ordinance for any person to operate or permit to be operated any stationary source of sound which creates a unit percentile sound level greater than 15 dB(A) above the ambient sound pressure level (L90) as set forth in Table 1 in any residential use zone, or creates a tenth percentile sound level (L10) or a ninetieth percentile sound level (L90) which exceeds the limits set forth in Table 1 for the receiving land use districts when measured at the property boundary. For the purpose of enforcing these provisions, a measurement period shall not be less than ten (10) minutes or more than thirty (30) minutes.

Table 1. Limiting Sound:

Levels for Land Use Districts

L₉₀

Use District	7:00 a.m.—10:00 p.m.	10:00 p.m.—7:00 a.m.
Residential	55 dB(A)	50 dB(A)
Commercial	62 dB(A)	57 dB(A)
Industrial	75 dB(A)	75 dB(A)
Agricultural	80 dB(A)	80 dB(A)

L₁₀

Use District	7:00 a.m.—10:00 p.m.	10:00 p.m.—7:00 a.m.
Residential	65 dB(A)	60 dB(A)
Commercial	72 dB(A)	67 dB(A)
Industrial	85 dB(A)	85 dB(A)
Agricultural	90 dB(A)	90 dB(A)

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundary and within the most restrictive land use category.

(2) Public and private project review: All public and private projects shall be subject to a review process by the Building Official or designee in order to determine if such projects are likely to cause noise or vibration in violation of this subsection. The Building Official or designee shall be authorized to make or require any investigations or studies

necessary to determine if compliance with this subsection can be achieved. The Building Official or designee shall also have the authority to require noise attenuation measures in accordance with the findings of said investigations or studies for the purpose of determining compliance with this subsection.

(3) Exemptions. The following uses and activities shall be exempt from the noise level regulations herein specified:

- a) Noises not directly under control of the property user;
- b) Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m. (daylight hours);
- c) Noises of safety signals, warning devices and emergency pressure relief valves;
- d) Transient noise of moving sources such as automobiles, trucks, mowers, farm equipment, airplanes and trains.

B. Control of air pollution from visible emission and particulate matter: No person may cause, suffer, allow or permit any outdoor burning, incineration, visible emissions or particulate matter from any source to exceed allowable rates specified in Title 30 of the Texas Administrative Code § 111.111.

C. Odorous matter: No person shall discharge from any source whatsoever one or more air contaminants that produce an odor, in such concentration and of such duration as may tend to be injurious to or to adversely affect human health or welfare. No discharge shall be permitted which exceeds applicable standards set by the Texas Commission on Environmental Quality.

D. Fire and explosive hazardous material:

(1) The storage and use of all flammable liquids and materials including plastics, film, solvents and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Fort Bend County Fire Code.

(2) Volatile organic compound loading facilities and gasoline terminals must be in compliance with Title 30 of the Texas Administrative Code § 115.219 (as applicable to Fort Bend County).

E. Toxic and noxious matter: No operation or use in any district shall emit toxic and noxious matter that is in violation of Title 30 of the Texas Administrative Code § 101.1 et seq. (as applicable to Fort Bend County).

F. Vibration: No operation or use in any district shall at any time create earthborn vibration which, when measured at the bounding property line of the source of operation, exceeds the limit of displacement set forth in the following table in the frequency ranges specified.

Frequency Cycles Per Second	Displacement in inches
0 to 10	0.001
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and Over	0.0003

G. Open storage: No open storage of materials or commodities shall be permitted in any district except as an accessory use to a main use in an LI, Light Industrial or PD, Planned Development Industrial District which is located in a building. No open storage operation shall be located in front of a main building. No wrecking, junk or salvage yard shall be permitted as a storage use in any district.

H. Outdoor Lighting: No use or operation in any district shall be located or conducted so as to produce direct illumination or intense glare across the bounding property line from a visible source of illumination or glare nor shall such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

Section 5.12 - Fence Regulations

A. In residential zoning districts, no fences shall be constructed to a height in excess of eight (8) feet. Fences eight (8) feet in height or less may be constructed anywhere inside the property lines of a lot zoned residential, subject to such conditions and limitations as shall be provided in this Code.

B. In non-residential zoning districts, fences may be located anywhere on a lot, subject to such conditions and limitations as shall be provided in this Code.

Section 5.13 - Landscaping, Screening and Buffering

A. Purpose: The standards set out in this Section are intended to:

- (1) Protect and improve the appearance and character of the community, including its developed and open space areas, in accordance with the Comprehensive Plan and the Village of Pleak Landscape Ordinance (Ord. 08-63);
- (2) Increase the compatibility of adjacent land uses;
- (3) Mitigate the effects of noise, dust, debris, artificial light intrusions and other externalities created by the use of land, and

(4) Conserve water and promote the long-term viability of development landscaping by promoting the planting and maintenance of native and drought-resistant vegetation types.

B. Applicability: Standards described herein are minimum standards applicable to all new planned developments and mixed-use developments and all new non-residential structures and related parking that have, as a condition of approval, requirements for landscaping, screening or buffering and to all non-residential uses and related parking permitted.

(1) The requirements of this Section shall also apply when:

a) There is an enlargement exceeding one thousand (1,000) square feet in area of the exterior dimensions of an existing non-residential or multifamily residential or mixed-use building or of any existing building within a planned development, or more than one thousand (1,000) square feet cumulative among multiple buildings in all such cases; or

b) There is either a new parking lot for a non-residential or multifamily residential or mixed-use building, or for a planned development, or expansion of an existing parking lot in such cases to provide one or more additional parking spaces.

(2) The requirements of this Section shall apply to the entirety of the development site if it is completely developed by the new construction of a building or buildings and associated off-street parking. If the entirety of the building site is only partially developed by new construction or enlargement (with the enlargement exceeding at least 1,000 square feet in area of the previous exterior dimensions of a building, or cumulative among multiple buildings, per subsection (1)b), above), the requirements of this Section shall be applied only in proportion to the area of the new or enlarged building and/or off-street parking area.

(3) The requirements of this Section shall not apply when:

a) Reconstruction work on an existing building that was partially damaged or destroyed involves less than fifty (50) percent of the pre-existing area of the exterior dimensions of the building. This exemption shall apply only when the reconstruction will not result in an increase in the number of parking spaces.

C. Quantity of landscaping: The minimum amount of landscaping required for a development site shall be based on the applicable factors in the Village of Pleak Landscape Ordinance (Ord. 08-63).

D. Screening and buffering.

(1) Between non-residential and residential uses: Where the rear or side of a non-residential building is exposed to a residence or to a residential district boundary line, and where such building is closer than fifty (50) feet to the residence or to the boundary line, a screening wall of at least eight (8) feet in height shall be erected separating the rear or side from the adjacent residence or residential district, unless a planned

development has been approved specifically authorizing an alternate solution for screening and/or buffering, which is not in conflict with the purposes of this Section and which is justified based upon architectural, aesthetic and landscaping considerations peculiar to the specific development, in which case the requirements of the planned development approval shall prevail.

a) City Council waiver of non-residential screening requirement. The provisions of this subsection as to screening and buffering between non-residential and residential uses may be waived by the City Council upon recommendation by the Planning and Zoning Commission in the following cases:

1) When a property line abuts a dedicated alley; or

2) When a rear or service side abuts an existing wall or other durable landscaping or screening barrier on an abutting property if said existing barrier satisfies the requirements of this subsection.

(2) Between residential planned developments and other residential property. Where a residential use requires a planned development amendment to proceed, there shall be at least a six (6) foot screening wall or fence between the property that is the subject of the planned development and any abutting residential property that conforms to regulations for permitted uses within the district in which it is located. A planned development may be approved specifically authorizing an alternate solution for screening and/or buffering, which is not in conflict with the purposes of this Section and which is justified based upon architectural, aesthetic and landscaping considerations peculiar to the specific development, in which case the requirements of the planned development approval shall prevail.

(3) Standards for screening walls and fences. A screening wall or fence shall be of wood or masonry construction as provided herein.

a) A fence of wooden construction shall be a permanent wooden fence constructed of cedar or treated wood slats and set in place with wooden posts or capped galvanized iron posts set in concrete. A screening wall or fence must not be less than the height specified for each of the types of screening addressed in subsections D.(1) above. The wall or fence shall not contain openings of more than forty (40) square inches in each one (1) square foot of surface of such wall or fence, and such wall or fence surface shall constitute a visual barrier.

b) A screening wall or fence may be constructed, which shall be of masonry construction on a concrete beam or foundation or a metal frame or base, which supports a permanent type wall material, the surface of which does not contain openings of more than forty (40) square inches in each one (1) square foot of surface of such wall or fence, and which fence or wall surface shall constitute a visual barrier.

c) In either permanent wooden or masonry constructed walls or fences, no opening shall be permitted for access unless a solid gate, equaling the height of the wall or fence, is provided. Such gate shall remain closed at all times except when in actual use.

(4) Screening of trash receptacles: All trash receptacles upon non-residential property shall be located at least ten (10) feet from any and all points upon any lot in residential use. Further, all such trash receptacles shall be visually screened by means of a fence or a wall.

a) The screening requirement for trash receptacles applies in R-MF, all commercial and LI districts with regard to visual screening from an abutting public street right-of-way and not from adjacent residential property.

1) Dumpsters and garbage bins shall be located behind principal buildings relative to public street frontage whenever practical.

(5) Screening of outside storage. All outside storage areas, including waste material storage facilities, in planned development and non-residential districts shall be screened from adjacent residential uses and public street rights-of-way. Screening may be as follows:

a) A screening wall or fence which shall be of wood or masonry construction of sufficient height to screen that which is being stored; or

b) A hedge which shall be of sufficient height and density to screen that which is being stored.

E. Screening of off-street parking: Landscaping shall be provided along the edge of any off-street parking area for five (5) vehicles or more that is not visually screened by an intervening building or structure from an abutting public right-of-way or adjacent residential property.

(1) The perimeter landscaping shall involve shrubs spaced to form a continuous and solid visual screen, within one (1) year of planting, exclusive of driveways, pedestrian walkways and visibility triangles. Such shrubs shall be maintained at a maximum forty-eight (48) inches in height.

Section 5.14 - Off-Street Parking and Loading

A. Purpose: The requirements of this Section are intended to reduce congestion of the public streets and to promote the safety and welfare of the public by ensuring the availability of adequate off-street parking and loading facilities in the Village of Pleak.

B. Required parking:

- (1) Off-street parking spaces shall be provided for each use in accordance with the requirements of each district.
- (2) The number of required off-street parking spaces that are designed and designated for disabled persons shall comply with the requirements of the Texas Accessibility Standards.
- (3) When calculating the number of required off-street parking spaces, all fractions shall be rounded up to the next whole number.

C. Location of required parking spaces:

- (1) For single-family detached and single-family attached dwelling units, required parking shall be located within the same lot and completely outside any public ROW or private street so that vehicle can be parked completely on private property.
- (2) Spaces needed to meet parking requirements for all uses other than single-family detached and attached dwellings may be located off-site on a separate property provided that the most distant parking space that is located off-site is no more than three hundred (300) feet from the principal building associated with the use, and the off-site parking is not separated from the use by an arterial street, a limited-access highway or other impediment to pedestrian circulation.
 - a) No more than fifty (50) percent of the total required off-street parking spaces shall be located off site. None of the required parking spaces for disabled persons shall be located off site. None of the off-site parking shall involve or displace the off-street parking required of another use except through a shared parking arrangement under this Ordinance.
 - b) An identifiable and publicly available pedestrian connection shall exist between the off-site parking area and the use.
 - c) Any proposed off-site parking arrangement, and the continued availability of the dedicated parking, shall be documented through a written legal agreement executed by the involved property owners. An agreement shall be reviewed by and be satisfactory to the City Attorney as to form, sufficiency and manner of execution, and shall bind all heirs, successors and assigns. Off-site parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force.
 - 1) If there is a change in circumstances regarding the off-site parking area, which displaces, reduces or terminates the required parking, the owner of the use served by the off-site parking shall promptly notify the City's administrative official of the changed circumstances and his/her plans for maintaining full compliance with this Ordinance.

2) Failure to notify the City's administrative official of changed circumstances, or to provide the required parking within ninety (90) days of any loss of required parking, shall be cause for initiating revocation of the certificate of occupancy for the use.

D. Use of required parking spaces. No portion of any required off-street parking space shall be used for the storage, sale or display of merchandise, or the storage, sale or display of complete or dismantled vehicles, except as authorized in this Code.

(1) Blocking access to required off-street parking and loading spaces is prohibited, and dumpsters, trash enclosures, utility equipment or other site improvements or activities shall not be located in off-street parking and loading spaces.

E. Design of required parking spaces:

(1) Except as provided in subsection (2) or as otherwise specified in a planned development approval, each required parking space shall have the dimensions as hereinafter provided.

(2) Required parking spaces shall be dimensioned as specified in Table 5.14(A)

a) Vertical clearance of not less than eight (8) feet from all structures and trees/vegetation shall be provided over all parking space types. Additional clearance shall be provided, as appropriate, over spaces designated for vans, light trucks and other larger vehicles that require greater clearance. All parking garage entrances shall include an overhead bar to alert drivers of oversized vehicles regarding clearance.

Table 5.14(A)– Parking Space Dimensions

Type of Space	Space (WxL)	Other Specifications
Angled (up to 90 degrees)	9 feet x 20 feet	Length may be reduced to 18 feet where vehicle overhang of a pavement edge is anticipated.
Parallel	9 feet x 22 feet	
Designated for Disabled Persons	Such spaces shall be designed and located as required by the Texas Accessibility Standards.	
Designated for Bicycles	2 feet x 6 feet	Minimum width of four feet for access aisles beside or between rows of bicycle parking.

F. Change of use: Whenever a use which is in existence on the date of enactment of this ordinance is changed or modified so that additional parking spaces are required under this ordinance, the new required parking spaces shall comply with the requirements of this Section. A nonconformity with the terms and provisions of this Section as to insufficient parking spaces may be continued, but the nonconformity shall not be increased as provided for in Article VII of this ordinance.

G. Required off-street loading spaces:

(1) Location of required loading spaces. Loading spaces shall be located on the same lot as the building or structure to which they are accessory. No loading space shall be located in a required front yard.

(2) Designation and use. Each required loading space shall be designated as such and shall only be used for loading purposes.

(3) Design and maintenance.

a) Dimensions. Each space shall be a minimum of twelve (12) feet wide, forty-five (45) feet long, with an unobstructed vertical clearance of not less than fourteen (14) feet.

b) Screening. All loading spaces or maneuvering areas shall be fully screened from view of any residential use by a uniformly colored, solid, visual and auditory barrier of not less than five (5) feet nor greater than eight (8) feet in height or a densely planted landscape screen consisting of evergreen shrubs or trees which shall be at least four (4) feet in height when planted and which can be expected to reach at least six (6) feet in height within three (3) years thereafter. The screening shall extend the full length of any loading facility with openings as required for ingress and egress, with not greater than twenty percent open space within the screen. The screen shall not be located closer than five (5) feet to any lot line.

c) Surfacing and drainage. All loading spaces shall be surfaced with an all-weather, durable and dust-free surface and shall be graded and drained to dispose of surface water accumulation by means of a storm water drainage system.

(4) Number required. One (1) loading space shall be required for the first 50,000 to 100,000 square feet of commercial floor area, and one (1) space shall be required for each additional 200,000 square feet of commercial floor area.

State Law reference— Municipality may regulate parking on private property, V.T.C.A., Local Government Code § 431.001.

Section 5.15 - Parking requirements, non-single family

- (a) General Requirements. The following requirements as provided in Table 5.15(A) are hereby established as parking regulations for all structures and developments other than single-family dwellings (attached or detached), including planned developments, which may be found in all zoning districts as permitted. Within Table 5.15(A) below, SF refers to square feet and GFA refers to Gross Floor Area.

Table 5.15(A): Parking Requirements

Use Classification	Minimum Parking Spaces
Office	
a. General Office	2.5 per 1000 SF GFA
b. Financial institution	3 per 1000 SF GFA
Residential	
a. Multi-family residential	2.0 per 1 bedroom or efficiency unit; 3.0 per 2 bedroom unit; and 3.0 per unit with 3 bedrooms or more
b. Retirement/Assisted Living Community	0.75 per dwelling unit or room, plus 1.0 per employee of largest shift
c. Hotel or motel	1.0 per room
Health Care Facilities	
a. Hospital	1.75 per bed
b. Medical or Dental Office	3.5 per 1000 SF GFA
c. Nursing Home	1.0 per bed plus 1 per 4 employees
d. Funeral Home or mortuary	0.5 per chapel seat
e. Veterinary clinic	5.0 per 1000 SF GFA
Industrial and Commercial Manufacturing	
Wholesaling and warehousing	2.5 per 1000 SF GFA of office space; and 1.00 per 5,000 SF GFA of non-office space
Light Manufacturing	2.5 per 1000 SF GFA of office space; and 1.00 per 5,000 SF GFA of assembly space
Other industrial/manufacturing	2.5 per 1000 SF GFA of office space; and 1.00 per 5,000 SF GFA of non-office space
Religious and Educational	
a. Church	1 per every 4 seats in main sanctuary/meeting room; if no fixed seating, 1.0 for every 40 square feet of GFA in the main sanctuary/meeting room
b. Nursery school or day care center	1.0 for every employee on duty during the largest shift; plus 1.0 per 5 children in attendance when the facility is operating at maximum capacity.
c. School, elementary	According to use as determined by the specific use permit
d. School, junior high/middle	Same as above
e. School, high	Same as above
f. College, University, Trade school	1 per every 3 students
g. Art gallery or museum	3.0 per 1000 sf of GFA

Recreation and Entertainment	
a. Theater, including movie	1.0 per every 3 seats
b. Bowling Alley	5.0 per lane
c. Sports club or health spa	5.0 per 1000 sf GFA
d. Swimming club	9.0 per employee
Food and Beverage	
a. Take-out restaurant (without seating)	4.0 plus 1 for every 1000 sf of GFA
b. Dessert shop	6.0 for every 1000 sf of GFA
c. Restaurant	10.0 for every 1000 sf of GFA
Retail Services	
a. Grocery Store	5.0 per 1000 sf of GFA
b. Furniture Store	2.0 per 1000 sf of GFA
c. General Retail	4.0 per 1000 sf of GFA
d. Barber or Beauty Salon	3.0 per operator chair
Automobile	
a. Vehicle Sales	5.5 per 1000 sf of GFA
b. Auto repair	5.0 per 1000 sf of GFA
c. Car wash	1.0 per bay
d. Service Station	3.0 per service stall; plus 1.0 per each employee on duty during largest shift
e. Auto parts store	4.0 per 1000 sf of GFA; plus additional 2.0 per 1000 GFA if mechanic shop is incorporated.

(b) Mixed use: Mixed-use development may be granted reductions in required parking as provided in this subsection.

(1) Shared parking table: Shared parking allows a reduction in the total number of required parking spaces when a parcel is occupied by two or more uses which typically do not experience peak parking demands at the same time. When any land or building is used for two or more uses that are listed below, the minimum total number of required parking spaces may be determined by the following procedures:

a) Multiply the minimum required parking for each individual use, excluding spaces reserved for use by specified individuals or classes of individuals, such as (e.g., handicapped parking), by the appropriate percentage listed in Table 5.15(B), for each of the designated time periods.

b) Calculate a sum for all uses for each of the five columns. The minimum parking requirement is the highest of these sums.

c) In general, the maximum reduction pursuant to Table 5.15(B) shall be 25 percent. However, a greater reduction is permitted, provided that:

- 1) Sufficient land is set aside for each parking space in excess of the 25 percent reduction that is not constructed, so that the spaces may be constructed at a later date should the City's administrative official determine that they are necessary; and
- 2) The property owner executes and records a document that guarantees that the spaces will be constructed upon written order of the City's planning and zoning commission.

Table 5.15(B): Shared Parking Table

Use	Weekday			Weekend	
	Night (12am-6am)	Day (6am-6pm)	Evening (6pm-12am)	Day (6pm-12am)	Evening (6pm-12am)
Residential	100%	60%	90%	80%	90%
Office	5%	100%	10%	10%	5%
Retail/Commercial	5%	70%	90%	100%	70%
Commercial Lodging	80%	80%	100%	50%	100%
Restaurant	10%	50%	100%	50%	100%
Commercial Amusement	10%	40%	100%	80%	100%
All Others	100%	100%	100%	100%	100%

(2) Special shared parking study. As an alternative to the methodology in Table 5.15(B), an applicant may propose a special study to document the parking required for mixed uses by reviewing peak loading times for uses during a 24-hour day and designing for the peak hour demand.

a) The study shall provide data on the following:

- 1) The recommended parking needs of the project.
- 2) The sensitivity of the proposed uses to change. For example, a center with no restaurant could have significant changes in parking if a restaurant was added.
- 3) Similar mixes of uses in other areas of the community or surrounding region.
- 4) Degree of variability of parking for individual uses (average, range and standard deviation).

b) The shared parking study must be conducted by a professional engineer with experience in parking analysis and planning.

1) The City may retain a qualified engineer, at the applicant's expense, to prepare the special study and provide recommendations to the City; or

2) The City may rely on the applicant's selected engineer to conduct the study, with review provided by City technical staff and/or consultant.

c) Upon the recommendation of the City's Planning and Zoning Commission may require a reserved open area on the site to offset the risk of parking needs increasing over time. Once the project is occupied and well established, if there is a surplus of parking, the applicant may petition for additional development capacity and parking using the reserved area.

Section 5.16 - Special Off-Street Parking Regulations

In all residential districts, no truck exceeding one ton capacity, no bus, no recreational vehicle, trailer, boat, motor home or mobile home shall be parked or stored on any abutting street or within the front yard, as such terms are defined in this ordinance, and shall not, anywhere within any of such districts, be used as a dwelling or for business, commercial or storage purposes.

In the event that the property building line, as set out on the subdivision plat, shall be closer than the outermost surface of any building to the property line, then it shall be a defense to any action commenced under this Section that such truck, bus, recreational vehicle, trailer, boat, motor home or mobile home was not in fact located within the distance between the property building line and the front lot line. Any person who shall plead such defense shall be required to prove the exact measured distance from the property building line to the front lot line.

Section 5.17 - Parking on Un-surfaced Area Prohibited

A. It shall be prohibited to park unattended vehicles on the un-surfaced area within the distance between the edge of the curb or edge of the paved surface of a public street abutting a front or side yard and the outermost surface of any structures located on any property. For the purpose of this Section un-surfaced area includes, but is not limited to, those areas covered with grass and/or other vegetation, whether natural, planted or landscaped.

B. It shall be an affirmative defense to prosecution under this Section that the vehicle was parked on an uncurbed street with two wheels on the same lateral side of the vehicle resting on and parallel to the paved portion of the street and two wheels on the same lateral side of the vehicle resting on and parallel to the un-surfaced area defined in (A) above; provided, however, that such parking in no way impedes the orderly flow of traffic on said street.

Section 5.18 - Home Occupations

A. Authorization: A home occupation shall be permitted in any residential dwelling unit or accessory structure provided that the home or structure complies with the terms and provisions of this ordinance.

B. Purpose: The regulations of this Section are designed to protect and maintain the residential character of established neighborhoods while recognizing that particular professional and limited business activities are traditionally and inoffensively carried on in the home. All home

occupations are subordinate to the primary use of the home as a place of residence and shall not interfere with the enjoyment of surrounding homes as places of residence.

C. Limitation on home occupations: Any home occupation is prohibited when:

- (1) The home occupation causes, by reason of its existence, a noticeable increase in the number of motor vehicles traveling to and from the home or on the public streets surrounding or abutting the home; or when
- (2) The home occupation in any way destroys or interferes with the primary use of the home as a place of residence.

D. Particular home occupations permitted: Permitted home occupations are (list is not all inclusive).

- (1) Homebound employment of a physically, mentally or emotionally handicapped person;
- (2) Office facilities for salesmen, sales representatives and manufacturers' representatives, when no retail or wholesale sales are made or transacted on premises;
- (3) Studio or laboratory of an artist, musician, photographer, craftsman, writer, tailor or similar person;
- (4) Office facilities for accountants, architects, brokers, engineers, lawyers, insurance agents, realtors and members of similar professions.

E. Use limitations: In addition to the requirements of the zoning district in which it is located and those requirements herein previously set out, all home occupations shall comply with the following restrictions:

- (1) No stock in trade shall be displayed or sold on the premises;
- (2) The home occupation shall be conducted entirely within the principal dwelling unit or accessory structure, or off premises in accordance with all applicable provisions of this ordinance, and in no event shall such use be visible from any other residential structure or public way;
- (3) There shall be no outdoor storage of equipment or material used in the home occupation;
- (4) No more than one vehicle shall be used in the conduct of the home occupation;
- (5) No mechanical, explosive, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used;
- (6) No home occupation shall be permitted which is noxious or offensive to a person of ordinary sensitivity or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions;

(7) Advertising: Any sign, display or written advertisement of the occupation or the telephone number of the occupation on the premises of the home occupation is prohibited.

Section 5.19 - Expansion of Nonconforming Residential Structures

Notwithstanding the minimum requirements for side yards and rear yards as herein set out, any existing residential structure, lawfully existing prior to the enactment of this chapter or any amendment hereto, located within the Village of Pleak may be expanded or enlarged as long as such expansion or enlargement does not extend into the required side yard or rear yard beyond the outermost surface of the existing building line, and as long as such expansion does not violate the City's fire code or any other code, ordinance, rule or regulation of the Village of Pleak.

Section 5.20 - Communication Towers and Antennas

The following general conditions for communication towers and antennas shall apply regardless of whether the communications tower or antenna is to be construed as a permitted use or a specific use.

A. Permit Required. Before construction of a communication tower or antenna, a permit must be obtained from the Building Official or designee. Issuance of the permit shall be conditioned upon submission of plans and specifications, payment of established fees and continued compliance with all requirements relating to communication towers or antennas set forth in the City Code.

B. Availability of suitable existing communication towers or other support structures.

1. All new communication towers shall be designed to structurally accommodate the maximum number of additional users as economically, as well as, technically practicable.
2. No new communication tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Building Official or designee that no existing communication tower or antenna support structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing communication tower or antenna support structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - (a) No existing communication towers or antenna support structures are located within the geographic area required to meet applicant's engineering requirements, or
 - (b) Existing communication towers or antenna support structures are not of sufficient height to meet applicant's engineering requirements, or
 - (c) Existing communication towers or antenna support structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength, or
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing communication towers or antenna support structures, or the support structures would cause interference with the applicant's proposed antenna, or

(e) The fees or costs required to share an existing communication tower or antenna support structure or to adapt an existing tower or antenna structure for sharing are unreasonable, or

(f) Property owners or owners of existing communication towers or antenna support structures are unwilling to accommodate the applicant's needs, or

(g) The applicant demonstrates that there are other limiting factors that render existing communication towers and antenna support structures unsuitable.

3. The permit granted for the construction and continued operation of a new communication tower is specifically subject to the condition that the communication tower owner abides by the following provisions relating to shared use:

(a) The communication tower owner shall respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;

(b) The communication tower owner shall negotiate in good faith for shared use by third parties; and

(c) The communication tower owner shall allow shared use where the third party seeking the use agrees in writing to pay reasonable, pro rata charges for sharing, including payment of all charges necessary to modify the communication tower and transmitters to accommodate shared use, but not total communication tower reconstruction, and to observe whatever technical requirements are necessary to allow shared use without creating interference.

C. Distance from adjacent property. Communication towers shall be spaced from all adjacent property at a minimum of 125 percent of the height of the communication tower measured from the base of the communication tower to the nearest adjacent property line.

D. Height Restriction. The maximum height for communication towers shall be one hundred twenty feet as measured from the base of the communication tower to its highest point.

E. Structural Integrity. To ensure the structural integrity of communication towers or antennas, the owner of a communication tower or antenna shall, before building such structure, submit a structural integrity report to the Building Official or designee prepared by a registered professional engineer prior to placing such communication tower or antenna into service. In addition, the owner shall ensure that the communication tower or antenna is maintained in compliance with all standards contained in applicable local building codes and the applicable standard for communication towers and antenna that are published by the electronic Industries Association, as amended from time to time. The owner of a communication tower or antenna shall submit on an annual basis, to the Building Official or designee, a certification of structural integrity prepared by a registered professional engineer. If the Building Official or designee determines that the communication tower or antenna fails to comply with such codes and standards and constitutes a danger to persons and property, then upon notice being provided to the owner, the owner shall have thirty (30) days to bring such communication tower or antenna into compliance with such codes and standards. If the owner fails to bring such communication tower or antenna into compliance within the said thirty (30) days, the City may remove such communication tower or antenna or cause it to be removed at the owner's expense.

F. Security Fencing. Communication towers, other than monopole antenna support structures, shall be enclosed by fencing not less than eight feet in height and shall be equipped with an

appropriate anti-climbing device. Access to the communication tower shall only be through a locked gate.

G. No hazardous materials on site. The storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, natural gas, and dangerous chemicals shall be prohibited on any site used for the location of a communication tower or antenna except for that fuel needed for a backup generator.

H. Radiation Standards. Communication towers and antennas shall comply with current Federal Communication Commission Standards for non-ionizing electromagnetic radiation (NIER). The owner shall submit verification that the proposed site plan ensures compliance with these standards prior to placing any communication tower or antennas into service.

I. Visual impacts.

1. Communication towers shall, subject to any applicable standards of the FAA or other applicable federal or state agency, have a neutral finish, or otherwise be constructed so as to reduce visual obtrusiveness, and blend the tower facilities to the natural setting and built environment.

2. Communication towers and antennas shall not be illuminated except as required by FAA regulation or other federal or state agencies.

J. Abandonment. Any antenna or communication tower that for a continuous period of twelve (12) months is not operated, shall be considered abandoned, and the owner of such antenna or communication tower shall remove same within ninety (90) days of receipt of notice from the Building Official or designee notifying the owner of such abandonment. If such antenna or communication tower is not removed within said ninety (90) days, the Building Official or designee may cause such antenna or communication tower to be removed at the owner's expense. If there are two or more users of a single communication tower, then this provision shall not become effective until all users cease using the communication tower.

Federal law reference—Preservation of local zoning authority regarding wireless telecommunications facilities, 47 USC § 322(c)(7).

Section 5.21 - Site Plan Review

A. Required Information: Development applications which require administrative and/or Planning and Zoning Commission review of a site plan under this chapter, as well as all applications for a planned development amendment to this chapter, shall include the following information in a format specified by the Planning and Zoning Official:

- (1) North arrow and scale.

- (2) Vicinity map indicating the general location of the site and its relationship with adjacent and nearby streets in all directions from the site to a distance of 200 feet.

- (3) Surrounding uses, activities and influences of the site and adjacent properties within 200 feet, including:

- a) Public streets, and the location of any existing traffic control devices.

- b) Bicycle and/or pedestrian facilities, routes, paths or other existing improvements.
 - c) Driveways that exist or which are proposed to the degree that they appear on plans on file with the City.
 - d) Any buildings that exist or are proposed to the degree that their location and size are shown on plans on file with the City.
 - e) Residences, which may be shown in approximate location and general size and shape.
- (4) The boundary lines of the area included in the site plan, including bearings, dimensions and reference to a point on a recorded plat.
- (5) Existing and finished grades or contours, as applicable.
- (6) Identification of any areas on the site or within 200 feet that are within the 100-year floodplain.
- (7) The size of the subject property, and sufficient dimensions to indicate the relationship between buildings, property lines, zoning district boundaries, parking areas and other elements of the plan.
- (8) Existing structures and other improvements on the site.
- (9) The general location of new public streets, any proposed improvements or adjustments to existing public streets, and points of ingress to and egress from the development.
- (10) Proposed location of buildings and other structures, parking areas, driveways, on-site circulation, screening and buffering, drainage patterns, public streets and any existing or proposed easements.
- (11) A schedule indicating total site area, total floor area, lot coverage relative to landscape surface area, allocation and specific location of all proposed principal and accessory land uses, number of dwelling units, nonresidential square footage, number of standard and ADA accessible parking spaces, any loading spaces, height of all buildings and structures, residential density, nonresidential floor area ratio(s), and other pertinent quantities relative to the submitted plan, including the above quantities by individual structure for plans with multiple buildings.
- (12) Focal points and site amenities.
- (13) The proposed location of any and all green space, public parks or other areas reserved for public use in the proposed development.
- (14) Building elevations and other site and architectural detail depicting conformance with design standards established for particular zoning districts.
- (15) Landscape plan as set forth in Section 5 of Ordinance 08-63 of the Village of Pleak (Landscape Ordinance), illustrating the planned approach for providing required landscaping, screening and buffering, as applicable, as well as required tree planting for commercial property.

(16) Name and address of the land owner, applicant, architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the site plan.

(17) A written description, and any available documentation, of known environmental hazards or conditions existing on the property from historical use or off-site activities which impacted the site.

(18) A written description and analysis of additional demand on City utilities and storm drainage facilities, and impact on their available capacity, from the proposed development.

(19) A traffic impact analysis, if deemed necessary by the Planning and Zoning Commission or the City Council.

(20) Such other information or documentation as the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

B. Procedures.

(1) Complete application: The applicant shall submit a complete application to the Planning and Zoning Commission along with the content requirements specified in this Section, above. Processing of the application and review of the site plan shall not commence until all submittal requirements are satisfied.

(2) Review: The Planning and Zoning Commission shall review the site plan for conformance with all applicable standards and guidelines of the City Ordinance, with the exception of any proposed variations from City standards as part of a planned development application, which must be clearly specified. Conforming plans shall be placed on the next available agenda of the Planning and Zoning Commission.

(3) Zoning amendment process for Planned Development Amendments: When the Planning and Zoning Commission is ready to proceed with the zoning amendment aspect of a planned development application, including a report and recommendation to City Council and the Planning and Zoning Commission shall proceed to complete all public notice, hearing and other processing as required.

Section 5.22 - Schools and churches in residential districts

A. Purpose: The purpose of this section is to set specific and consistent regulations for the development of schools and churches in residentially zoned districts to ensure compatibility with existing neighborhoods and to minimize possible negative impacts of such uses.

B. Standard Regulations.

(1) Size and Area:

- a. Maximum building height: 45 feet, including church steeples, domes, spires, bell towers, cooling towers, roof gables, chimneys, antennas, and vent stacks;
- b. Minimum required yards;
 - i. Front yard: Thirty (30) feet;
 - ii. Side yard: Twenty (20) feet, provided that on a corner lot, the minimum side yard adjacent to the side street shall be ten (10) feet;
 - iii. Rear yard: Twenty (20) feet, for both the main structure and any accessory structures;
- c. Maximum lot coverage: Fifty (50) percent of lot area.

DIVISION 2. - ZONING DISTRICT REGULATIONS

Section 5.30 - R-1 Residential District

A.Purpose. The R-1 Residential District is a low density residential area characterized by the zoning requirements set forth in this Section.

B. Unzoned property. All property not included in a zoning district or for any reason removed from an established zoning classification, shall be deemed included in the R-1 Residential District although not so delineated on the Official Zoning District Map.

C. Uses.

(1) Permitted uses:

- a) Single-family dwellings.
- b) Public parks.
- c) Utilities:
 - 1) Telephone lines and related cross connecting points.
 - 2) Local utility distribution lines.
- d) Accessory uses.
- e) Home occupations.
- f) Facilities owned and maintained by the City.

(2) Specific uses:

- a) Schools.
- b) Churches.

D. Standard regulations:

(1) Residential structures.

- a) Size and area:
 - 1) Minimum lot area: 15,000 square feet.
 - 2) Minimum lot width: 100 feet.
 - 3) Minimum lot depth: 150 feet.
 - 4) Maximum building height: 3 stories.
 - 5) Minimum required yards:
 - a. Front yard: Twenty-five (25) feet;

b. Side yard: five (5) feet, provided that on a corner lot where one street exposure is designated as a side yard by a building line shown on a plat approved by the Planning and Zoning Commission, containing a side yard of fifteen (15) feet or more, the building line provisions on the plat shall be observed;

For any accessory structure, there shall be a side yard of not less than five (5) feet from any interior side lot line when such accessory structure is located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). When any part of an accessory structure is located in front of the line connecting the two midpoints of the two opposite side lot lines, then the same side yard as specified for the main building is required.

Architectural features: the outermost point of architectural features (roof eaves, fireplaces and/or chimneys or bay windows, excluding fireplaces which are attached to the ground) projecting from the side building line shall be a minimum of three (3) feet from the side property line. No other projection from the side building line shall be permitted.

c. Rear yard:

1. For any main residential or accessory structure, twenty (20) feet from the rear property line; and

2. In computing rear yard, all measurements shall be made from the rear property line as shown on the plat properly filed for record in the office of the County Clerk of Fort Bend County, Texas.

6) Maximum lot coverage: 55 percent of lot area.

b) Parking: Two (2) on-site spaces per dwelling unit.

c) Fencing: The R-1 zoning designation has the largest minimum lot size and thus allows for the largest residential lot size, resulting in a very low density subdivision. Perimeter fencing on all lot lines is common with large lots and is allowed in this zone. Fences on the front property line are allowed thus enclosing the front yard. Fences may be constructed with materials including brick, masonry, stone, wood, metal, chain link, or other substitute material as approved by the Planning and Zoning Commission and may include gates for vehicular and/or pedestrian access.

Section 5.31 - R-2 Residential District

A.Purpose. The R-2 Residential District is a low density residential area characterized by the zoning requirements set forth in this Section.

B. Uses.

(1) Permitted uses:

- a) Single-family dwellings.
- b) Public parks.
- c) Utilities:
 - 1) Telephone lines and related cross connecting points.
 - 2) Local utility distribution lines.
- d) Accessory uses.
- e) Home occupations.
- f) Facilities owned and maintained by the City.

(2) Specific uses:

- a) Schools.
- b) Churches.

C. Standard regulations:

(1) Residential structures.

a) Size and area:

- 1) Minimum lot area: 7,500 square feet.
- 2) Minimum lot width: 70 feet.
- 3) Minimum lot depth: 110 feet.
- 4) Maximum building height: 3 stories.
- 5) Minimum required yards:
 - a. Front yard: Twenty-five (25) feet;
 - b. Side yard: five (5) feet, provided that on a corner lot where one street exposure is designated as a side yard by a building line shown on a plat approved by the Planning and Zoning Commission, containing a side yard of fifteen (15) feet or more, the building line provisions on the plat shall be observed;

For any accessory structure, there shall be a side yard of not less than five (5) feet from any interior side lot line when such accessory structure is located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). When any part of an accessory structure is located in front of the line connecting the two midpoints of the two opposite side lot lines, then the same side yard as specified for the main building is required.

Architectural features: the outermost point of architectural features (roof eaves, fireplaces and/or chimneys or bay windows, excluding fireplaces which are attached to the ground) projecting from the side building line shall be a minimum of three (3) feet from the side property line. No other projection from the side building line shall be permitted.

c. Rear yard:

1. For any main residential or accessory structure, twenty (20) feet from the rear property line; and

2. In computing rear yard, all measurements shall be made from the rear property line as shown on the plat properly filed for record in the office of the County Clerk of Fort Bend County, Texas.

6) Maximum lot coverage: 55 percent of lot area.

b) Parking: Two (2) on-site spaces per dwelling unit.

c) Fencing: The R-2 zoning designation is meant for low density lot sizes and thus allows perimeter fencing on all lot lines. Fences on the front property line are allowed thus enclosing the front yard but must be constructed in such a manner as to allow visibility through the fence into the front yard. Front yard fences must be no higher than four (4) feet high and must be constructed with materials such as wood (with slats spaced apart to allow visibility through the fence), wrought iron or similar narrow gauge metal, or other substitute material as approved by the Planning and Zoning Commission. Front yard fences may include gates for vehicular and/or pedestrian access. Rear and side lot line fences may be constructed with materials including brick, masonry, stone, wood, metal, or other substitute material as approved by the Planning and Zoning Commission.

Section 5.32 - R-3 Residential District

A.Purpose. The R-3 Residential District is a low density residential area characterized by the zoning requirements set forth in this Section.

B. Uses.

(1) Permitted uses:

- a) Single-family dwellings.
- b) Public parks.
- c) Utilities:
 - 1) Telephone lines and related cross connecting points.
 - 2) Local utility distribution lines.
- d) Accessory uses.
- e) Home occupations.
- f) Facilities owned and maintained by the City.

(2) Specific uses:

- a) Schools.
- b) Churches.

C. Standard regulations:

(1) Residential structures.

a) Size and area:

- 1) Minimum lot area: 6,600 square feet.
- 2) Minimum lot width: 60 feet.
- 3) Minimum lot depth: 110 feet.
- 4) Maximum building height: 2.5 stories.
- 5) Minimum required yards:
 - a. Front yard: Twenty-five (25) feet;
 - b. Side yard: five (5) feet, provided that on a corner lot where one street exposure is designated as a side yard by a building line shown on a plat approved by the Planning and Zoning Commission, containing a side yard of fifteen (15) feet or more, the building line provisions on the plat shall be observed;

For any accessory structure, there shall be a side yard of not less than five (5) feet from any interior side lot line when such accessory structure is located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). When any part of an accessory structure is located in front of the line connecting the two midpoints of the two opposite side lot lines, then the same side yard as specified for the main building is required.

Architectural features: the outermost point of architectural features (roof eaves, fireplaces and/or chimneys or bay windows, excluding fireplaces which are attached to the ground) projecting from the side building line shall be a minimum of three (3) feet from the side property line. No other projection from the side building line shall be permitted.

c. Rear yard:

1. For any main residential or accessory structure, twenty (20) feet from the rear property line; and

2. In computing rear yard, all measurements shall be made from the rear property line as shown on the plat properly filed for record in the office of the County Clerk of Fort Bend County, Texas.

6) Maximum lot coverage: 55 percent of lot area.

b) Parking: Two (2) on-site spaces per dwelling unit.

c) Fencing: The R-3 zoning designation is meant for suburban subdivision density lot sizes and thus allows perimeter fencing only on rear and side lot lines. Front yard fences are not allowed in this zoning district. Rear and side lot line fences may be constructed with materials including brick, masonry, stone, wood, metal, or other substitute material as approved by the Planning and Zoning Commission.

Section 5.33 - R-4 Residential District

A. Purpose. The R-4 Residential District is a medium to upper medium density residential area characterized by the zoning requirements set forth in this Section.

B. Uses.

(1) Permitted uses:

- a) Single-family dwellings.
- b) Public parks.
- c) Utilities:
 - 1) Telephone lines and related cross connecting points.
 - 2) Local utility distribution lines.
- d) Accessory uses.
- e) Home occupations.
- f) Facilities owned and maintained by the City.

(2) Specific uses:

- a) Schools.
- b) Churches.
- c) Mobile Home Parks.

C. Standard regulations:

(1) Residential structures.

a) Size and area:

1) Duplex Lots:

Minimum lot area: 10,500 square feet.

Minimum lot width: 88 feet.

2) Patio Home Lots:

Minimum lot area: 6,000 square feet.

Minimum lot width: 55 feet.

3) Townhouse Lots:

Minimum lot area: 4,000 square feet.

Minimum lot width: 50 feet.

5) Maximum building height: 2 stories.

6) Minimum required yards:

a. Front yard: Twenty-five (25) feet;

b. Side yard: five (5) feet, provided that on a corner lot where one street exposure is designated as a side yard by a building line shown on a plat approved by the Planning and Zoning Commission, containing a side yard of fifteen (15) feet or more, the building line provisions on the plat shall be observed;

For any accessory structure, there shall be a side yard of not less than five (5) feet from any interior side lot line when such accessory structure is located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). When any part of an accessory structure is located in front of the line connecting the two midpoints of the two opposite side lot lines, then the same side yard as specified for the main building is required.

Architectural features: the outermost point of architectural features (roof eaves, fireplaces and/or chimneys or bay windows, excluding fireplaces which are attached to the ground) projecting from the side building line shall be a minimum of three (3) feet from the side property line. No other projection from the side building line shall be permitted.

c. Rear yard:

1. For any main residential or accessory structure, ten (10) feet from the rear property line; and

2. In computing rear yard, all measurements shall be made from the rear property line as shown on the plat properly filed for record in the office of the County Clerk of Fort Bend County, Texas.

7) Maximum lot coverage: 65 percent of lot area.

b) Parking: Two (2) on-site spaces per dwelling or mobile home unit.

c) Fencing: The R-4 zoning designation is meant for medium to high density lot sizes and thus allows perimeter fencing only on rear and side lot lines. Fences on the front property line are only allowed to enclose the front yard in townhouse and patio home subdivisions but must be constructed in such a manner as to allow visibility through the fence into the front yard. Front yard fences must be no higher than three (3) feet high and must be constructed with materials such as wood (with slats spaced apart to allow visibility through the fence), wrought iron or similar narrow gauge metal, or other substitute material as approved by the Planning and Zoning Commission. Rear and side lot line fences may be constructed with materials including brick, masonry, stone, wood, metal, or other substitute material as approved by the Planning and Zoning Commission.

Section 5.34 - R-MF Residential Multi-Family District

A. Purpose. The R-MF Residential Multi-Family District is a high density residential area characterized by the zoning requirements set forth in this Section.

B. Uses:

(1) Permitted uses:

a) Multi-family dwellings;

b) Mobile Home Parks:

1) Individual mobile homes or manufactured homes are not permitted on any residential lot and must be located within an approved mobile home park and conform to all restrictions as set forth per Village of Pleak Ordinance 45.

c) Public parks;

d) Utilities:

1) Local utility distribution lines;

2) Telephone lines and related cross connecting points;

3) Accessory uses; and

4) Home occupations.

e) Facilities owned and maintained by the City.

(2) Specific uses:

a) Schools; and

b) Churches.

F. Standard regulations:

(1) Residential structures:

a) Size and area:

1) Maximum site density: 15 dwelling units per acre;

2) Minimum lot width: none;

3) Minimum lot depth: none;

4) Maximum building height: 2 stories or thirty-five (35) feet;

5) Minimum floor area per dwelling unit: 900 square feet;

6) Minimum required yards:

a. Front yard: Twenty-five (25) feet;

b. Side yard: ten (10) feet, provided that on a corner lot where one street exposure is designated as a side yard by a building line shown on a plat approved by the Planning and Zoning Commission, containing a side yard of twenty (20) feet or more, the building line provisions on the plat shall be observed;

For any accessory structure, there shall be a side yard of not less than five (5) feet from any interior side lot line when such accessory structure is located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). When any part of an accessory structure is located in front of the line connecting the two midpoints of the two opposite side lot lines, then the same side yard as specified for the main building is required.

c. Architectural features: the outermost point of architectural features (roof eaves, fireplaces and/or chimneys or bay windows, excluding fireplaces which are attached to the ground) projecting from the side building line shall be a minimum of three (3) feet from the side property line. No other projection from the side building line shall be permitted.

d. Rear yard:

1. For the main residential structure, twenty (20) feet from the rear property line;

2. For any accessory structure, ten (10) feet from the rear property line;

3. In computing rear yard, all measurements shall be made from the rear property line as shown on the plat properly filed for record in the office of the County Clerk of Fort Bend County, Texas.

b) Fencing: The R-MF zone allows perimeter fencing on all lot lines. Fences may be constructed with materials including brick, masonry, stone, wood, metal, chain link, or other substitute material as approved by the Planning and Zoning Commission and may include gates for vehicular and/or pedestrian access.

Section 5.35 – C1 Commercial District

A. Purpose.

(1) Generally: This district provides for non-residential uses, primarily being small, likely freestanding buildings on smaller sites, geared towards commercial uses and activities as follows.

B. Uses.

(1) Permitted uses.

a) Utilities:

- 1) Local utility distribution lines; and
- 2) Telephone lines and related cross-connecting points.

b) Facilities owned and maintained by the City or other governmental entities.

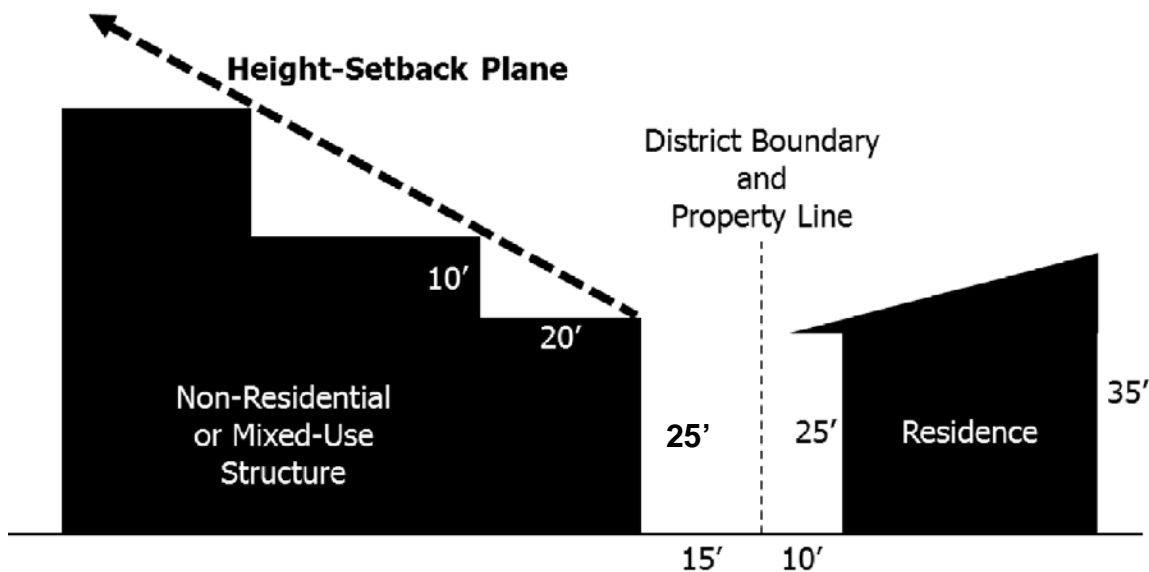
c) Commercial uses as follows, not to include any drive-in or drive-through facilities without Specific Use Permit approval:

- 1) Banks, credit unions and similar institutions;
- 2) Business and professional offices and services;
- 3) General retail sales and services;
- 4) Restaurants and cafeterias;
- 5) Educational, institutional and special uses as follows:
 - a. Antenna;
 - b. Hospital, acute and/or chronic care;
 - c. Kindergarten, nursery and/or day care center;
 - d. Adult day care;
 - e. Radio, television or microwave antenna or tower;
- 6) Schools; and
- 7) Churches

d) Planned Development: Applicants may propose planned developments in this district under the amendatory procedures in Section 6.03. This procedure will enable consideration of development proposals involving uses or designs that might not strictly adhere to the standards within this Section but would meet the spirit and intent of the district. All such applications must still meet the following district standards:

- 1) Minimum site area;
- 2) Minimum site width and depth;
- 3) Maximum building height; and
- 4) Height-setback plane where a property is at a boundary of the Commercial district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district.

Figure 5.35 A



(2) Specific uses (permit required).

a) Recreational and amusement uses as follows:

- 1) Amusement, commercial indoor;
- 2) Art gallery or museum;
- 3) Athletic, swimming or tennis club and/or facilities;
- 4) Movie theater, indoor; and
- 5) Private club.

b) Educational, institutional and special uses as follows:

1) Nursing home;

c) Commercial uses with drive-in or drive-through facilities.

d) Transportation, automobile and related uses as follows:

1) Auto parts sales; and

2) Automobile service stations.

C. Development Standards.

(1) Site plan review required. All development applications in C-1 district require site plan review and approval to ensure conformance with the substantive standards for this district and other applicable provisions of the City Code.

a) Required approvals.

1) Planning and Zoning Commission review for planned developments. All planned development applications, and their associated site plans, require Planning and Zoning Commission review, and a recommendation to City Council, in accordance with Article VI, Amendatory Procedure, of this chapter.

b) Application requirements. Applicants shall satisfy all application and submittal requirements for site plan review itemized in Section 5.21.

1) Waiver authority. For projects in the C-1 district other than planned development applications, the Planning Commission is authorized to waive elements of the site plan submittal requirements in Section 5.21 if the specified information relates to a site development standard that does not apply to a proposed project.

c) Commercial and small-scale (under one-half acre) mixed-use development.

1) Minimum lot area: 5,000 square feet.

2) Minimum lot width: 50 feet.

3) Minimum lot depth: 100 feet.

4) Maximum building height: 25 feet including drive-under parking, except that:

(a) Up to 10 feet of additional height is allowed to accommodate roof gables, chimneys, vent stacks and mechanical equipment, with the total not to exceed thirty-five (35) feet above the average level of the base of the foundation of the building; and

(b) Up to 20 feet of additional height is allowed to accommodate church steeples, domes, spires and bell towers; cooling towers; and radio and television antennae, with the total not to exceed

forty-five (45) feet above the average level of the base of the foundation of the building; and

(c) Requests for additional height beyond the allowances provided in items (a) and (b), above, shall require approval of a specific use permit.

5) Minimum required yards:

(a) Front yard: 35 feet.

(b) Side yard: 25' feet.

(c) Rear yard: 15 feet.

(d) Height-setback plane for side and rear yards: Where a property is at a boundary of the C-1 district and a residential property in an R-1, R-2, R-3 or R-4 district either abuts or is directly across an alley from the subject property in the C-1 district, the minimum yard toward the abutting property or alley shall be fifteen (15) feet. Additionally, any portion of the principal building that exceeds 25 feet in height, including any "additional height" extensions, shall be set back an additional amount, computed as two (2) feet from the 15-foot building line at ground level for each one (1) foot of additional building height above 25 feet. This ratio establishes a height-setback plane as illustrated in Figure 5.35.A.

(e) Limitation on outdoor activity adjacent to residential districts. Where a property is at a boundary of the C-1 district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district, any outdoor seating, assembly or other area that is partially or entirely outside the principal structure and intended for patronage by or service to customers of the use shall be located only in front of a line connecting the two midpoints of the two opposite side lot lines. Any such outdoor activity shall also comply with the performance standards for noise in Section 5.11 A.

6) Maximum site coverage: 70 percent of lot area.

(2) Parking. A minimum number of off-street parking spaces shall be required as described in Section 5.15 of this code.

(3) Outdoor lighting. All outdoor lighting shall be located, screened or shielded so that adjacent residential lots or structures are not directly illuminated.

Section 5.36 – C2 Commercial District

A. Purpose.

(1) Generally: This district provides for non-residential uses, primarily multi-tenant buildings, geared towards commercial uses and activities as follows.

B. Uses.

(1) Permitted uses.

a) Utilities:

- 1) Local utility distribution lines; and
- 2) Telephone lines and related cross-connecting points.

b) Facilities owned and maintained by the City or other governmental entities.

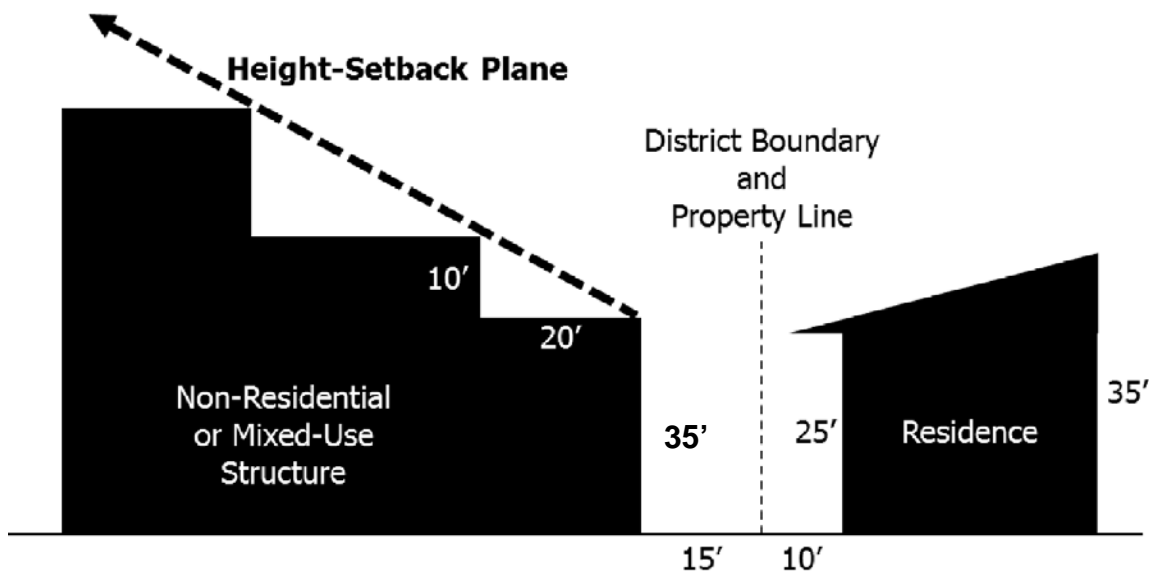
c) Commercial uses as follows:

- 1) Banks, credit unions and similar institutions including uses with drive-through facilities;
- 2) Business and professional offices and services;
- 3) General retail sales and services;
- 4) Restaurants and cafeterias including uses with drive-through facilities;
- 5) Educational, institutional and special uses as follows:
 - a. Antenna;
 - b. Hospital, acute and/or chronic care;
 - c. Kindergarten, nursery and/or day care center;
 - d. Adult day care;
 - e. Radio, television or microwave antenna or tower;
 - f. Nursing home;
- 6) Schools;
- 7) Churches;
- 8) Amusement, commercial indoor;
- 9) Art gallery or museum; and
- 10) Fuel and convenience

d) Planned Development: Applicants may propose planned developments in this district under the amendatory procedures in Section 6.03. This procedure will enable consideration of development proposals involving uses or designs that might not strictly adhere to the standards within this Section but would meet the spirit and intent of the district. All such applications must still meet the following district standards:

- 1) Minimum site area;
- 2) Minimum site width and depth;
- 3) Maximum building height; and
- 4) Height-setback plane where a property is at a boundary of the Commercial district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district.

Figure 5.36 A



(2) Specific uses (permit required).

a) Recreational and amusement uses as follows:

- 1) Athletic, swimming or tennis club and/or facilities;
- 2) Movie theater, indoor; and
- 3) Private club.

b) Transportation, automobile and related uses as follows:

- 1) Auto parts sales; and
- 2) Automobile service stations.

C. Development Standards.

(1) Site plan review required. All development applications in C-2 district require site plan review and approval to ensure conformance with the substantive standards for this district and other applicable provisions of the City Code.

a) Required approvals.

1) Planning and Zoning Commission review for planned developments. All planned development applications, and their associated site plans, require Planning and Zoning Commission review, and a recommendation to City Council, in accordance with Article VI, Amendatory Procedure, of this chapter.

b) Application requirements. Applicants shall satisfy all application and submittal requirements for site plan review itemized in Section 5.21.

1) Waiver authority. For projects in the C-2 district other than planned development applications, the Planning Commission is authorized to waive elements of the site plan submittal requirements in Section 5.21 if the specified information relates to a site development standard that does not apply to a proposed project.

c) Commercial and small-scale (under one-half acre) mixed-use development.

1) Minimum lot area: 5,000 square feet.

2) Minimum lot width: 50 feet.

3) Minimum lot depth: 100 feet.

4) Maximum building height: 35 feet including drive-under parking, except that:

(a) Up to 10 feet of additional height is allowed to accommodate roof gables, chimneys, vent stacks and mechanical equipment, with the total not to exceed fifty (45) feet above the average level of the base of the foundation of the building; and

(b) Up to 20 feet of additional height is allowed to accommodate church steeples, domes, spires and bell towers; cooling towers; and radio and television antennae, with the total not to exceed sixty (55) feet above the average level of the base of the foundation of the building; and

(c) Requests for additional height beyond the allowances provided in items (a) and (b), above, shall require approval of a specific use permit.

5) Minimum required yards:

(a) Front yard: 35 feet.

(b) Side yard: 25' feet.

(c) Rear yard: 15 feet.

(d) Height-setback plane for side and rear yards: Where a property is at a boundary of the C-2 district and a residential property in an R-1, R-2, R-3 or R-4 district either abuts or is directly across an alley from the subject property in the C-2 district, the minimum yard toward the abutting property or alley shall be fifteen (15) feet. Additionally, any portion of the principal building that exceeds 35 feet in height, including any "additional height" extensions, shall be set back an additional amount, computed as two (2) feet from the 15-foot building line at ground level for each one (1) foot of additional building height above 25 feet. This ratio establishes a height-setback plane as illustrated in Figure 5.36.A.

(e) Limitation on outdoor activity adjacent to residential districts. Where a property is at a boundary of the C-2 district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district, any outdoor seating, assembly or other area that is partially or entirely outside the principal structure and intended for patronage by or service to customers of the use shall be located only in front of a line connecting the two midpoints of the two opposite side lot lines. Any such outdoor activity shall also comply with the performance standards for noise in Section 5.11 A.

6) Maximum site coverage: 70 percent of lot area.

(3) Parking. A minimum number of off-street parking spaces shall be required as described in Section 5.15 of this code.

(4) Outdoor lighting. All outdoor lighting shall be located, screened or shielded so that adjacent residential lots or structures are not directly illuminated.

Section 5.37 – C3 Commercial District

A. Purpose.

(1) Generally: This district provides for non-residential uses, primarily multi-tenant buildings, shopping centers, warehouse and distribution facilities, geared towards commercial uses and activities as follows.

B. Uses.

(1) Permitted uses.

a) Utilities:

- 1) Local utility distribution lines; and
- 2) Telephone lines and related cross-connecting points.

b) Facilities owned and maintained by the City or other governmental entities.

c) Commercial uses as follows:

- 1) Banks, credit unions and similar institutions including uses with drive-through facilities;
- 2) Business and professional offices and services;
- 3) General retail sales and services;
- 4) Restaurants and cafeterias including uses with drive-through facilities;
- 5) Educational, institutional and special uses as follows:
 - a. Antenna;
 - b. Hospital, acute and/or chronic care;
 - c. Kindergarten, nursery and/or day care center;
 - d. Adult day care;
 - e. Radio, television or microwave antenna or tower;
 - f. Nursing home;
- 6) Schools;
- 7) Churches;
- 8) Amusement, commercial indoor;
- 9) Art gallery or museum;
- 10) Fuel and convenience;
- 11) Grocery store;

12) Athletic, swimming or tennis club and/or facilities; and

13) Movie theater, indoor.

d) **Planned Development:** Applicants may propose planned developments in this district under the amendatory procedures in Section 6.03. This procedure will enable consideration of development proposals involving uses or designs that might not strictly adhere to the standards within this Section but would meet the spirit and intent of the district. All such applications must still meet the following district standards:

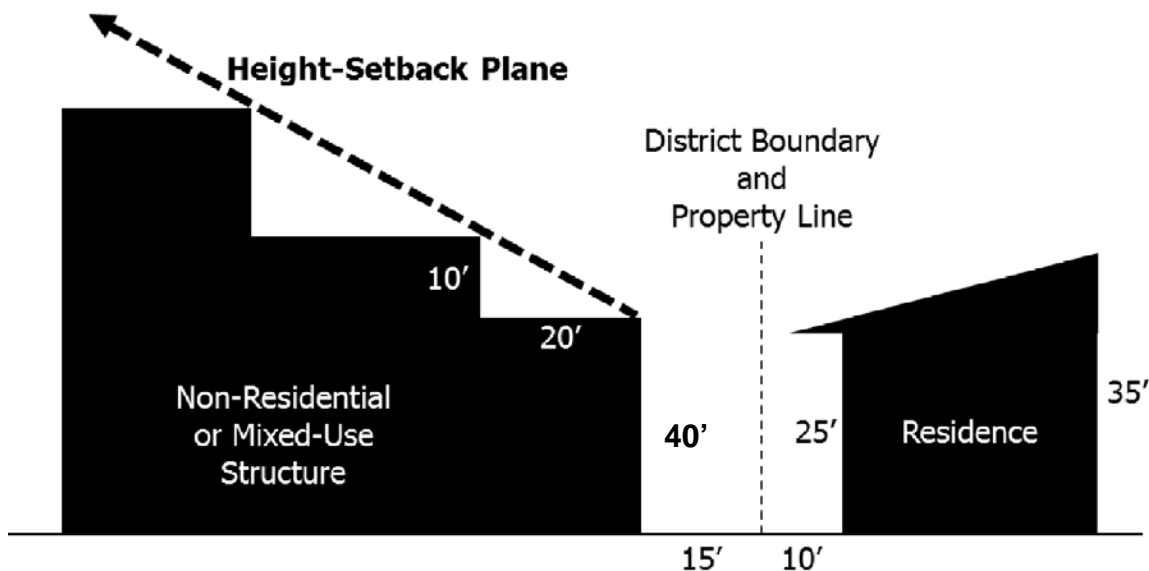
1) Minimum site area;

2) Minimum site width and depth;

3) Maximum building height; and

4) Height-setback plane where a property is at a boundary of the Commercial district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district.

Figure 5.37 A



(2) Specific uses (permit required).

a) Recreational and amusement uses as follows:

1) Private club.

b) Transportation, automobile and related uses as follows:

1) Auto parts sales; and

2) Automobile service stations.

C. Development Standards.

(1) Site plan review required. All development applications in C-3 district require site plan review and approval to ensure conformance with the substantive standards for this district and other applicable provisions of the City Code.

a) Required approvals.

1) Planning and Zoning Commission review for planned developments. All planned development applications, and their associated site plans, require Planning and Zoning Commission review, and a recommendation to City Council, in accordance with Article VI, Amendatory Procedure, of this chapter.

b) Application requirements. Applicants shall satisfy all application and submittal requirements for site plan review itemized in Section 5.21.

1) Waiver authority. For projects in the C-3 district other than planned development applications, the Planning Commission is authorized to waive elements of the site plan submittal requirements in Section 5.21 if the specified information relates to a site development standard that does not apply to a proposed project.

c) Commercial and mixed-use development.

1) Minimum lot area: 15,000 square feet.

2) Minimum lot width: 120 feet.

3) Minimum lot depth: 250 feet.

4) Maximum building height: 40 feet including drive-under parking, except that:

(a) Up to 10 feet of additional height is allowed to accommodate roof gables, chimneys, vent stacks and mechanical equipment, with the total not to exceed fifty (50) feet above the average level of the base of the foundation of the building; and

(b) Up to 20 feet of additional height is allowed to accommodate church steeples, domes, spires and bell towers; cooling towers; and radio and television antennae, with the total not to exceed sixty (60) feet above the average level of the base of the foundation of the building; and

(c) Requests for additional height beyond the allowances provided in items (a) and (b), above, shall require approval of a specific use permit.

5) Minimum required yards:

(a) Front yard: 35 feet.

(b) Side yard: 25' feet.

(c) Rear yard: 15 feet.

(d) Height-setback plane for side and rear yards: Where a property is at a boundary of the C-3 district and a residential property in an R-1, R-2, R-3 or R-4 district either abuts or is directly across an alley from the subject property in the C-3 district, the minimum yard toward the abutting property or alley shall be fifteen (15) feet. Additionally, any portion of the principal building that exceeds 40 feet in height, including any "additional height" extensions, shall be set back an additional amount, computed as two (2) feet from the 15-foot building line at ground level for each one (1) foot of additional building height above 25 feet. This ratio establishes a height-setback plane as illustrated in Figure 5.37.A.

(e) Limitation on outdoor activity adjacent to residential districts. Where a property is at a boundary of the C-3 district and an abutting residential property is in an R-1, R-2, R-3 or R-4 district, any outdoor seating, assembly or other area that is partially or entirely outside the principal structure and intended for patronage by or service to customers of the use shall be located only in front of a line connecting the two midpoints of the two opposite side lot lines. Any such outdoor activity shall also comply with the performance standards for noise in Section 5.11 A.

6) Maximum site coverage: 70 percent of lot area.

(2) Parking. A minimum number of off-street parking spaces shall be required as described in Section 5.15 of this code.

(3) Outdoor lighting. All outdoor lighting shall be located, screened or shielded so that adjacent residential lots or structures are not directly illuminated.

Section 5.38 - LI Light Industrial District (LI)

A. Purpose. The LI Light Industrial District includes light and industrial non-polluting uses such as manufacturing, storage, warehousing, distribution and related office use.

B. Uses.

(1) Permitted uses.

a) Utilities:

- 1) Local utility distribution lines;
- 2) Telephone lines and related cross connecting points.

b) Facilities owned and maintained by the City.

c) Planned Development: Light Industrial.

d) Accessory offices to light industrial uses.

e) Automobile or motorcycles sales.

f) Automobile parts sales.

g) Bottling plant.

h) Building material storage and wholesaling.

i) Cabinet or upholstery shop.

j) Contractor's yard or shop.

k) Engine or motor repair shop.

l) Garden shop, including greenhouse or nursery stock storage area.

m) Laundry and dry cleaning plants.

n) Light compounding or fabrication.

o) Light manufacturing uses.

p) Printing plants and shops.

q) Public utility plants and offices.

r) Radio or television broadcasting stations, studios or offices.

s) Tire retreading or recapping.

t) Trailer rental or sales.

u) Truck and construction equipment sales and service.

v) Veterinary clinic.

- w) Warehouse.
- x) Welding or machine shop.
- y) Wholesale bakery.
- z) Business and professional offices.

(2) Specific uses.

- a) Electrical generating plant (private).
- b) Automobile service station.
- c) Passenger terminal, bus passenger station or heliport.
- d) Radio, television and microwave antenna or tower.

C. Standard regulations.

(1) Size and area.

- a) Minimum lot area: 7,500 square feet.
- b) Minimum lot width: 60 feet.
- c) Minimum lot depth: 100 feet.
- d) Maximum building height: Three (3) stories, except that cooling towers, roof gables, chimneys, radio and television antennas, vent stacks and similar extensions may extend for an additional height, the total not to exceed forty-two (42) feet above the average level of the base of the foundation of the building. A greater height may be permitted in the granting of a specific use amendment for radio, television and microwave antenna or tower.
- e) Maximum floor area to lot area: 100 percent of lot area.
- f) Minimum required yards:
 - 1) All yards shall extend at least ten (10) feet from any public right-of-way;
 - 2) All yards shall extend at least five (5) feet from any property line not adjacent to a public right-of-way;
 - 3) All yards shall extend at least fifty (50) feet from the nearest point on any lot zoned residential or in residential use on the date of enactment of this chapter.
- g) Maximum lot coverage: 80 percent of lot area.

D. Planned Development: Light Industrial. Light Industrial planned developments may be approved in this District under the amendatory procedures of this chapter, subject to the restrictions and limitations as may be established by the planned development amendment.

Section 5.39 – AG Agricultural District

A. Purpose. The AG Agricultural District exists to recognize the ongoing and historical significance of the farming and agricultural businesses prevalent within and near to the Village of Pleak City Limits. This district is designed to allow residential, commercial and agricultural uses on single or multiple tracts of land.

B. Uses.

(1) Permitted uses.

- a) Single-family dwellings.
- b) Equipment, supplies and product storage.
- c) Accessory uses.
- d) Farming and Ranching.

C. Standard regulations.

(1) Size and area.

- a) Restrictions shall conform to the basic R-1 Residential District requirements for lot sizes and set backs and shall apply to all structures regardless of use.

Section 5.40 – Open Space

A. Purpose. The OS Open Space land use is set aside specifically for land not intended for development. Structures or buildings of any kind are not permitted without a Special Use Permit.

B. Uses.

(1) Permitted uses.

- a) Drainage and Detention
- b) Public Parks and Trails
- c) Natural Preserve and Land Conservancy
- d) Utilities:
 - 1) Local utility distribution lines;
 - 2) Telephone lines and related cross connecting points.

ARTICLE VI. - AMENDATORY PROCEDURES

Section 6.00 - Purpose

The purpose of this Article is to provide appropriate and uniform procedures for the conduct of public hearings and adoption of amendments by the City Council as well as for the conduct of public hearings and making of recommendations by the Planning and Zoning Commission.

Section 6.01 - Types of Amendment

This Article provides a procedure for amendment to the written text of this chapter or the Official Zoning District Map, the creation and approval of planned development districts and the approval of specific use permits as amendments to this chapter.

Amendments are not intended to relieve particular hardships or to confer special privileges or rights on any person but to amend this chapter in light of changed circumstances and conditions. In determining whether to grant a requested amendment, the City Council and the Planning and Zoning Commission shall consider the consistency of the proposed amendment with the provisions of the comprehensive plan set forth in Section 4.00 of this ordinance.

Section 6.02 - Application for Amendment to Written Text or Official Zoning District Map

Any petitioner desiring an amendment to the written text of this chapter or to the Official Zoning District Map shall be required to file an application in writing with the Planning and Zoning Commission, accompanied by a nonrefundable application fee, in an amount established by the City Council, to defray the actual cost of processing the application. The application shall include the following information:

- (1) The applicant's name and contact information;
- (2) The precise wording of any proposed amendment to the written text of this chapter and a statement of the present provisions and Section or Sections of this ordinance sought to be amended, or in the event the proposal concerns a change in the Official Zoning District Map, then a clear delineation of the area set out on the map sought to be rezoned;
- (3) A statement of the need and justification for the proposed amendment;
- (4) In the event that the proposed amendment would change the Official Zoning District Map and the zoning classification of any property:
 - a) The street address and legal description of the property proposed to be reclassified;
 - b) The applicant's interest in the subject property;
 - c) The owner's name and contact information, if different than the applicant's, and the owner's signed consent to the filing of the application or the signatures of 75 percent of the owners of the parcels to be affected;
 - d) The names and addresses of all owners of property required to be notified under this Article;

e) The present zoning classification and existing uses of the property proposed to be reclassified and

f) The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof; and

(5) Such other information or documentation as the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

Section 6.03 - Application for Planned Development Amendment

Any petitioner desiring a planned development amendment to this ordinance shall be required to file an application in writing with the Planning and Zoning Commission, accompanied by a nonrefundable application fee, in an amount established by the City Council or the City Council, to defray the actual cost of processing the application. The application shall include the following information:

(1) The name and contact information of the applicant; and in the event that the applicant is a partnership, the full name and contact information of the general partner, and in the event that the applicant is a corporation, the full names and contact information of all officers, a statement as to the state of incorporation, the name and contact information of the registered agent and the address of the registered office of the corporation;

(2) A legal description and street address of the property which is the subject of the application;

(3) A statement of ownership accompanied by a certificate from a title insurance company certifying ownership;

(4) A written description of the proposed development and associated land use(s), including specific description of any applicable parameter(s) in the City's development regulations from which the applicant proposes variation; and

(5) A site plan in accordance with Section 5.21 of this code.

(6) Such other information or documentation as the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

Section 6.04 - Application for Specific Use Permit

Any petitioner desiring a specific use permit to this ordinance shall be required to file an application in writing with the Planning and Zoning Commission, accompanied by a nonrefundable application fee, in an amount established by the City Council, to defray the actual cost of processing the application. The application shall include the following information:

(1) The name and contact information of the applicant; and in the event that the applicant is a partnership, the full name and contact information of the general partner, and in the event that the applicant is a corporation, the full names and contact

information of all officers, a statement as to the state of incorporation, the name and address of the registered agent and the address of the registered office of the corporation;

(2) The Section or Sections of this ordinance authorizing a specific use permit;

(3) A legal description and street address of the property which is the subject of the application;

(4) A statement of ownership accompanied by a certificate from a title insurance company certifying ownership;

(5) A written description of the proposed specific use as provided for in this Code;

(6) A written environmental assessment statement describing in general terms the impact of the development for which approval is sought and providing any specific information that the Planning and Zoning Commission shall deem necessary; and

(7) Such other information or documentation as the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

Section 6.05 - Call of Public Hearings

(1) When any amendment is proposed pursuant to the provisions of this code, the City Council may, at its discretion and by ordinance, call a joint public hearing to be held before the City Council and the Planning and Zoning Commission. The City Council shall receive the Commission's final report and recommendation before considering any amendment.

(2) In the event the City Council shall not elect to call a joint public hearing on such proposed amendment:

(a) A public hearing before the Planning and Zoning Commission shall be called and such public hearing shall be held prior to the Planning and Zoning Commission making its report and recommendation to the City Council.

(b) Upon receipt of the Planning and Zoning Commission report by the city secretary, and upon request by any applicant, a public hearing before the City Council shall be called and such public hearing shall be held prior to the City Council considering such amendment.

Section 6.06 - Reports and Recommendations of the Planning and Zoning Commission

The Planning and Zoning Commission shall render written reports and recommendations to the City Council, which shall include at least the following elements:

(1) A clear statement of specific findings;

(2) A summary of the information presented before the Commission by interested citizens appearing before the Commission and making presentations. The report should state the approximate total number of citizens appearing and shall provide a brief summary of the differing opinions presented by such persons;

- (3) Copies of all documentary evidence provided to the Commission or which the Commission considered in making its report; and
- (4) Identification of the members of the Commission voting for the majority position and identification of the members of the Commission voting against the majority position, with a brief statement explaining the reasons for the determinations made.

Section 6.07 - Standards Applicable to All Planned Development Amendments and Specific Use Permits

A planned development amendment or a specific use permit may be granted and may be allowed to continue if it meets the following criteria and standards and is otherwise in accord with this Code.

- (1) The proposed planned development amendment or specific use permit is consistent with the purposes, goals, objectives and standards of the comprehensive plan of the Village of Pleak;
- (2) The design of the proposed development, considered as a part of the planned development amendment or specific use permit, minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;
- (3) The proposed development will not have an adverse effect on the value of the adjacent property;
- (4) The proposed development will not unduly burden essential public facilities and services, including streets, police and fire protection, sanitary sewers, storm sewers, solid waste disposal and schools; and
- (5) The applicant for the development has adequate financial and technical capacity to complete the development as proposed and has met all requirements of this Code, including such conditions as have been imposed as a part of a planned development amendment or specific use permit.

Section 6.08 - Amendments to This Chapter

The City Council may enact such amendments to this chapter under the conditions as herein provided and subject to the procedure as provided herein upon finding of such changed circumstances or conditions necessitating such amendment. No amendment to this chapter, other than procedural amendments, shall be adopted unless specific findings of fact shall be made reasonably concluding that a change in circumstance or condition exists. In all such amendments, a finding shall be made that the proposed amendment is in compliance with the comprehensive plan of the Village of Pleak as set out in this chapter, or if not in compliance, what new facts or circumstances necessitate a change in the comprehensive plan.

Section 6.09 - Final Action by the City Council

The City Council may, subject to the requirements and conditions herein set out, upon receipt and acceptance of the report and recommendation of the Planning and Zoning Commission and appropriate public hearing(s), enact ordinances amending this chapter or the Official Zoning District Map as its decision-making determination in accordance with the provisions of this chapter. In the case of a planned development amendment or a specific use amendment, the

City Council may approve the site plan within such parameters subject to such conditions, safeguards and restrictions as the City Council may deem appropriate and necessary.

In the event of a written protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending two hundred (200) feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all of the members of the City Council. In computing the percentage of land area, the area of streets and alleys shall be included in the computation.

The City Council may, if it deems necessary, refer the proposal to such other official, board or commission for further study and review, or take no action.

Section 6.10 - Notification of Decision

A. Planning and Zoning Commission: The Planning and Zoning Commission shall cause to be mailed to any interested applicants, by certified mail, return receipt requested, a letter setting out the decision of the Planning and Zoning Commission.

B. City Council: In the case of the final adoption of an ordinance, the City Secretary shall mail to any interested applicants, a certified copy of the ordinance duly enacted; and if no ordinance is enacted, the City Secretary shall mail to such interested applicants, by certified mail, return receipt requested, a letter setting out the decision of the City Council.

Section 6.11 Successive Applications

Whenever any application for an amendment or change in the Official Zoning District Map is denied after public hearing, a second application for amendment or change in the Official Zoning District Map, being substantially the same as the first application, from the same applicant and involving the same property, shall not be considered within two (2) years from the date of denial. The body charged with conducting the public hearing immediately prior to such denial shall resolve any question concerning the similarity of a second application.

ARTICLE VII. - VARIANCES, SPECIAL EXCEPTIONS, APPEALS AND NONCONFORMITIES

DIVISION 1. - VARIANCES

Section 7.11 - Authority.

The Board of Adjustment shall have authority to grant variances from the requirements of this chapter in accordance with the procedures of this chapter.

Section 7.12 - Purpose.

The purpose of variances is to provide a mechanism for relief where, owing to special conditions, the literal enforcement of the regulations of this chapter will result in unnecessary hardship, provided that the granting of variances will not be contrary to the public interest and provided further that the spirit of this chapter will be preserved by variances granted under the terms and provisions hereof.

Section 7.13 - Initiation.

An owner or person, either owning or having a contractual interest in the property to be affected by the variance, may seek a variance under the provisions of this chapter.

Section 7.14 - Standards.

The Board shall not grant a variance unless it shall, in each case, make specific written findings based directly upon the particular evidence presented to it which support written conclusions that:

- (1) Such modifications of the height, yard, area, lot width, lot depth, off-street loading, screening wall, coverage, parking and sign regulations are necessary to secure appropriate development of a parcel of land which materially differs from other parcels in the district because of a special condition unique to and inherent in the parcel itself, such as restricted area, shape or slope, such that the parcel cannot be appropriately developed without modification;
- (2) A literal enforcement of the zoning ordinance from which the variance is requested would result in unnecessary hardship not self-created or personal, nor solely financial in nature;
- (3) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood; and
- (4) The variance desired will not be opposed to the general spirit and intent of this chapter.

Section 7.15 - Application.

An application for a variance shall be filed with the Secretary of the Board of Adjustment according to rules of procedure adopted from time to time by the Board and shall be accompanied by a nonrefundable fee as prescribed in such rules of procedure, to defray administrative costs.

Section 7.16 - Limitations on Variances.

Variances from the terms of this chapter shall not be contrary to the public interest but may be granted where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.

Section 7.17 - Action of Board.

The Board shall hold a hearing on a requested variance, pursuant to the procedures set out in this Code, as soon as practical after a complete application for a variance is filed.

Section 7.18 - Conditions on Variances.

The Board may set forth conditions in the written order granting a variance. Such conditions may relate to screening, landscaping, location and other conditions necessary to preserve the character of the area and protect property in the vicinity of the variance.

DIVISION 2. - SPECIAL EXCEPTIONS

Section 7.21 - Authority.

The Board of Adjustment shall have the authority to grant special exceptions, in accordance with the provisions of this Code and the procedures and standards hereinafter set forth, to permit:

- (1) The reconstruction of a nonconforming structure when the structure has been damaged or destroyed to the extent of more than fifty percent of the fair market value of the structure, or the restoration, repair or renovation of a nonconforming structure when the structure has been damaged by less than fifty percent of its fair market value where no building permit has been previously automatically issued for such restoration, repair or renovation within six (6) months from the date of damage as permitted under this Code; or
- (2) Any nonconformity which is nonconforming solely because of failure to comply with regulations governing parking, screening, landscaping or lighting, to continue as a special exception, subject to the procedures in this Article and subject to conditions which may be imposed by the Board; or
- (3) Any nonconformity for which such authority has been specifically allowed by ordinance.

Section 7.22 - Initiation.

The owner or other person having a contractual interest in the property which is the site of the proposed special exception may initiate a request for a special exception.

Section 7.23 - Standards for Special Exceptions.

Special exceptions may not be granted unless the Board makes written findings based directly upon the particular evidence presented to it which support written conclusions that the granting of the special exception will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood.

Section 7.24 - Application.

An application for a special exception shall be filed with the Secretary of the Board of Adjustment according to rules of procedure adopted from time to time by the Board and shall be accompanied by a nonrefundable fee as prescribed in such rules of procedure, to defray administrative costs.

Section 7.25 - Action of Board.

The Board shall hold a hearing on a special exception as soon as practical after a complete application for a special exception is filed, pursuant to the procedures of the Board.

Section 7.26 - Conditions Attached to Special Exceptions.

The Board may attach conditions to the granting of a special exception, including landscaping, lighting, hours of operation, parking or other reasonable conditions which will minimize the impact of the exception on the surrounding neighborhood. The Board shall provide for the duration of the special exception.

Section 7.27 - Special Exceptions in the Case of Adjustments of Minimum Yard Dimensions for Residential Structures.

This Section shall only be applicable where construction has lawfully been commenced in full compliance with all other provisions of this Code, but because of circumstances beyond the control of the Village of Pleak and/or the homeowner, conditions are found to exist wherein because of the particular stage of construction and/or completion, it is discovered that a required yard is insufficient and that a residential structure was constructed based upon an error in surveying wherein the required minimum yard dimension is less than the required distance between the property line and the structure.

The Board of Adjustment may grant a special exception to permit the maintenance of a structure not meeting the minimum yard requirements, as herein provided, if the Board of Adjustment finds that the grant of the special exception:

- a. Will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; nor
- b. Increase the congestion in public streets; nor

- c. Increase the danger of fire; nor
- d. Endanger the public health, safety and well-being; and finds that
- e. The Building Official or designee has filed a written analysis with the Board of Adjustment which provides a summary of the circumstances surrounding the request for a special exception and an analysis of the impact the proposed special exception would have as to any fire, health, safety and welfare hazard and economic impact relating to the degree of construction lawfully completed when the discovery was made that the required minimum yard dimension is less than the required distance between the property line and the structure.

DIVISION 3. - NONCONFORMITIES

Section 7.31 - Purpose.

The purpose of this Section is to regulate and limit the continued existence of uses, lots and structures in nonresidential districts established prior to the enactment of this chapter which do not conform to the provisions of this chapter. Many nonconformities may continue, but the provisions of this Division are designed to curtail substantial investment in nonconformities and to bring about their eventual elimination, where appropriate, in order to preserve the integrity of the zoning districts. Nonconforming uses, lots and structures in residential districts may continue and are not subject to termination under any provision of this Division; however, nonconformities in residential districts may not be enlarged, changed or modified unless the same are done in accordance with other provisions of this Article.

Section 7.32 - Nonconforming Uses and Structures.

A. Authority to continue. Nonconforming uses of land and nonconforming uses of structures may continue in accordance with the provisions of this Division and the provisions of Section 5.01 establishing a right of continued occupancy and authorizing the issuance of certificates of right to occupy legally existing nonconforming residential structures.

B. Ordinary repair and maintenance. Normal maintenance and repair of nonconforming uses may be performed.

C. Extensions. Nonconforming uses shall not be extended. This prohibition shall be construed so as to prevent the:

- (1) Enlargement of nonconforming uses by additions to the structure in which such nonconforming uses are located; and

- (2) Occupancy of additional land.

D. Relocation. A structure housing a nonconforming use may not be moved unless the use shall thereafter conform to the limitations of the zoning district into which it is moved.

E. Change in use. A nonconforming use shall not be changed to any other use unless such use conforms to the provisions of this chapter.

F. Termination.

(1) Abandonment or discontinuance.

a) Where a nonconforming use of land is discontinued or abandoned for six (6) months, then such use may not be re-established or resumed, and any subsequent use must conform to the provisions of this chapter.

b) Where a nonconforming use of a structure is discontinued or abandoned for twelve (12) months, then such use may not be re-established or resumed and any subsequent use must conform to the provisions of this chapter.

(2) Damage or destruction. If a structure housing a nonconforming use is damaged or destroyed by 50 percent or more of the fair market value of the structure, then the structure may be restored by special exception granted by the Board. No permit other than a building permit shall be required for the restoration, repair or renovation of a nonconforming structure which has been damaged by less than 50 percent of the fair market value of such structure. However, no building permit shall be automatically issued for the restoration, repair or renovation after the expiration of six (6) months from the date of the damage unless a special exception shall be granted by the Board of Adjustment.

(3) The Board may require the discontinuance of nonconforming uses of land or structures in a nonresidential district or a nonresidential use in a residential district, under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this chapter. All actions to discontinue a nonconforming use of land and structure shall be taken with due regard for the property rights of the persons affected when considered in light of the public welfare and character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The Board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the City.

Section 7.33 - Nonconforming Accessory Uses and Structures.

No nonconforming accessory use or structure shall continue after the principal structure or use shall have ceased or terminated unless such structure or use shall thereafter conform to the provisions of the zoning district in which it is located.

DIVISION 4. - APPEALS

Section 7.41. - Authority.

The Board of Adjustment shall have the authority to hear and decide appeals from any decision, determination or interpretation by any administrative official with respect to the provisions of this chapter, subject to the standards and procedures hereinafter set forth.

Section 7.42 - Initiation.

An application for an appeal may be initiated by any person aggrieved, or by any officer, department or board of the municipality affected, by any orders, decision, determination or

interpretation of any administrative official with respect to the provisions of this chapter. Said application for appeal shall be filed with the Secretary of the Board of Adjustment according to rules of procedure adopted from time to time by the Board.

Section 7.43 - Procedures.

A notice of appeal in prescribed form must be filed with the Secretary of the Board and with the office or department rendering the decision, determination or interpretation which is the subject of the appeal, within fifteen (15) days of such decision, determination or interpretation. The filing of such notice of appeal will require the Building Official or designee to forward to the Board any and all records concerning the subject matter of the appeal.

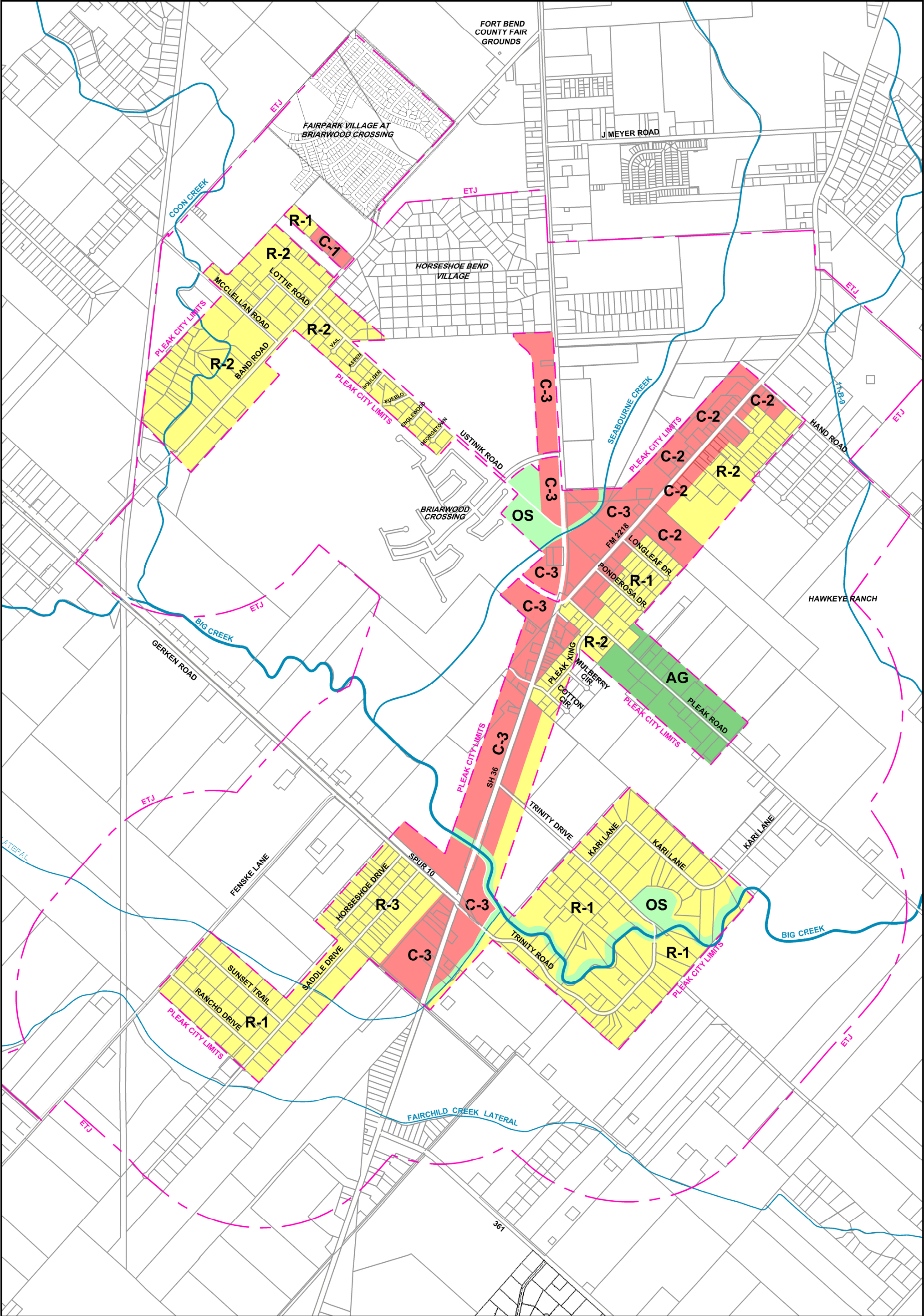
Failure to file such appeal shall constitute a waiver of any rights under this chapter to appeal any interpretation or determination made by such administrative official.

Section 7.44 - Effect of Filing an Appeal.

The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed from unless the Building Official or designee rendering such decision, determination or interpretation certifies in writing to the Board and the applicant that a stay poses an imminent peril to life or property, in which case the appeal will not stay further proceedings. The Board may review such certification and grant or deny a stay of the proceedings.

Section 7.45 - Action of the Board.

The Board of Adjustment shall hold a hearing on an appeal as soon as practical after a notice of appeal is filed. The failure of the Board to act within a reasonable time shall not deprive it of jurisdiction of the matter. The Board may reverse, affirm or modify the decision, determination or interpretation appealed from and in so modifying such decision, determination or interpretation, the Board shall be deemed to have all the powers of the officer from whom the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant.



Zoning Map - DRAFT

Village of Pleak, Fort Bend County, Texas

May 2016

0 400 800 1600

SCALE: 1"=1600'

NORTH

This map is created for review purposes only and does not represent any lawful current or future land use until after approval by the Village of Pleak City Council.

