



AGENDA

PLANNING AND ZONING COMMISSION MEETING SEPTEMBER 26, 2022

CITY COUNCIL CHAMBERS @ 8601 MIDCROWN

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST PLANNING AND ZONING COMMISSION MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 26th DAY OF SEPTEMBER 2022, STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMISSION MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE PLANNING AND ZONING COMMISSION RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF SEPTEMBER 26, 2022, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY SEPTEMBER 27, 2022, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers is wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

- I. Call to Order**
- II. Roll Call**
- III. Vote to Excuse Absent Commission Members**
- IV. Pledge of Allegiance**
- V. Citizens to be Heard.**
 - Citizens may address the Planning and Zoning Commission on topics not on the agenda for no more than three (3) minutes.
 - In addition to the foregoing, citizens shall also have the opportunity to address the Planning and Zoning Commission during consideration of posted agenda items for no more than six (6) minutes.
 - A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.
- VI. Items for Discussion/Action**
 - a) The Commission will review, discuss, and may take action on a recommendation to the City Council on potential amendments to Chapter 113- Zoning, Planning and Zoning, Board of Adjustment.

- b) The Commission will review, discuss, and may take action on setting a date for a Public Hearing to receive comments on potential amendments to Chapter 113- Zoning, Planning and Zoning, Board of Adjustment.

VII. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

VIII. Adjournment

AGENDA NOTICES:

DECORUM REQUIRED:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

ACTION BY COUNCIL AUTHORIZED:

The City Council may vote and/or act upon any item within this Agenda. The Planning and Zoning Commission reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:

It is anticipated that members of the City Council, or other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Planning and Zoning Commission of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting September 26, 2022.

By: _____
Rachel C. Dominguez, City Secretary

ORDINANCE NO. 2022-____(O)

**AN ORDINANCE AMENDING THE WINDCREST CODE OF
ORDINANCES, CHAPTER 113 -**

WHEREAS, the City of Windcrest is a home-rule municipality located within Bexar County, Texas; and

WHEREAS, it is the intent of the Windcrest City Council to protect the public health, safety and welfare of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or policy regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the Windcrest City Council may regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes pursuant to chapter 211 of the Texas Local Government Code; and

WHEREAS, the Windcrest Planning and Zoning Commission find that the entirety of Chapter 113 of the City's code of ordinances which contains the City's zoning code, has not been updated for many years and does not reflect the modernization of the community in order to maintain and create a safe and desirable community; and

WHEREAS, on _____, ____ 2022, the Windcrest Planning and Zoning Commission considered amendments to the Chapter 113 of the City's code of ordinances and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the Windcrest City Council adopt the proposed amendments to chapter 113; and

WHEREAS, the Windcrest City Council has received a recommendation by the Windcrest Planning and Zoning Commission to amend the text of Chapter 113 of the City's code of ordinances; and

WHEREAS, the Windcrest Planning and Zoning Commission and City Council in compliance with the laws of the State of Texas and the City's municipal code, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all persons interested and the in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public to amend Chapter 113 which contains the City's Zoning Code to update its provisions to keep up with the growth and development of the community.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 113 of the Windcrest Code of Ordinances shall be amended as follows with underlined text being additions and struck through text being deletions and shall read as follows:

Chapter 113 ZONING, PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT

ARTICLE I. IN GENERAL

Sec. 113-1. General provisions.

- (a) *Interpretation.* The provisions of this chapter shall be interpreted and applied as the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and which are not in conflict with any of the provisions of this chapter; or which shall be adopted or issued pursuant to law relating to the use of building on premises, and are not in conflict with its ordinance. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenants or other agreements between parties; except that, if this chapter imposes a greater restriction, this chapter shall control.
- (b) *Adoption.* This chapter shall be in full force and effect from and after its passage and publication as provided by law.
- (c) *City council's authority.* The city council may from time to time amend, repeal or change by ordinance the boundaries of the districts or the regulations herein established.

Sec. 113-2. Title.

This chapter shall be known and may be cited as "The Zoning Ordinance of the City of Windcrest, Texas."

Sec. 113-3. Purpose.

The purpose of this chapter is to provide for the orderly, safe and healthful development of the areas within the city and to promote the health, safety, morals and general welfare of the community; and to prescribe an orderly process for future planning.

Sec. 113-4. Statutory authority.

This chapter is adopted under the authority of the Constitution and laws of the State of Texas, particularly V.T.C.A., Local Government Code tit. 7 et seq., as heretofore and hereafter amended.

Sec. 113-5. Definitions.

For purposes of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the plural the singular. The word "building" shall include the word "structure," the word "lot" shall include the word "plot," and the word "shall" is mandatory and not merely permissive or directory.

Accessory building and use means a lesser building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

Alley means a subordinate public right-of-way dedicated or deeded to public use, not intended to provide the primary means of access to abutting lots. It is used primarily for vehicle access to the back or sides of properties fronting on a street.

Apartment means a room or suite of rooms in a multiple dwelling, or in a building in which more than one (1) living unit is established above or on the same floor as non-residential uses, which room or suite is intended or designed for use as a residence by one family and which includes culinary accommodations.

Apartment house means a building or portion thereof used or designed as a residence for three (3) or more families living independently of each other, and doing their own cooking in said building, including apartments and apartment hotels.

Building means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

Building setback line means the line within a property defining the minimum horizontal distance between a building and the adjacent street line.

~~Carport~~ A carport is a means a permanent structure that space with housing or storage of motor vehicles and must be open to all four sides unless attached to a maximum of two sides of the primary structure. Structures with three closed walls and/or a vehicle door are considered garages or storage units and must meet the requirements of a garage or storage unit.

City means the City of Windcrest, Texas.

Clinic means an office or group of offices for one (1) or more physicians, dentists, practitioners of veterinary medicine or other health care providers engaged in treating illness, injury, or dental disease to include preventive dentistry, but not including rooms for the housing of patients, except for with the exception of veterinary clinics which may house small animals.

Commercial/residential combination building means a building or structure used for a combination of commercial and dwelling uses, where the entire ground floor of such building or structure shall be used for commercial purposes and the floors above shall be used for dwellings.

Cul-de-sac means a street having but one (1) outlet to another street, and terminated on the opposite end by a vehicular turn-around.

Curb-level means the level of the established curb in front of the building measured with the center of such front. Where no curb has been established, the city building permit officer shall establish such curb or the equivalent for the purpose of this chapter.

Dead-end street means a street, other than a cul-de-sac, with only one (1) outlet.

Deleted use means any building lawfully occupied by a permitted use at the time of passage of this chapter or amendment thereto, which is subsequently deleted as an itemized permitted purpose (use) in ~~either Article III, divisions 1—4~~ of this chapter.

District means a section or sections of the City of Windcrest, Texas, for which regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

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

Dwelling, single family means a building having accommodations for and occupied exclusively by one (1) family.

Dwelling, Garden Home means a detached, single-family dwelling which shares no common walls with an adjacent dwelling. Garden homes may or may not have a zero-lot line and may or may not be located on a lot size smaller than what is required by city code.

Dwelling, Town Home means an attached, single-family dwelling constructed as a series of dwellings, all of which are attached to the adjacent dwelling(s) by a common wall and are constructed with a zero-lot line. Town Homes may or may not be located on a lot size that is smaller than what is required by city code.

Dwelling, two (2) family or duplex means a building having accommodations for and occupied exclusively by two (2) families.

Dwelling, multiple means a building having accommodations for and occupied exclusively by more than two (2) families.

Engineer means a person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as amended, to practice the profession of engineering.

Family means one (1) or more individuals living together as a single housekeeping unit, in which not more than two (2) individuals are unrelated by blood, marriage or adoption.

Family home shall have means has the meaning set forth in Chapter 202, of the Texas Property Code, and *community home* shall have the meaning set forth in Chapter 123 of the Texas Human Resources Code. Such terms may be referenced interchangeably in this code but in no way is intended to alter their meaning as assigned by their respective state law provisions Article 1011 of Tex. Rev. Civ. Stat. Ann.

Frontage means all the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all the property abutting on one (1) side between an intersecting street and the dead-end of the street.

Garage, private means an accessory building or portion of the main use building, designed for or used for the housing of motor-driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than one (1) of the vehicles may be a vehicle of not more than one and three-quarter (1¾) ton capacity.

Grade means:

- (1a) For buildings having walls adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2b) For buildings having walls adjoining more than one (1) street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.
- (3c) For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.
- (4d) Any wall approximately parallel to and not more than five (5) feet from the street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the city building inspector.

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

Home occupation means any business, profession, trade, or occupation conducted within a dwelling or an accessory structure as defined and limited in article VIII of this chapter.

Lot means a tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

Lot, corner means a lot abutting upon two (2) or more streets at their intersection.

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

Non-conforming use means any building or land lawfully occupied by a use at the time of passage of this chapter or amendment to it, which does not conform after the passage of this chapter or amendment to it with the use regulations of the district in which it is situated.

Office means a building containing one or more spaces used by one or more businesses which provide professional or information, technology, and/or cloud-based services. An office cannot be used as a dwelling.

Parking space means an open or enclosed area intended for the parking of vehicles and containing not less than 180 square feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveways shall be durably surfaced and so arranged to permit satisfactory ingress and egress of a motor vehicle.

Pavement width means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

Person means any individual, entity, partnership, association, firm, corporation, governmental agency, or political subdivision.

Plat means a complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the county clerk for recording.

Residential short-term rental unit means a residential dwelling or accessory building, including a single-family dwelling unit, duplex, apartment, residential condominium unit or other

residential real estate improvement, in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than ninety (90) consecutive days on a temporary or transient basis. Any use described in this definition shall be considered a commercial use of real property.

Residential use means property used for the housing of individuals or families.

Sexually oriented business means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

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

Street means a public right-of-way, however designated, which affords the principal means of vehicular access to abutting property.

(1a) An "arterial street" is a street which primarily provides access, egress, and vehicular traffic through the city.

(2b) A "secondary street" primarily provides vehicular circulation to various sections of the city.

(3c) A "collector street" primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.

(4d) A "marginal access street" is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.

(5e) A "minor street" is one used primarily for access to abutting residential property.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or exterior walls.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on the ground or attachment to something having a permanent or temporary location on the ground, including, but without limiting the general inclusiveness of the foregoing, advertising signs, billboards, poster boards, fences, and pergolas.

Subdivider means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

Subdivision means a division of any tract of land situated within the corporate limits of the city, into two (2) or more parts for the purpose of dividing the tract of land, or for laying out suburban lots, building lots or other lots, and streets, alleys, or other parts of the tract intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. Subdivision includes re-subdivision, but does not include the division of land for agricultural

purposes and parcels or tracts of five (5) acres or more and not involving any new street, alley or easement of access.

Surveyor means a licensed state land surveyor or registered professional land surveyor, as authorized by the State statutes to practice the profession of surveying.

Utility easement means an interest in land granted to the city, to the public generally, and/or to a private or public utility corporation for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

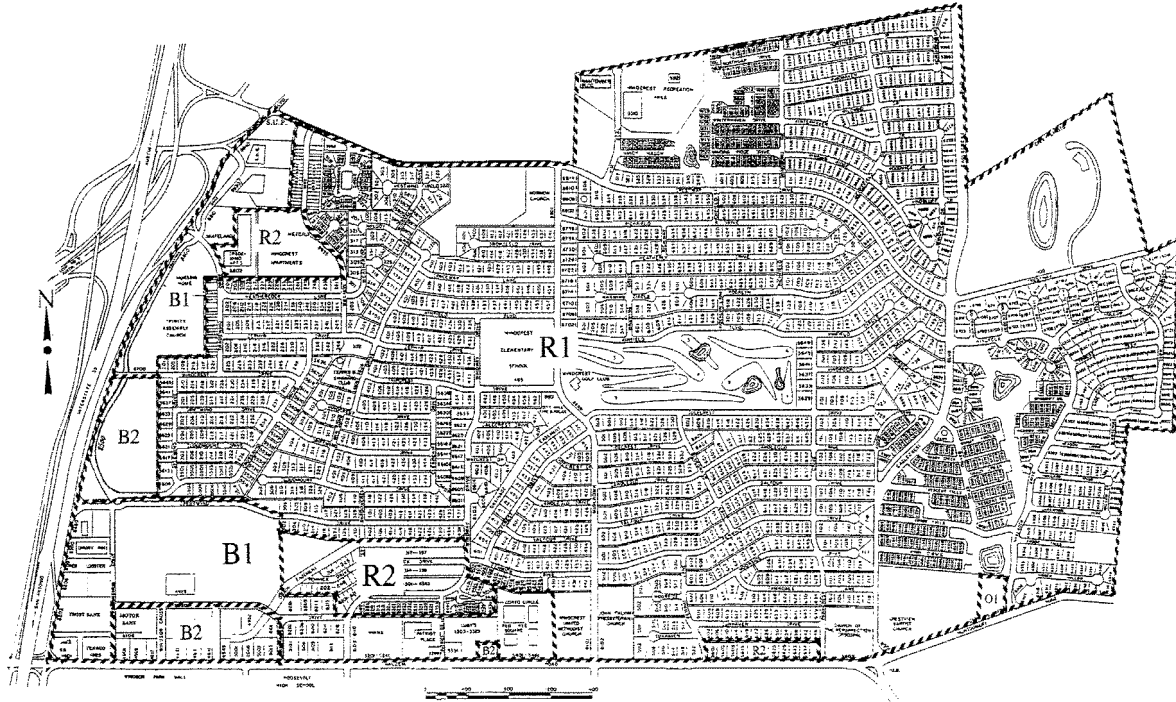
Yard means an open space on the same lot with a building which is not occupied or obstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard or the depth of a rear yard, the horizontal distance between the lot line and the main building shall be used.

Yard, front means a yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projection of the usual steps, unenclosed balconies or open porch. On corner lots, the front yard shall be the street frontage determined by the developer, as shown on a plat that has been approved by the city council.

Yard, rear means a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection other than steps or unenclosed porches. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of a lot from the front yard, as defined above.

Yard, side means a yard between the main building and the side line of the lot, and extending from the front lot line to the rear lot line.

Zoning map means the zoning district map is the map incorporated into this chapter as a part hereof by reference. All lands within the corporate limits of the City of Windcrest are zoned R-1, OneSingle-Family District except as shown on the zoning map on file at the city secretary's office this page.



Secs. 113-6—113-20. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 113-21. Enforcement.

The city council has the duty to enforce the provisions of this chapter. The council shall refuse to issue any permit for any building, or for use of any premises which would violate the provisions of this chapter. If any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of this chapter, the city attorney shall, when directed by the city council city manager, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter or standards referred to herein with respect to any violation thereof which occurs within the city.

Sec. 113-22. Prohibited uses.

Bingo facilities, credit access businesses, payday loan businesses and auto title loan businesses (as defined in state law) are prohibited uses in the City of Windcrest, subject to the rights of existing uses provided in section 113-285.

Sec. 113-23. Penalty for violation.

This chapter may be enforced through any means authorized by state or local law, including section 1-5 of this Code. Any person violating any of the provisions of this chapter or failing to comply therewith or with any of the requirements thereof or who shall build or alter any building in

violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with section 1-5 of this Code. The owner or owners of any building or premises, or part thereof, in violation of this chapter and any architect, engineer, builder, contractor, agent or person who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as herein before provided.

Secs. 113-24—113-60. Reserved.

DIVISION 2. PLANNING AND ZONING

Sec. 113-61. Powers.

All the powers and authority granted to cities by the city charter and any an all state laws relating to planning and zoning regulations are hereby adopted.

Sec. 113-62. Planning and zoning commission.

(a) ~~Effective March 1, 2019, Members of~~ the planning and zoning commission ~~is reconstituted with shall hold their appointed seat in~~ staggered terms as follows:

- ~~i. (1)~~ Places 1, 3, 5, and 7 Term — ~~Begins~~ Hold a two-year term which begins and expires on March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- ~~ii. (2)~~ Places 2, 4, and 6 Term — ~~Begins~~ Hold a two-year term which begins and expires on March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 12, 2020 forward in time with the term expiring on March 1st in even numbered years;
- ~~iii.~~ Place 3 Term — ~~Begins~~ March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- ~~iv.~~ Place 4 Term — ~~Begins~~ March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 12, 2020 forward in time with the term expiring on March 1st in even numbered years;
- ~~v.~~ Place 5 Term — ~~Begins~~ March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- ~~vi.~~ Place 6 Term — ~~Begins~~ March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 12, 2020 forward in time with the term expiring on March 1st in even numbered years;
- ~~vii.~~ Place 7 Term — ~~Begins~~ March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- ~~viii.~~ Alternate Places A11 and A3 Term — ~~Begins~~ Hold a two-year term which begins and expires on March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 12, 2020 forward in time with the term expiring on March 1st in evenodd numbered years;

ix. ~~Alternate Place A2 Term — Begins~~ Holds a two-year term which begins and expires on March 1, 2019 a two-year term expiring March 1st in ~~odd~~even numbered years;

x. ~~Alternate Place A3 Term — Begins March 1, 2019 with a term expiring March 1, 2020 as a one year term, then being a two year term from March 12, 2020 forward in time with the term expiring on March 1st in even numbered years.~~

b. ~~All undecided matters pending before the planning and zoning commission on February 28, 2019 carries forward under the reconstituted Commission just as if no reconstitution had occurred.~~

~~C~~(b) The commission shall be composed of seven (7) citizens as established by the City Charter. Each commission member shall be a qualified voter of the city, shall be not less than twenty-one (21) years of age, shall continually reside within the city during their appointed term, and shall hold no other position in city government with compensation for services set by the city council. Members are appointed by the city council upon recommendation from the mayor and serve at the will of the city council pursuant to state law. Vacancies occurring in the commission shall be filled by the city council for the unexpired term period. The city secretary and mayor shall be ex-officio members of this commission.

~~D~~(c) The commission shall select from its membership a chairman, a vice chairman, and other officers as deemed necessary by the planning and zoning commission. The chairman and vice-chairman shall serve for a period of one year, and thereafter until their successors are duly appointed by the commission. The commission shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings, and determinations, of which the record shall be a public record. At least one meeting per month shall be held, and additional meetings may be held from time to time upon the call of the chairman. On occasion, it may be necessary for the commission to hold joint meetings with the city council to provide for the expeditious handling of planning and zoning matters. When these joint meetings are held, the mayor of the city will be in charge of the meeting, in accordance with state law~~Texas Law~~.

e. ~~The appointment for the positions of the reconstituted planning and zoning commission, effective March 1, 2019, are as follow:~~

Place No.	Position	Appointment	Term Expires
1	Ron Armes	3/1/2019	3/1/2021
2	Nikki Walker	3/1/2019	3/1/2020
3	Rainbeau Presti	3/1/2019	3/1/2021
4	Majie Takas	3/1/2019	3/1/2020
5	Steven Hall	3/1/2019	3/1/2021
6	Ronda Rowland	3/1/2019	3/1/2020

7	Matthew Halbert	3/1/2019	3/1/2021
	Alternates:		
A1	Vacant—term running	3/1/2019	3/1/2020
A2	Vacant—term running	3/1/2019	3/1/2021
A2	Vacant—term running	3/1/2019	3/1/2020

Sec. 113-63. Functions and duties.

The commission shall have the functions and duties as provided by state law, the city charter, and any duties or functions expressly assigned by city ordinance.

(a) ~~Land development planning.~~ It shall be a function and duty of the commission ~~to~~may develop and recommend a comprehensive plan for the development of land within the city (hereinafter referred to as the "land development plan") which, in the opinion of the commission, bears a relation to the planning of the city and to recommend changes in, additions to, or extensions of such a plan. The land development plan, with the accompanying maps, plats, charts, descriptive and explanatory matter, shall show the commission's recommendations for the development of said land and may include the following information: general location, character and extent of streets, bridges, parks, waterways, and other public ways, grounds, places and spaces; the general location and extent of public utilities, whether publicly or privately owned, for water, light, sanitation, transportation, communication, power, heat, fuel and other purposes; and the removal, relocation, widening, extension, narrowing, vacating, abandonment or change of use of such existing or future public ways, grounds, places, spaces, buildings, property or utilities. The land development plan shall also include a zoning plan.

(b) ~~Land development plan, authority to adopt.~~ The commission may adopt the land development plan as a whole by a single resolution, or may by successive resolutions, adopt the successive parts of the land development plan which correspond to major geographical sections of the city or to functional divisions of the subject matter of the land development plan, and may adopt any amendment or extensions thereof or addition thereto. Before the adoption of the land development plan or any such part, amendment, extension, or addition, the commission shall hold at least one public hearing thereon, after at least days general public notice, which notice may be brief and informal but shall state the general purpose of the hearing. The adoption of the land development plan, extension or addition, shall be by resolution carried by the affirmative vote of not less than a majority of the planning and zoning commission. The resolution shall refer expressly to the maps, descriptive materials, and other matter intended by the commission to form the whole or part of the land development plan, and the action taken shall be recorded on the map, land development plan and descriptive matter by the chairman and the secretary of the planning and zoning commission.

(c) ~~Community planning.~~

(1) It shall be the responsibility of the planning and zoning commission to initiate planning which in the commission's judgment can or will have impact on the city's future. In addition to the commission's responsibility for development of a comprehensive plan for the development of land within the city, the commission shall conduct an annual review (hereinafter referred to as the "community plan") pertaining to the following areas:

- a. All elements which are, or can, impact community infrastructure;
- b. External and internal social impacts on the community;
- c. Safety and security of the community;
- d. Environmental and cultural programs which can impact the quality of living in the community; and
- e. Elements which can impact the development of the business area and business environment.

(2) The commission shall also may review annually the city's long range (or five year) plan and recommend changes, as needed, to the city council. Recommendations shall address three areas:

- a. Changes and improvements for the next budget year;
- b. Changes and improvements for the second through the fifth fiscal year; and
- c. Changes and improvements beyond five years.

(3) The commission finalize and forward the aboveits recommendations to the city council by 1 April of each year to allow the council and commission to review the recommendations and include them in the budget planning process for the following fiscal years.

Sec. 113-64. Miscellaneous powers.

- (a) The planning and zoning commission shall have power:
 - (1) To promote public interest in and understanding of the land development plan and the community plan;
 - (2) To consult with and advise public officials and agencies, public utilities, civic, educational, professional and other organizations and with citizens in relation to protecting or carrying out the land development plan, community plan or of other special planning reports;
 - (3) To request from any public officials, within a reasonable time, any available information as it may reasonably require for its work; and
 - (4) To enter upon any land in the performance of its functions, and make examinations and surveys and place and maintain necessary monuments and marks thereon.
- (b) *Plat approval.* Except for plats falling within **chapter 111, article II**, section 111-41 and qualify for expedited platting processes, all plats shall be forwarded to the planning and zoning commission for review and approval before being forwarded to the city council for secondary approval.
- (c) *Subdivision regulations.* The commission shall recommend to city council adoption rules and regulations governing platting and subdividing of land.
- (d) *Zoning plan.* The commission shall recommend to the city council for adoption a zoning plan, and recommend or disapprove proposed changes in such plan subject to the provisions of any existing ordinance covering zoning.
- ~~(e) ——— *Building plans.* The planning and zoning commission shall be responsible for reviewing and recommending approval or disapproval of all building plans for the erection, siting, construction, alteration, reconstruction, enlargement, or finish out of a structure, building, or parking lot (area) in the "R 2", "B 1", "B 2", "B 3" and "O 1" Zoning Districts. Such responsibility includes:~~
 - ~~(1) — The review of all building plans, elevations and construction and materials specifications for compliance with reasonable, recognized and acceptable safety and construction standards;~~
 - ~~(2) — Consideration of the general appearance and arrangement of the structure or structures and their overall compatibility with nearby existing or proposed structures;~~
 - ~~(3) — Verification of compliance, where appropriate, of such plans with any restrictions, conditions or requirements which may have been engrossed by the city council upon the approved plat or land use plan of the area wherein the building is to be erected or sited; and~~
 - ~~(4) — No building permit may be issued for the erection, siting construction, alteration, reconstruction, enlargement, or finish out of a structure, building, or parking lot (area)~~

in the "R-2", "B-1", "B-2", "B-3" and "O-1" Zoning Districts unless and until the plans have been reviewed by the planning and zoning commission and approved by the city council.

(5) ~~It shall not be necessary for the planning and zoning commission to review building plans for the finish out of a structure or building which do not alter the exterior appearance or the structural integrity of the building. Finish outs which do not alter the exterior appearance of a structure or its structural integrity may be approved by the city permits officer.~~

(g) ~~Inspection of building construction. The planning and zoning commission shall also have the responsibility for reviewing inspection reports of all building construction within said "R-2", "B-1", "B-2", "B-3" and "O-1" Districts to assure compliance with all standards and specifications contained in the approved building plans pertaining thereto.~~

(eh) *Other duties.* The planning and zoning commission shall perform such other duties as the city council shall from time to time prescribe that relate to land development, and community planning, and the comprehensive plan.

* * *

ARTICLE III. DISTRICTS, GENERAL ZONING

DIVISION I. GENERALLY

Sec. 113-81. Districts.

For the purpose of regulating and restricting the height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, residence or other purposes, the City of Windcrest, Texas, is hereby divided into district of which there shall be ~~five~~ six (6) classes in number, and which shall be known as:

"R-1" ~~One~~ Single-Family Dwelling District

"R-2" Duplex, ~~and Apartment,~~ and Single-Family Dwelling District

"O-1" Professional Office District

"B-1" Neighborhood Business District

"B-2" Business District

"B-3" Business District

¹ Sections 133-68 through 113-80 which all pertains to the board of adjustment are denoted by "* * *" as no changes are being made to any of these sections. The "* * *" denotes the omission of the sections so that they are not deleted or amended. The omission also saves space in the final ordinance that will be recommended to city council for adoption by the planning and zoning commission.

Sec. 113-82. General requirements.

- (a) *Vacated public areas.* Whenever any street, alley or other public way is lawfully vacated by the City of Windcrest, Texas, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacated area and thereafter all land included in said vacated area shall be subject to all applicable regulations of the extended districts.
- (b) *Temporary "R-1" zoning.* After the effective date of this chapter, all territory annexed to the City of Windcrest, Texas, shall be classified as "R-1" One-Single-Family Dwelling District until permanently zoned by the governing body of the City of Windcrest, Texas. The planning and zoning commission shall as soon as practicable, after annexation of any territory to the City of Windcrest, Texas, institute proceedings on its own motion to give the newly annexed territory permanent zoning, and the procedure to be followed shall be the same as is provided by law for adoption of original zoning regulations, except as provided in this chapter.
- (c) *Use regulations.* No building shall be erected, converted, enlarged, reconstructed, or structurally altered, and no building or land shall be used for any purpose that is not permitted in the district in which the building or land is situated.
- (d) *Building height regulations.* No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is situated.
- (e) *Yard regulations.* The minimum yards and other open spaces, including lot area per family, required by this chapter for each and every building existing at the time of the passage of this chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space required for any other building. No lot area shall be reduced to an area less than the district requirements of this chapter. The provisions of this section shall not apply to any community unit plan processed in accordance with the provisions of Article III, division 8 of this Chapter.
- (f) *One main building for one lot.* Every building hereafter erected, converted, enlarged, reconstructed, or structurally altered shall be on one lot. Each lot shall have been formally platted in the manner provided for subdivisions under chapter 111 of this Code, and approved by the planning and zoning commission and the city council. No more than one main building shall be located on one lot, except as otherwise provided in this chapter.
- ~~(g) *Masonry requirement.* No building (except for those detached accessory buildings located in R-1 Zoning Districts of the City of Windcrest specifically described in chapter 103, section 10-58, shall be erected, converted, enlarged, reconstructed, or structurally altered unless at least 90 percent of its first story exterior walls shall be of masonry construction.~~
- (gh) *Fence height regulation.* No fence shall be erected, converted, enlarged, reconstructed

or structurally altered to an overall height of more than eight (8) feet, when constructed to separate or enclose garden homes, town homes, or similar units having a sideline building setback of equal to or less than ten (10) feet, and in all other cases, no fence shall be erected, converted, enlarged, or reconstructed or structurally altered to an overall height of more than six (6) feet unless otherwise required by this Code.

- (hi) *Golf course.* The golf course and golf club area presently situated within the corporate limits of the City of Windcrest, Texas, and being Block 111, Lot 1, Windcrest Unit 27, according to plat thereof recorded in Volume 7200, pages 161 and 162, Real Property Records of Bexar County, Texas, is hereby designated an area of cultural importance and significance, and no construction, alteration, reconstruction, or razing of buildings and other structures shall be made or permitted thereon without prior specific approval by the city council of the City of Windcrest, Texas.
- (ij) *Additional regulations.* The applicable portions of chapter 109, Signs, and chapters 103 and 107, yards (fences, pools, sprinklers, satellite dish antennas, amateur radio antenna towers, and wireless cable television antennas), shall apply to the placing and construction of signs, fences, pools, sprinklers, satellite dish antennas, amateur radio antenna towers, and wireless cable television antennas.

Secs. 113-83—113-109. Reserved.

DIVISION 2. "R-1" ~~ONE SINGLE~~-FAMILY DWELLING DISTRICT

Sec. 113-110. Use regulations.

The following regulations shall apply to the "R-1" OneSingle-Family Dwelling District:

- (a) A building or premises shall be used only for the following purposes:
 - (1) Single-family dwellings, excluding town homes and garden homes. Town homes and garden homes are permitted in this zone only if the structures and uses existed prior to the effective date of this code or if authorized under a community unit plan.
 - (2) Church (except temporary revival), to include normal functions such as schools, child care childcare, and bazaars.
 - (3) School, public or private, having a curriculum equal to a public elementary, high school, or institution of higher learning.
 - (4) Public parks, playgrounds, swimming pools (public or private), golf courses (except miniature golf) and golf clubs (public or private and related golf pro shops, residential tennis courts, tennis courts and clubs (public or private) and related tennis pro shops, arts and crafts shops and/or facilities (public or private), public recreation and community buildings.
 - (5) Municipal buildings, non-profit libraries or museums, police and fire stations.
 - (6) Authorized home occupations which are permitted as set forth in article VII of this chapter.

- (7) Country clubs.
- (8) Water tanks and towers.
- (9) Accessory buildings and accessory uses, customarily incidental to the above uses when located on the same lot, including a private garage for one (1) or more cars, and/or other storage room bona fide servant's for quarters not for rent or used for commercial purposes that otherwise comply with provisions of this district.
- (10) Signs authorized in accordance with chapter 109 of the Code.

Sec. 113-111. Height regulations.

- (a) No building shall exceed two and one-half (2 ½) stories but in no event shall a building exceed or thirty-five (35) feet in height, whichever is taller, except as provided in section 113-263 hereof.
- (b) A ground installed amateur radio antenna tower shall not exceed sixty-five (65) feet in height.
- (c) Wireless television cable system structures will not extend more than ten (10) feet above the highest roof line of a structure.

Sec. 113-112. Yard regulations.

Unless otherwise platted prior to the effective date of this code district yard regulations shall be:

- (a) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
- (b) *Side yard.* There shall be a side yard on each side of a building of not less than ten percent (10%) of the width of the lot, but such side yard shall not be less than ten (10) feet.
- (c) Yard regulations for plats approved prior to the effective date of this code shall be those in affect at the time the plat was approved, including any and all variances that may have been granted for such plats.
- (d) Any plat applications that have been filed shall comply with the regulations that were in effect at the time of filing.

Sec. 113-113. Intensity of use.

Every lot or tract of land shall have an area of not less than 10,000 square feet and an average width of not less than ninety (90) feet, except that if a lot or tract has should have been previously platted prior to the effective date of this code to contain less area or width than is herein required under this section, and its boundary lines along their entire length should touch lands under other ownership on the effective date of Ordinance No. 58 and shall not have been changed since said date, such parcel of land may be used for a single family dwelling. Lots that were platted and

approved prior to the effective date of this code shall comply with those regulations in effect and applicable at the time plat was approved, including any and all variances that may have been granted for such plats. Any plat applications that have been filed shall comply with the regulations that were in effect at the time of filing. Should the square footage of any lot platted prior to the effective date of this code be altered by replat, such replated lots shall comply with the provisions of this code applicable at the time the replat application was filed.

Sec. 113-114. ~~Additional regulations use, height, and area regulations and exceptions.~~

Additional use, height, and area regulations and exceptions are found in article III, division 89 of this Chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.

Sec. 113-115. Parking regulations.

- (a) For purposes of this section, the terms ~~motor vehicle~~ *motor vehicle*, ~~large motor vehicle~~ *large motor vehicle*, ~~front yard~~ *front yard*, ~~rear yard~~ *rear yard* and ~~side yard~~ *side yard* shall have the meaning stated in ~~chapter 32, section 320-172~~ of this Code. ~~It shall be lawful to park one motor vehicle 22 feet or less in length and seven feet or less in height for each licensed driver residing in a residence, plus one additional motor vehicle or boat. If a the additional motor vehicle or boat is greater than 22 feet in length or seven feet in height, it~~ *Large motor vehicles must be parked in the rear yard of the residence.*
- (b) All motor vehicles and boats shall be parked on permanently maintained parking areas constructed of concrete, asphalt or gravel with barriers or permanent curbing to define the parking area. Rear yard parking areas must be constructed in the same areas in which accessory buildings are authorized.
- (c) The following exceptions to the limitations imposed on the parking of large motor vehicles in the preceding paragraph shall apply:
- (1) A resident may park a large motor vehicle in the front or side yard of a residence each week for the limited purposes of preparing, loading and unloading such vehicle for weekend use between the hours of noon on Friday and noon on the following Saturday and between the hours of noon on Sunday and noon on the following Monday, plus a resident may park a large motor vehicle in the front or side yard of a residence for the limited purposes of preparing, loading and unloading such vehicle for two (2) additional trips per calendar month, with the total preparation, loading and unloading time for each additional trip to be limited to ~~forty-eight (48)~~ hours for each trip. While such large motor vehicles are lawfully parked in front or side yards of a residence, normal preparation for the use of such vehicles is authorized, including cleaning, and washing, changing fluids and minor repairs.
 - (2) A bonafide guest or visitor of a resident may park a large motor vehicle in the front or side yard of such residence for not more than seven (7) days during any calendar month.
 - (3) ~~The owner of a large motor vehicle parked in the front or side yard of a residence at the date of the adoption of this chapter may continue to park such large motor vehicle in the same location until March 23, 1999. This exception shall expire upon the disposition of such large motor vehicle, the disposition of the residence by the owner of the large motor vehicle, or at~~

~~the time the owner of the large motor vehicle vacates the residence, whichever event occurs first, provided that under no circumstances shall the exception continue after March 23, 1999.~~

- (d) It shall be unlawful for any person to park, or allow same to be parked, any motor vehicle or boat in a residential district of the city except as authorized in this section. It shall be unlawful to use a motor vehicle or boat in a residential district of the city for dwelling, sleeping, business or entertainment purposes, or to connect a motor vehicle or boat to sanitary sewer facilities. No motor vehicle or boat may be parked within **five (5) feet** of the front or side curb line of a residence. No major maintenance or repair work shall be performed on a large motor vehicle in a residential district of the city, such as but not limited to, replacement or modification of mechanical and interior components and any work which requires lifting or raising of the vehicle.

- (e) **Additional parking regulations may be found in in Chapter 32, Article III of this code.**

Sec. 113-116. Parking areas.

A permanently maintained parking area which connects a garage or carport to a street or alley may not be wider than **twenty (20) feet** when adjacent to a two-car garage or **thirty (30) feet** when adjacent to a three-car garage. Permanently maintained parking areas wider than **twenty (20) feet** and constructed prior to the effective date of ~~this code the Code of Ordinances~~, shall be exempt from the **twenty (20) feet** limitation set forth above. However, ~~after the effective date of this Code of Ordinances~~, no building permit shall be issued by the city building permit officer for the erection, siting, construction, alteration, reconstruction or enlargement of permanently maintained parking area in excess of **twenty (20) feet** for a two-car garage or **thirty (30) feet** for a three-car garage unless it is first approved by the city council after a showing by the applicant of a special need for such granter width due to the size of or topography of the lot, the design of location of the residence, or other good reason approved by the city council in its sole and absolute discretion.

Sec. 113-117. Residential short-term rental units prohibited.

The use of any real property in the R-1 **OneSingle**-Family Dwelling District for a residential short-term rental unit is prohibited.

Sec. 113-118. - Carports.

~~Carports are prohibited in residential zoning districts of the city.~~

- (a) **Carport shall have the meaning stated in section 113-5 of this code.**

- (b) **A permitted carport shall:**

- (1) **require a building permit;**
- (2) **comply with the regulations established in the most current International Code, as adopted by the City;**
- (3) **not exceed twelve (12) feet in height; and**
- (4) **shall be located in the rear or side yard.**

- (c) **Design Requirements. A permitted carport shall:**

- (1) complement the color, character, and design of the dwelling; and
- (2) have architectural elements producing a stylistic design, form and structure, including, but not limited to, unique slopes and/or curves that complement the design of the dwelling for which the carport serves.

Sec. 113-119 Exterior Lighting

Exterior lighting must comply with the regulations in section 113-127 of this code.

DIVISION 3. "R-2" DUPLEX, AND—APARTMENT, AND SINGLE-FAMILY DWELLING DISTRICT

Sec. 113-120. Use regulations.

The following regulations shall apply to "R-2" Duplex and Apartment District:

(a) A building or premises shall be used for the following purposes:

- (1) Any use permitted in the "R-1" ~~OneSingle~~ Family dwelling district.
- (2) Two-Family or duplex dwellings.
- (3) Apartment houses or multiple family dwellings, including condominiums, ~~Chapter 82, Texas Property Code.~~
- (4) Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
- (5) Institution of a religious, educational or philanthropic nature.
- (6) Signs authorized in accordance with chapter 109 of the Code.

Sec. 113-121. Height regulations.

No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, except as provided in section 113-263.

Sec. 113-122. Yard regulations.

Unless otherwise platted prior to the effective date of this code district yard regulations shall be:

- (a) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
- (b) *Side yards.* There shall be a side yard on each side of a building of not less than ten percent (10%) of the width of the lot, but such side yard shall not be less than ten (10) feet.
- (c) Yard regulations for plats approved prior to the effective date of this code, shall be those in affect and applicable at the time the plat was approved, including any and all variances that may have been granted for such plats.
- (d) Any plat applications that have been filed shall comply with the regulations that were in effect at the time of filing.

Sec. 113-123. Intensity of use.

Unless otherwise platted prior to the effective date of this code, Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated, or reconstructed, shall be located on lots containing the following areas:

- (1a) A lot on which there is erected a single-family dwelling shall contain an area of not less than 10,000 square feet.
- (2b) A lot on which there is erected a two-family dwelling shall contain an area of not less than 10,000 square feet.
- (3c) A lot on which there is erected an apartment house or multiple-family dwelling shall contain an area not less than 1,800 square feet of land per dwelling unit.
- (4d) Where a lot or tract has less area than herein required and its boundary lines along their entire length touched lands under other ownership on the effective date of this chapter and have not since been changed, such parcel of land may be used for a single-family dwelling.
- (5e) Any plat applications that have been filed shall comply with the regulations that were in effect at the time of filing, including any and all variances that may have been granted for such plats.

Sec. 113-124. Parking regulations.

The parking regulations and parking area requirements of the "R-1" District shall apply. Furthermore, whenever a structure is erected, converted, or structurally altered for a two-family or multiple-family dwelling, two (2) parking spaces shall be provided and maintained on the lot for each dwelling unit in the building. Such parking space shall be on the lot and so arranged as to permit satisfactory egress and ingress of an automobile, and such parking area shall be in addition to driveways.

Sec. 113-125. Additional use, height and area regulations and exceptions ~~regulations.~~

~~Additional use and height and area regulations and exceptions are found in Subchapter 23.1400 herein.~~ Additional use, height, and area regulations and exceptions are found in article III,

division 8 of this chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.

Sec. 113-126. Residential short-term rental units prohibited.

The use of any real property in the R-2 Duplex and Apartment District for a residential short-term rental unit is prohibited.

Sec. 113-127. Exterior lighting.

- (a) To ensure the safety of the public and property all uses permitted in the "R-1" and "R-2" Districts, with the exception of Single-Family Dwellings, town homes, and garden homes, shall maintain exterior lighting and ensure the exterior of the property including any parking lots, exterior corridors, sidewalks, or walkways are illuminated. Such exterior lighting shall be maintained and operated from dusk-to-dawn by the property owner and property occupant.
- (b) All exterior lighting shall not produce an obnoxious and intense glare or illumination across property lines and shall not be of such intensity to create a nuisance or detract from the use of enjoyment of adjacent property. All exterior lighting shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any property line above a height of three (3) feet.
- (c) All exterior lighting shall be oriented so it does not direct glare or illumination onto streets in a manner that may distract or interfere with the vision of drivers, cyclists, or pedestrians on such streets.
- (d) All exterior lighting not operational shall be repaired within a reasonable time after discovery.

Secs. 113-~~1287~~—113-149. Reserved.

DIVISION 4. "O-1" PROFESSIONAL OFFICE DISTRICT

Sec. 113-150. Use regulations.

The following regulations shall apply to the "O-1" Professional Office District:

(a) A building or premises shall be used only for the following purposes:

- (1) Any use permitted in the "R-1" and "R-2" districts.
- (2) Offices for physicians, dentists, architects, insurance agents, attorneys, real estate appraisers, information, technology, and/or cloud-based services, and other office uses having similar characteristics.

- (3) Signs authorized in accordance with chapter 109 of the Code.
- (4) No merchandise of any type may be displayed, leased, exchanged or sold.
- (5) Disposal of infectious waste shall be in accordance with current guidelines required by the Occupational Safety and Health Administration and the Texas Natural Resource and Conservation Commission.
- (6) Commercial/residential combination use as defined by Section 113-5.

Sec. 113-151. Height regulations.

No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, except as provided in section 113-263 ~~hereof~~.

Sec. 113-152. Yard regulations.

Unless otherwise platted prior to the effective date of this code, district yard regulations shall be:

(a) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet from the front lot line.

(b) *Side yards.*

- (1) For uses permitted in the "R-1" District, the side yard regulation for that district shall apply.
- (2) For uses permitted in the "R-2" District, the side yard regulations for that district shall apply.
- (3) For ~~additional~~ uses permitted in the "O-1" District, the side yard regulations shall be ten (10) feet. When abutting either an "R-1" or "R-2" Zone, the side yard regulation shall be twenty-five (25) feet.

(c) *Rear yards.*

- (1) For uses permitted in the "O-1" District, the rear yard regulations shall be ten (10) feet. When abutting either an "R-1" or "R-2" Zone, the rear yard regulation shall be twenty-five (25) feet.

(d) *Landscaping*

- (1) A minimum of ten (10) feet of landscaped green space must be reserved and maintained as a buffer zone between the "O-1" District and either the "R-1" or "R-2" Districts wherever the districts' lines are bordering. This ten (10) foot requirement may be part of the twenty-five (25) foot side and rear yard requirements addressed above in this section.

Sec. 113-153. Intensity of use.

- (a) For uses permitted in the "R-1" and "R-2" Districts, the applicable minimum lot area and minimum lot width for such district based on permitted use shall apply.
- (b) For additional uses permitted in the "O-1" District, the minimum lot area shall be 18,000 square feet and the minimum lot width shall be 150 feet.

Sec. 113-154. Parking regulations.

- (a) The parking regulations for uses permitted in the "R-1" and "R-2" Districts shall be the same as those in the "R-2" District.
- (b) The parking regulations for ~~For the~~ additional uses permitted in the "O-1" District, ~~one parking space for each 300 square feet or a portion thereof of gross floor area shall be the same as those listed in "B-1" and applicable to properties utilized for business or commercial uses.~~

Sec. 113-155. Additional use, height and area regulations and exceptions ~~regulations.~~

~~Additional use, height and area regulations and exceptions are found in Subchapter 23.1400 herein.~~ Additional use, height, and area regulations and exceptions are found in article III, division 8 of this chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.

Sec. 113-156. Screening of refuse storage areas.

All offices shall screen and maintain areas wherein garbage containers and other refuse are stored with a permanent ~~type masonry or wooden~~ enclosure, as authorized under the City's codes, on all sides exposed to public view with a ~~concrete~~ permanent base and apron.

Sec. 113-157. Screening of air conditioning elements. Platted lots.

~~Platted lots used for office purposes may contain one or more buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.~~

All offices shall screen air conditioning elements with a permanent enclosure on all sides which are open and exposed to public view.

Sec. 113-158. Platted lots. Screening of air conditioning elements.

~~All offices shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides which are open to public view.~~

Platted lots used for office purposes may contain one or more buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.

Sec. 113-159. Exterior lighting. -Green belt.

All uses permitted in the "O-1" District shall comply with the exterior lighting regulations contained in section 113-127 of this code.

A minimum of ten feet of landscaped green belt area must be dedicated and maintained as a buffer zone between the "O-1" District and either the "R-1" or "R-2" Districts wherever the districts' lines are adjacent. This ten feet may be part of the 25 foot side yard mentioned in section 113-153(e).

Secs. 113-160—113-189. Reserved.

DIVISION 5. "B-1" NEIGHBORHOOD BUSINESS DISTRICT

Sec. 113-190. Use regulations.

The following regulations shall apply to "B-1" Neighborhood Business District:

(a) A building or premises shall be used only for the following purposes:

- (1) Any use permitted in "O-1" Professional Office District.
- (2) Signs authorized in accordance with chapter 109 of the Code.
- (3) Automobile parking lots.
- (4) Bakery, employing not more than five persons.
- (5) Banks.
- (6) Beauty parlors.
- (7) Barber shops.
- (8) Cleaning, pressing, and dyeing plants employing not more than five persons each.
- (9) Clinics.
- (10) Hotels and motels.
- (11) Laundries, employing not more than five persons on the premises.
- (12) ~~Laundries, s~~Self-service laundries.
- (13) Job printing, provided total mechanical power use in operation of such printing plant shall not exceed five horsepower.
- (14) ~~Lodge halls.~~ Entertainment facilities such as theaters, cinemas, dance halls, bowling alleys, live music venues, billiard parlors, arcades, and other similar uses excepting public saloons, taverns, or bars.
- (15) Offices.
- (16) Radio, computer and technology repair and sale shops.
- (17) Media and Radio studios.
- (18) Restaurants, cafes, and cafeterias.

(19) Stores and shops for sale of products at retail only, but not to include second hand clothing stores, and/or flea markets, and similar establishments, public saloons, taverns or bars. The storage and/or sale of motor vehicle fuel at wholesale or retail is prohibited

- a) If a permit has first been obtained from the city, the business which currently occupies the permanent structure on the premises from which the business is conducted may display and sell goods, wares and merchandise outside its permanent structure which are customarily displayed and sold by it inside ~~it~~ its permanent structure. The outdoor display and sale of such merchandise shall be classified as temporary (30 days or less) or permanent (more than 30 days).
- b) A temporary permit may be issued by the city for the display and sale of goods, wares and merchandise upon a showing by a business that the outdoor display and sale of such merchandise will not interfere with parking and access and that such activity will be safe and compatible with adjoining businesses and the neighborhood.
- c) A permanent permit may be issued by the city for the display and sale of goods, wares and merchandise upon a showing by a business that the outdoor display and sale of such merchandise will not occur in parking areas, driveways and required landscape areas, and that such activity will be safe and compatible with the adjoining businesses and the neighborhood.

(20) Studio (art, photo, music).

~~(21)~~ Recreation and entertainment facilities, ~~(theaters, bowling alleys, billiard parlors, such as skating rinks, halls, basketball and tennis courts, aquatics centers, gymnasiums and health or exercise centers and similar indoor or outdoor recreational activities.)~~ excepting public saloons, taverns, or bars.

Sec. 113-191. Height regulations.

No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height except as provided in section 113-263, and for antennas which are subject to additional requirements located Chapter 107 in 23.80 and certain signs in chapter 109.

Sec. 113-192. Yard regulations.

- (a) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty (20) feet.
- (b) *Side yards.* For uses permitted in the "R-1" and "R-2" District, the side yard regulations for that district shall apply. For additional uses permitted in the "B-1" District, no side yards are required except that on a corner lot the side yard on the street side shall be twenty (20) feet. Where a lot is used for any of the commercial purposes permitted in this district and abutting on the side of a lot in an "R-1" or "R-2" District, there shall be a side yard not less than twenty-five (25) feet.
- (c) *Rear yards.* For uses permitted in the "B-1" District, no rear yards are required except where a lot is used for any of the commercial purposes permitted in this district and abutting on the rear of a lot in an "R-1" or "R-2" District, there shall be a rear yard not less than twenty-five (25) feet.

Sec. 113-193. Intensity of use.

For uses permitted in the "R-1" and "R-2" Districts, the minimum lot area and minimum width regulations for that district shall apply. There are no minimum lot area or lot width requirements for other uses.

Sec. 113-194. Parking regulations.

- (a) The parking regulations for dwellings are the same as those set forth in the "R-1" and "R-2" Districts.
- (b) Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this Subchapter, off-street parking spaces shall be provided, whether on the same lot with structure or on an area within 300 feet thereof, in such number as the city council shall deem adequate, based on such factors as the nature of proposed business use, expected customer density and rate of customer turn-over. Generally, parking space requirements shall be based on the gross floor area of the structure to be served and shall conform to the respective requirements set forth in the table of off-street parking requirements contained in this section, 42-94, 1970 zoning ordinance of the City of San Antonio, Texas, which table is, by this reference, hereby expressly adopted for the City of Windcrest as a planning guide only. The city council may require more parking spaces for any specific business structure than are indicated in said adopted table, but no plan providing for less than the number of parking spaces therein indicated shall be approved, in the absence of clear and convincing evidence that the number of parking spaces indicated in the table will not reasonably be required by the proposed business use. Two (2) or more building owners may join together in providing a common parking area, but the total number of parking spaces therein shall be sufficient to satisfy the combined individual use parking space requirements herein stated for all structures that are proposed to be open for business at the same time. The minimum size for a parking space will be nine (9) feet × eighteen (18) feet. The following table provides requirements for off-street parking business or commercial uses permitted in this Subchapter.

TABLE OF OFF-STREET PARKING REQUIREMENTS

Uses	Parking Requirements
Churches, Theaters, Gymnasiums	One space for each four seats
Clinics	One space for each 200 sq. ft. gross floor area
Clubs, lodges	One space for ea. 300 sq. ft. of gross floor area
General business, commercial & personal service establishments	One space for each 200 sq. ft. of gross retail/sales service area and one space per 800 sq. ft. gross storage area, or one space per 400 sq. ft. of combined retail sales/service area with no dedicated warehousing area.
General office	One space for each 300 sq. ft. of gross floor area
Hotels, Motels	One space for each guest room or trailer space and one space for each two employees (associated commercial or retail areas require additional spaces)
Nursing, rehabilitation and assisted living facilities	One space for each four beds
Multi-family dwellings	Two spaces for each family dwelling unit
Restaurants, cafeterias	One space for ea. 100 sq. ft. of gross floor area
Schools, elementary	Two spaces for each classroom plus two spaces for each office
Schools, junior	Three spaces for each classroom plus three spaces for each office
Schools, secondary	Six spaces for each classroom plus six spaces for each office
Single-family dwellings	Two spaces for each dwelling unit
Skating rinks and commercial amusement	One space for each 100 sq. ft. gross floor area. For uses not requiring a building, one space for each 800 sq. ft. of ground area shall be provided

Sec. 113-195. Additional use, height and area regulations and exceptions regulations.

Additional use, height, and area regulations and exceptions are found in article III, division 8 of this chapter. Additional use, height, and area regulations and exceptions are found in section 113-263 of this Chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.

Sec. 113-196. Screening of refuse storage areas.

All commercial establishments shall screen areas wherein garbage containers and other refuse are stored with a permanent ~~type masonry or wooden~~ enclosure, authorized under the City's codes, on all sides exposed to public view with a permanent ~~concrete~~ base and apron.

Sec. 113-197. Screening of air conditioning elements. Platted lots.

All commercial establishments shall screen air conditioning elements with a permanent screened enclosure, authorized under the City's codes, on all sides open to public view.

Platted lots used for commercial purposes may contain one or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.

Sec. 113-198. Platted lots. Screening of air conditioning elements.

Platted lots used for commercial purposes may contain one (1) or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.

All commercial establishments shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides open to public view.

Sec. 113-199. Landscaping.

- (a) Landscaping and appropriate irrigation systems are required when B-1 and B-2 properties are developed.
- (b) Where B-1 and B-2 property abuts tracts zoned ~~(for residential use (R-1, R-2))~~, the required width of the landscape area shall be a minimum of fifteen (15) feet and require privacy screening of eight (8) feet ~~masonry~~ of fencing in combination with shrubs and trees.
- (c) Landscaping within a triangular area formed by intersecting street lines shall comply with the requirements of section 32-1413-153.
- (d) An eight (8) foot wide landscape area must be provided along the entire length of each property line bordering streets. Not more than fifty percent (50%) percent of each landscape area shall receive impervious cover. Where a sidewalk is in place, the landscape area will not be less than four (4) feet between sidewalk and parking.

- (e) Landscaping shall not obstruct the view between the street and the access drives and parking aisles near the front yard entries and exits, nor shall any landscaping which creates an obstruction of view be located within the radius of any curb return.

Sec. 113-200. Exterior lighting.

All uses permitted in the "B-1" District shall comply with the exterior lighting regulations contained in section 113-127 of this code.

Secs. 113-200~~1~~—113-219. Reserved.

DIVISION 6. "B-2" BUSINESS DISTRICT

Sec. 113-220. Regulations.

The following regulations shall apply to the "B-2" Business District:

(a) A building or premises shall be used only for the following purposes:

- (1) Any use permitted in "B-1" Neighborhood Business District; outdoor sales are restricted as in section 113-190~~154~~.
- (2) Automobile sales and service facilities including sales, service, and installation of automobile parts, components and accessories, provided that such service and installation shall be performed completely indoors, within the retail sales establishment which has sold those items. Storage or sale of motor vehicle fuel is prohibited.
- (3) Pawnshops.

Sec. 113-221. Height regulations.

~~No building or structure shall exceed two and one half stories or 35 feet in height.~~

No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height except as provided in section 113-263, and for antennas which are subject to additional requirements located Chapter 107 and certain signs in chapter 109.

Sec. 113-222. Yard regulations.

- (a) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty (20) feet.
- (b) *Side yard.* For uses permitted in the "R-1", "R-2", "O-1" and "B 1" districts, the side yard regulations for that district shall apply. For additional uses permitted in the "B-2" district, the side yard regulations for the "B-1" district shall apply.

(c) *Rear yard.* For uses permitted in the "O-1" and "B 1" districts, the rear yard regulations for that district shall apply. For additional uses permitted in the "B-2" district, the rear yard regulations for the "B-1" district shall apply.

Sec. 113-223. Intensity of use.

For uses permitted in the "R-1" and "R-2" districts, the minimum lot area and minimum width regulations for that district shall apply. There are no minimum lot area or lot width requirements for other uses.

Sec. 113-224. Parking regulations.

- (a) For parking regulations in the "R-1", "R-2", "O-1" and "B-1" districts, parking regulations for such districts based on permitted use shall apply.
- (b) For parking regulations in the "B-2" district, the parking regulations and table of off-street parking requirements for the "B-1" district shall apply.

Sec. 113-225. Additional use, height, and area regulations and exceptions regulations.

Additional use, height, and area regulations and exceptions are found in article III, division 89 of this chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.

Sec. 113-226. Screening of refuse storage areas.

All commercial establishments shall screen areas wherein garbage containers and other refuse are stored with a permanent type masonry or wooden enclosure, as authorized under the City's codes, on all sides exposed to public view with a concrete permanent base and apron.

Sec. 113-227. Screening of air conditioning elements. Platted lots.

All commercial establishments shall screen air conditioning elements, as authorized under the City's codes, with a permanent screen on all sides open to public view.

Platted lots used for commercial purposes may contain one or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.

Sec. 113-228. Platted lots. Screening of air conditioning elements.

Platted lots used for commercial purposes may contain one or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this chapter.

All commercial establishments shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides open to public view.

Sec. 113-229. Landscaping.

Landscaping requirements are the same as in ~~113-19923-1210~~.

Sec. 113-230. Exterior lighting.

All uses permitted in the "B-2" District shall comply with the exterior lighting regulations contained in section 113-127 of this code.

Secs. 113-231~~0~~—113-250. Reserved.

DIVISION 7. "B-3" BUSINESS DISTRICT

Sec. 113-251. ~~[Policy.]~~ Regulations.

The following regulations shall apply to the "B-3" Business District.

(a) A building or premises shall be used for the following purposes:

(1) Any use permitted in the B-2 Business District; and

(2) Business park uses not requiring specific city council approval (wholesaling; research and development and laboratory); and

(3) Business park uses which require specific city council approval (manufacturing; processing; fabrication; assembly; testing; repair; servicing; storage; warehousing; construction equipment rental, sales, service and outdoor storage; displaying or distribution of goods, materials or products) shall be designated as a "CC Use" or "CC Uses"; and

(4) Grocery stores.

(b) Uses referenced above may be combined vertically, in the same building, or horizontally in multiple buildings, or through a combination of the two.

(c) A conceptual land use plan must be submitted with an application for rezoning to B-3. The purpose of the conceptual land use plan is to identify the location of any proposed CC Uses listed in section 113-251 (a)(3). The conceptual land use plan shall identify the location and area of any proposed CC Uses, but need not identify uses permitted by right within B-3. Any CC Uses identified in the conceptual land use plan approved by city council shall be permitted within the areas shown on the conceptual land use plan.

(d) "CC" uses located within a parcel of forty (40) acres or more are limited to sixty-five percent (65%) of the gross area of a proposed conceptual land use plan.

(e) No CC Uses shall be permitted in any building within 250 feet of any federal highway right-of-way unless such building setback line is specifically identified on an approved conceptual land use plan as within 250 feet of a federal highway right-of-way.

(f) A conceptual land use plan may be amended by the original applicant or applicant's assigns subsequent to the approval of B-3 zoning. Amendments requiring city council approval include the following:

(1) A conceptual land use plan amendment may change the location and area of CC Use categories within the conceptual land use plan boundaries. Such amendment shall be reviewed and approved by the city council.

(2) Any amendment to a conceptual land use plan that would allow for a building with CC Uses within 250 feet of a federal highway right-of-way which is not permitted by a building setback line identified on an approved conceptual land use plan shall be reviewed and approved by city council.

(3) Any amendment that would allow for a CC Use that was not previously identified on the conceptual land use plan shall be reviewed and approved by city council.

(g) The city manager or his designee shall review any application for a building permit or certificate of occupancy for CC Uses listed in section 113-251 (a)(3) to confirm that the proposed use or uses complies with the approved ordinance approving rezoning to B-3.

(h) Any use authorized, or in the process of authorization, pursuant to this section prior to the effective date of this code shall comply with the regulations that were in effect at the time of filing.

Sec. 113-252. Areas for public use.

A reasonable percentage of any property zoned B-3 Business District shall be set aside for use as open space, public/civic space or buildings, green space, community playgrounds and/or recreational areas.

Use regulations.

(a) A building or premises shall be used for the following purposes:

1. Any use permitted in the B-2 Business District;

2. Business park uses not requiring specific city council approval (wholesaling; research and development and laboratory);

3. Business park uses which require specific city council approval (manufacturing; processing; fabrication; assembly; testing; repair; servicing; storage; warehousing; construction equipment rental, sales, service and outdoor storage; displaying or distribution of goods, materials or products) designated as a "CC Use" or "CC Uses"; and

4. Grocery stores.

- (b) Uses may be combined vertically, in the same building, or horizontally in multiple buildings, or through a combination of the two.
- (c) A conceptual land use plan may be submitted with an application for rezoning to B-3. The purpose of the conceptual land use plan is to identify the location of any proposed CC Uses listed in 23.1401(a)(3). The conceptual land use plan shall identify the location and area of any proposed CC Uses, but need not identify uses permitted by right within B-3. Any CC Uses identified in the conceptual land use plan approved by city council shall be permitted within the areas shown on the conceptual land use plan.
- (d) "CC" uses located within a parcel of 40 acres or more are limited to 65 percent of the gross area of a proposed conceptual land use plan.
- (e) No CC Uses shall be permitted in any building within 250 feet of any federal highway right of way unless such building setback line is specifically identified on an approved conceptual land use plan as within 250 feet of a federal highway right of way.
- (f) A conceptual land use plan may be amended by the original applicant or applicant's assigns subsequent to the approval of B-3 zoning.
- Amendments requiring city council approval.
- (1) A conceptual land use plan amendment may change the location and area of CC Use categories within the conceptual land use plan boundaries. Such amendment shall be reviewed and approved by the city council.
- (2) Any amendment to a conceptual land use plan that would allow for a building with CC Uses within 250 feet of a federal highway right of way which is not permitted by a building setback line identified on an approved conceptual land use plan shall be reviewed and approved by city council.
- (3) Any amendment that would allow for a CC Use that was not previously identified on the conceptual land use plan shall be reviewed and approved by city council.
- (g) The city manager or his designee shall review any application for a building permit or certificate of occupancy for CC Uses listed in 23.1401(a)(3) to confirm that the proposed use or uses complies with the approved ordinance approving rezoning to B-3.

Sec. 113-253. Height regulations.

No building or structure shall exceed sixty-five (65) feet in height.

Sec. 113-254. Yard regulations.

The yard regulations contained infor B-2 shall apply.

Sec. 113-255. Intensity of use.

Intensity of use refers to a required or stipulated tract of land in a zoning district. There are no minimum lot area or lot width requirements in B-3 business district.

Sec. 113-256. Parking regulations.

For parking regulations in the B-3 District and Business Park uses, the parking regulations and table of off street parking requirements for the B-1 District shall apply.

Sec. 113-257. Minimum area requirement.

Any area of land designated as a B-3 Business District shall consist of a minimum of forty (40) contiguous acres, which may include multiple tracts that are either abutting or separated by a manmade or natural feature (e.g., street, railroad line, river, or right-of-way).

Sec. 113-258. Screening of refuse areas.

All commercial establishments shall screen areas wherein garbage containers and other refuse are stored with a permanent type masonry or wooden enclosure on all sides exposed to public view with a concrete permanent base and apron.

Sec. 113-259. Platted lots.

Platted lots used for commercial purposes may contain one (1) or more main buildings.

Sec. 113-260. ~~Areas for public use. Additional use, height, and area regulations and exceptions.~~

~~Additional use, height, and area regulations and exceptions are found in article III, division 8 of this chapter. Properties within this zone must comply with such additional use, height, and area regulations, with applicable exceptions listed.~~

~~A reasonable percentage of any property zoned B-3 Business District shall be set aside for use as open space, public/civic space or buildings, green space, community playgrounds and/or recreational areas.~~

~~That, in the event any provision of this section is held to be invalid, it is the intention of the city council that this section be of no force and effect whatsoever. That, this section shall become effective immediately upon its passage.~~

DIVISION 8. ADDITIONAL USE, HEIGHT, AND AREA REGULATIONS AND EXCEPTIONS

Sec. 113-261. ~~Accessory buildings. Use regulations.~~

- (a) No accessory building shall be constructed upon a lot until the construction of the main use building has been actually commenced.
- (b) No accessory building shall be used unless the main use building on the lot is also being used.
- (c) ~~Additional regulations concerning accessory buildings can be found in chapter 103 of this code. All accessory buildings must comply with such additional regulations.~~

Sec. 113-262. Hotels and motels.

- (a) *Swimming pools.* Motels and hotels maintaining and operating swimming pools shall post rules regulating behavior, and other rules necessary to ensure the safety of the patrons. All hotels and motels must conform to ordinances of the City of Windcrest regulating the use of swimming pools and the requirements of the Public Health Statutes of the State of Texas.
- (b) *Smoke detectors.* Each hotel or motel must install and maintain in good working order a smoke detector, as that term is defined in by state law or other applicable state regulations. ~~Vernon's Rev. Ann. Civ. St. art. 4596d,~~ in each guest room, corridor, kitchen, business office,

restaurant, mechanical room, and in any and all other common and/or public areas. The smoke detectors shall be installed, operated, and maintained so that they are at all times physically connected to a central fire alarm system which shall be physically located within the structure (hotel or motel) and which shall be monitored **twenty-four (24)** hours a day. The central fire alarm system shall include a manually operated alarm that, upon activation by the monitor of the system, emits an audible signal capable of being heard by all occupants of the structure instantaneously notifying them to immediately vacate the premises. These requirements are in addition to, and an expansion of, any and all requirements as found in the Life Safety Code, the Uniform Building Code, the Uniform Fire Code, and/or any other applicable Windcrest City Ordinance and/or state law. In the event of a conflict between this subsection and any such law, this subsection shall control.

- (c) *Fire extinguishing system.* All hotel and motel guest rooms, corridors, kitchens, business offices, restaurants, coffee shops, mechanical rooms, etc., and any and all other common and/or public areas, shall be protected by an automatic fire extinguishing system. Such an automatic fire extinguishing system shall be designed, installed, maintained, and serviced in accordance with current National Fire Protection Association Standards. In addition, the automatic fire extinguishing system shall be installed, operated, and thereafter, maintained so that it is at all times physically connected to the central fire alarm system. These requirements are in addition to, and an expansion of, any and all requirements as found in the Life Safety Code, the Uniform Building Code, the Uniform Fire Code, and/or any other applicable Windcrest City Ordinance and/or state law. In the event of a conflict between this subsection and any such code or law, this subsection will control.
- (d) *Vehicular access.* Hotels and motels shall have an unobstructed paved vehicular access lane around the outside perimeter of the main structure.

Sec. 113-263. Height regulations.

- (a) ~~Buildings.~~ Public buildings, semi-public service buildings, institutions or schools and structures necessarily associated therewith, when permitted in a district, may be erected to a height not exceeding **sixty (60)** feet, and churches, temples and structures necessarily associated therewith, may be erected to a height not exceeding **seventy-five (75)** feet, if the building and/or structure is set back from each yard line at least one **(1)** foot for each two **(2)** feet additional height above the height limit otherwise provided in the district in which the building or structure is located.

Sec. 113-264. Area and density regulations.

- (a) ~~Commercial/residential combination buildings.~~ **Commercial/residential combination buildings are defined in Sec.113-5 and are allowed in a district in which commercial buildings are built (O1, B1, B2, and B3) with one (1) or more stories for residential purposes above the commercial uses, no side yards will be required for the residential portions of the building, provided that the part of the building intended for residential use is not more than two rooms deep from front to rear.**

- (b) *Yard and open space required for Accessory buildings, ornamental features.* No yard or other open space required provided about for any building for the purposes of complying with the provisions of this code these regulations shall again be used for purposes of complying as a yard or an open space for with yard or other open space requirements for another building. Every part of a required yard shall be open to the sky and unobstructed by buildings, except for accessory buildings in the rear yard and except the ordinary projections of skylights, sills, belt course, cornice, and other ornamental features which may project into such yards a distance of not more than two (2) feet.
- (c) *Front yard restrictions.* Open, unenclosed porches, platforms, or landing places not covered by a roof or canopy may extend or project into the front yard for a distance not exceeding six (6) feet.
- (d) *Side yard restrictions.* Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three (3) feet above the floor level of the ground (1st first) story may project into a required side yard provided these projects be distant at least two (2) feet from the adjacent side lot line.
- (e) *Front yard.*
- (1) Where 40forty percent (40%) or more of the frontage on one side of a street between two (2) intersecting streets is developed with buildings that have been built with (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.
 - (2) Where 40forty percent (40%) or more of the frontage on one side of a street between two (2) intersecting streets is developed with buildings that have not been built with a front yard as described above, then,
 - a. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on the two (2) sides, or
 - b. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building.
 - c. In determining such front yard depth, buildings located entirely on the rear one-half (1/2) of a lot shall not be counted.
 - (3) *Vision clearance.* No wall, fence, sign or other structure, hedge, or shrub planting shall be permitted or maintained higher than two (2) feet above the curb street level on any corner lot within a triangular area formed by the street curb lines and a line connecting them at points twenty-five (25) feet from the intersection of the curb lines extended. A corner lot containing a town home or garden homeuse the corner of which would project into the triangular area as above defined, the restricted area shall be defined as that triangular area formed by the street curb lines and a line tangent to the corner of said town home or garden homeuse, connecting the street curb lines at points equidistant from

the intersection of the street curb lines extended. No tree shall be permitted or maintained within such triangular areas, as herein defined unless the foliage is maintained at sufficient height to prevent obstruction of sight lines across the restricted area at all normal vehicular height levels.

(f) *Side yards.*

- (1) The minimum width of a side yard of a corner lot in the "R-1" and "R-2" districts shall be not less than ten (10) feet. If the street side line of a corner lot is in the same block frontage with a lot or lots, whose street line is a front of such lot and lots, the side yard shall extend to the average alignment of the buildings along the same side of the street, unless such buildings are more than twenty-five (25) feet back from the street line, in which case, the said yard need not be more than twenty-five (25) feet.
- (2) A side yard of not less than twenty-five (25) feet on the side of the lot adjoining on an "R-1" or "R-2" district shall be provided for all schools, libraries, churches, community houses, clubs and other public or semi-public buildings hereafter erected or structurally altered.
- (3) Garages detached or attached to the main use building entering on the side street or a corner lot shall maintain a side yard of twenty (20) feet from the front of the garage to the curb and in no case less distance than the primary structure to the curb.

Secs. 113-265—113-284. Reserved.

DIVISION 9. NON-CONFORMING AND DELETED USES

Sec. 113-285. Non-conforming use of buildings.

- (a) Continuation of non-conforming use. Except as otherwise provided in this section, the non-conforming use of a building existing at the time this chapter becomes effective may be continued, and the use of a non-conforming building may be changed to another use of the same or more restricted classification. Where such use is changed to a more restricted classification, it shall not thereafter be changed back to a use of a less restricted classification.
- (b) Vacancy or cessation of non-conforming use. A non-conforming building which is or may hereafter become vacant and which shall remain unoccupied, or its non-conforming use ceases, ~~discontinued~~ for a continuous period of one (1) year (12-month uninterrupted period) shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located.
- (c) Maintenance, enlargement, extension, reconstruction or alteration. A non-conforming building ~~may~~ must be maintained or kept in good repair except as otherwise provided in this section. No existing non-conforming building may be enlarged, extended, reconstructed, or altered unless its use is changed to a use permitted in the district in which such building is located, ~~except in the event such~~ However, the enlargement, extension, reconstruction or alteration of a non-conforming building is permitted when ~~is~~ required by court decision, state law or ordinance.
- (d) Relocation or damage to non-conforming use. ~~No A~~ non-conforming building shall not be moved in whole or in part to any other location on the lot unless every portion of such

building is made to conform to all the regulations of the district in which it is located. ~~A~~However, a non-conforming building which is damaged by fire, ~~or~~ the public enemy, vandalism, earthquake, explosion, flood, wind, ~~or~~ other calamity or act of God, wherein ~~to the extent of 50~~ fifty percent (50%) or more of its reasonable value ~~is diminished~~ may not be restored except in conformity with the regulations of the district in which it is located.

Sec. 113-286. Deleted uses.

- (a) *Deleted use of land and buildings.* The use of land or a building may continue in such previously permitted use for a reasonable period of time to allow the owner or lessee, as appropriate, to recover its existing investment, as of the date the use is deleted, all under such terms and conditions as the city council may determine from time to time. However, in no event shall deleted use be permitted to continue following a cessation of such use for a continuous period of three (3) months unless extended by city council.
- (b) *Maintenance, enlargement, reconstruction or remodeling.* Until terminated as provided in this Code, a deleted use building must be maintained and kept in good repair and may be enlarged, reconstructed or remodeled under such terms and conditions as the city council may require, provided such enlargement, reconstruction or remodeling is part of a city, state, regional and/or nationwide modernization or remodeling program of the deleted use building owner or lessee.
- ~~(1) Maintained and kept in good repair, or~~
- ~~(2) Enlarged, reconstructed or remodeled under such terms and conditions as the city council may require, provided such enlargement, reconstruction or remodeling is part of a city, state, regional and/or nationwide modernization or remodeling program of the deleted use building owner or lessee.~~
- (c) *Termination of deleted use.* The city, upon reasonable notice to the owner and lessee, if any, of a deleted use building and/or land, may schedule a public hearing, the purpose of which is to set a future date by which such previously deleted use must be terminated. Upon the affirmative vote of a majority of the council to terminate such deleted use, such deleted use will cease effective the date set in the council's action.

Secs. 113-287—113-290. Reserved.

ARTICLE IV. COMMUNITY UNIT PLAN

Sec. 113-291. Plans to be submitted to commission.

If an owner of any tract of land in the City of Windcrest, Texas, desires to develop the property as a residential community unit that does not conform in all respects to the district regulations of the district in which the property is located, then in conjunction with the submission of a preliminary plat in accordance with chapter 111 of the Code, the owner shall submit to the city

planning and zoning commission for its study and report, a community unit plan, specifically detailing therein how the plan meets the requirements of this subchapter.

Sec. 113-292. Requirements for approval.

The recommendations and report by the planning and zoning commission shall contain specific evidence and facts showing whether or not the proposed project meets the following conditions:

- (1a) The property adjacent to the area included in the plan will not be adversely affected. In this regard traffic and property values will be considered.
- (2b) The plan is consistent with the intent and purposes of this Subchapter to promote public health, safety, morals, and general welfare.
- (3c) The buildings will be used only for purposes provided for in "R-1" and "R-2" districts.
- (4d) The area of the tract is to be of sufficient size to permit effective common or coordinated planning with respect to street design, building placement and grouping of green or open spaces, as distinguished from conventional, unrelated, single lot development. In the absence of special factors, any tract considered for community unit planning should be large enough to avoid creating an unreasonable number of widely diversified areas of residential development within the city or any portion thereof.
- (5e) If the city council approves the plan in conjunction with the platting process set forth in chapter 111, building permits may be issued even though the use of the land, the location of the buildings to be erected, and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

Secs. 113-293—113-310. Reserved.

ARTICLE V. REQUESTS FOR ZONING CHANGES

Sec. 113-311. General requirements.

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, modified, or repealed by the city council. The procedures, notices, and hearing established by Chapter 211 of the Texas Local Government Code ~~Vernon's Rev. Ann. Civ. St. art 1011a et seq.~~, as hereafter amended, shall be followed.

Sec. 113-312. Procedure for individual requests.

Any individual(s) requesting a zoning change shall file an application in writing with the city secretary. Such application shall specify in detail:

- (1a) The regulation, restriction, and/or boundary set forth in this chapter that the applicant desires to be changed, and
- (2b) The reason for such a change, and how such a change will better promote the health, safety, morals, and/or general welfare of the community.

The Commission may, from time to time, consider and adopt reasonable procedural regulations for submission of a zoning change request, which are not inconsistent with state law, city charter, or this code.

Sec. 113-313. Fees.

No application for a zoning change shall be processed by the city secretary unless the applicant has first paid to the city secretary at the requisite fee provided by the city's mast fee schedule in the amount of \$500.00; provided, however, one-half (1/2~~\$250.00~~) of such fee shall be refunded the applicant if the application is denied or withdrawn prior to the city council's final action.

Secs. 113-314—113-320. Reserved.

ARTICLE VI. SPECIAL USE PERMITS

Sec. 113-321. General.

The city council may authorize the issuance of special use permits in any zoning district of the city except residential zoning districts. Special use permits are amendments to the zoning code which authorize the establishment of one or more specified uses of particular property without changing the zoning of the property. A special use permit may be issued when the city council determines that the special use permit will not adversely affect the character of the area or neighborhood in which it is located, that it will not substantially reduce the value of the adjacent and nearby property, that it will be in keeping with the spirit and intent of the zoning code, and that it will not adversely affect traffic, public health, public utilities, public safety or the general welfare of the city.

Sec. 113-322. Application.

Special use permit applications shall be submitted to the city secretary with a proposed site plan and the same fees required for zoning changes. The proposed site plan should include at least the following:

- (1a) Detailed explanation of the proposed use requiring the special use permit.
- (2b) Location of buildings and proposed uses of each.
- (3c) Ingress and egress to all public streets.
- (4d) Visual screening and/or fencing if applicable.
- (5e) Landscape and irrigation designs.
- (6f) Listing of all property ownership within 200 feet of the property upon which the special use permit is requested.
- (7g) Impact of on-site and off-site drainage.
- (8h) Off-street parking and loading facilities as applicable.

Sec. 113-323. Review procedure.

Special use permits shall be processed in the same manner as zoning changes. The planning and zoning commission shall conduct a public hearing on the special use permit application and make its recommendation to the city council. Notices of the planning and zoning commission public hearing and city council public hearing shall be furnished as required by this zoning code and applicable state law.

The planning and zoning commission and the city council shall consider, among other matters, the following:

- (1a) Location and design of ingress and egress to public streets;
- (2b) Interior traffic circulation patterns;
- (3c) Off-street parking and loading facilities;
- (4d) Sidewalks;
- (5e) Drainage;
- (6f) Signage;
- (7g) Lighting;
- (8h) Landscaping and irrigation designs;
- (9i) Fencing or other means of protective screening to protect adjacent and nearby property owners;
- (10j) Protective measures to safeguard the use, value and desirability of adjacent or nearby property such as limits on noise, litter, lighting, hours of operation and provisions to insure continued proper maintenance.

Approval of special use permit by the city council shall be evidenced by an ordinance which shall include all special requirements to be included in the special use permit and all agreements or other documents between the city and the applicant shall be incorporated in the ordinance by reference.

Sec. 113-324. Issuance of special use permit.

After approval by the city council, an applicant shall agree in writing, in such form as may be approved by the city attorney, to be bound by and comply with the terms of the permit. Any conditions imposed upon the applicant must be complied with prior to issuance of the certificate of occupancy based upon the special use permit.

Sec. 113-325. Amendment of special use permit.

Any of the following shall necessitate an amendment of an existing special use permit:

- (1a) Any change in the ownership of the property;

- (2b) Structural alteration of any building/s on a lot/site for which a special use permit has been previously granted;
- (3c) Any change to the location or design of ingress and/or egress to public street or alley;
- (4d) Any change of site drainage;
- (5e) Any change to interior traffic circulation patterns or off-street parking or loading facilities;
- (6f) Any change in landscaping, fencing, or any type of buffering of adjacent properties;

Interior remodeling of structures existing under a special use permit shall not require an amended special use permit. If an amendment to a special use permit is required, an applicant must follow all of the procedures provided in this subchapter for the possible issuance of a special use permit.

Sec. 113-326. Termination of special use permit.

Any change of use of property from that authorized in a special use permit shall terminate the existing special use permit. If no building permit has been applied for and the designated work not begun within 180 days after the date of approval by the city council of a special use permit, the special use permit shall automatically expire. The city council may extend the termination date as long as the designated work shall not exceed 365 days after the date of approval for the special use permit. An application for an extension of time shall be accompanied by the fee required for such applications by the city council.

Sec. 113-327. Board of adjustment without jurisdiction.

The board of adjustment shall have no jurisdiction with regard to special use permits.

Secs. 113-328—113-350. Reserved.

ARTICLE VI. SEXUALLY ORIENTED BUSINESSES

Sec. 113-351. Sexually oriented businesses.

Notwithstanding any other provision of the zoning code, no sexually oriented business, as defined in the Local Government Code, shall be established or maintained within 1,500 feet of any school, regular place of religious worship or residence. Measurements shall be made in a straight line from the nearest boundary of the property used for a school, regular place of religious worship or residence to the nearest part of the building in which such sexually oriented business is conducted.

Secs. 113-352—113-380. Reserved.

ARTICLE VII. HOME OCCUPATIONS

Sec. 113-381. Definitions.

(1a) In addition to the definitions contained within chapter 113 of this Code, the following definitions apply to this section:

- (1) *Home occupation* means a profession, occupation, business, commercial or institutional use or a use of a non-residential and non-volunteer nature being operated, or engaged in, or performed by any person upon property which is zoned R-1, R-2, or is located in a zone that permits uses identified in the R-1 and R-2 districts.
- (2) *Permitted home occupation* means a home occupation which has met all the requirements of this section, including obtaining a business permit.
- (3) *Self-contained home business* means a home occupation carried on within a dwelling unit or an accessory structure in a residential zone where the home business use is secondary to the residential use, is performed entirely within the allotted 25 twenty-five percent (25%) of the gross area of the property as required under this article and does not cause negative impacts to the adjoining property owners. Such business use must not change the character of the dwelling or the accessory building or change the residential character of the neighborhood.
- (4) *Telecommuting or remote employment* means an employment arrangement in which employees do not commute or travel to a central place of work, but instead work remotely and in a structure zoned residential. The definition does not include being self-employed and requires an employee/employer relationship with the owner or occupier of the property where the use occurs.
- (5) *Telecommuting or remote employment use* means a commercial, business, institutional, or occupational use where the employer headquarters is located in a separate location from the residential property and an individual on the residential property is required to perform their job duties on the residential property.
- (6) *Hobby businesses*. Any commercial, business, institutional, or occupational use which is not a source of primary income and does not exceed \$10,000.00 in gross income annually.

Sec. 113-382. Prohibition.

Home occupations are prohibited uses in residential zones unless authorized by this Code.

Sec. 113-383. Permit required.

In order to To qualify as an authorized home occupation, the owner of the property or someone with control and a right of possession over the property must register and obtain a business permit from the city and meet all other qualifications of this section, unless expressly excluded. Registration and obtaining a business permit are a prerequisite to meet the definition of a permitted home occupation. No special use permits may be granted for a home occupation.

Sec. 113-384. Permitted home occupations in residential zones.

~~(4-a)~~ The only home occupation uses authorized are those listed below, and which meet all criteria identified in section 113-385:

~~(a-1)~~ Self-contained home business;

~~(b-2)~~ Telecommuting or remote employment;

~~(c-3)~~ Hobby businesses;

~~(d-4)~~ Home use authorized by state law as a matter of right.

Sec. 113-385. Criteria.

Permits for authorized home occupation uses identified in section 113-384, may be issued by the designated city official only if they meet the following criteria. These criteria must be maintained during the term of the use and the permit may be revoked if the permit holder violates any of the following criteria:

~~(a-)~~ Permitted home occupation use shall be incidental and subordinate to the use as a residence and shall only be conducted and operated by the individual that resides at the property.

~~(b-)~~ Permitted home occupations may have only one employee or assistant that works or regularly travels to or from the property, unless the employee(s) or assistant(s) also use the dwelling as their primary residency.

~~(c-)~~ Permitted home occupations may not install any signage.

~~(d-)~~ Permitted home occupations may not create any trash or refuse beyond the average amount normally generated by residences in the neighborhood.

~~(e-)~~ Permitted home occupations may not create any odor, dust, smoke, vibration, heat, glare, or electromagnetic interference which can be detected at, or beyond, the property line.

~~(f-)~~ Permitted home occupations shall not produce or cause noise in violation of the city's code of ordinances.

~~(g-)~~ Permitted home occupations shall not store explosives, highly flammable or hazardous materials, or materials that are potentially explosive or hazardous.

~~(h-)~~ Activity of a permitted home occupations shall not indicate, from the exterior of the structure, that the premises is being used for anything other than a dwelling unit. No external evidence of the permitted home occupation shall be visible from a public right-of-way.

~~(i-)~~ Permitted home occupations shall not use alleys as a primary access point

~~(j-)~~ The appearance of the dwelling or accessory building in no way shall be altered, nor shall the occupation be conducted in a manner which would cause the residence to differ from its original residential character.

~~(k-)~~ The dwelling or accessory building must be maintained in conformity with the city's building, international, and health and safety codes.

~~(l-)~~ Permitted home occupations shall not decrease the amount of off-street parking required for the residence.

- (m) No more than **25 twenty-five percent (25%)** of the gross area of the property shall be used for the permitted home occupation including the storage or warehousing of inventory or fabrication materials used in the permitted home occupation.
- (n) Delivery vehicles shall be limited to those types of vehicles which typically make deliveries to single-family neighborhoods, such as, but not limited to, the United States Postal Service, United Parcel Service, pickup trucks, and light vans.
- (o) Permitted home occupations shall not include the commercial repair services of large appliances, internal combustion engines, automobiles, or motorcycles.
- (p) Not more than one commercial vehicle shall be used in conjunction with the home occupancy use or be permitted on the premises, the maximum size thereof not exceeding one ton.
- (q) There shall be no storage of heavy equipment or machinery specially designed for executing construction involving earthwork operations or other large construction tasks. There shall also be no storage of construction materials that are intended to be used offsite.
- (r) Authorized business permits apply to a specific property and owner or occupier and shall not be transferable to different persons or to different locations.
- (s) The permit holder shall not conduct the home occupation in such a manner as to increase the amount of traffic on the property's adjoining roadway beyond the average amount normally generated by residences in the neighborhood.
- (t) A home occupation shall not be conducted in a way or in a manner which causes a threat to the health and safety of citizens or consumers.
- (u) The permit holder shall comply with all applicable federal, state, and local laws pertaining to the specific use involved.
- (v) The commercial sale of firearms, explosives, ammunition, or the manufacturing thereof for commercial sale is not a permitted home occupation under this article. This provision shall not be construed as prohibiting the hand loading or reloading of ammunition for private use and not for sale.
- (w) Only one home occupation use permit shall be allowed per property.

Sec. 113-386. Exceptions from permit.

Telecommuting, remote employment, or hobby businesses as defined in section 113-381 shall not require a permit but shall comply and maintain all criteria identified in section 113-385 in order to qualify as an authorized home occupation.

Sec. 113-387. Appeals.

In the event the applicant's permit is denied, the applicant may appeal in writing, on an approved form, to the city manager's office within ten calendar days. In the event the city manager agrees with the denial, the applicant may appeal, in writing, to the board of adjustment. The board of adjustment has no authority to grant a variance or special exception but may consider whether the permit denial was improper under the terms of this section.

Sec. 113-388. Penalties and revocation.

Violations of any provision of this article is subject to the penalties contained in section 18-24 of the city's code. In the event a permit holder fails to meet the continuing criteria for holding a valid permit, the designated city official may revoke the permit, after providing the permit holder written notice and a minimum of ten days to cure the non-compliance. In the event the permit is revoked, the permit holder may appeal in writing, on an approved form, to the city manager's office within ten calendar days from the date of the revocation. The city manager's determination is final.

[SEC. 113-389 through sec. 113.399 reserved].

ARTICLE VIII. COUNCIL SPECIFIC AUTHORIZATION

Sec. 113-400.

The City Council may authorize the issuance of special authorizations and licenses required by law.

- (a) **Purpose.** City Council authorization may be required in different zones if the use is required to be authorized under superseding state or federal law. The Council must consider such authorization in such situations. This process governs such approvals.
- (b) Consideration of an application and the granting or denying of such an application do not change the zoning of the property.
- (c) Notwithstanding any other provision of this code, the City Council may issue a special authorization and license in any zone, but only for the following:
 - (1) An assisted living facility,
 - (2) A community home,
 - (3) A religious organization or religious use, or
 - (4) An application required because strict enforcement of the code would result in a violation of the Americans with Disabilities Act (ADA).
- (d) **Qualifying Conditions.** An application under this article is only permitted under the following conditions:
 - (1) The application can specifically cite to a superseding state or federal law which mandates the use be authorized; and
 - (2) Authorization of the use is considered ministerial under the cited superseding state or federal law under the applicant's specific circumstances; and

(3) No other appeal or application is permitted under the City's code of ordinances (such as variances authorized by the board of adjustment); or

(4) The City has been ordered by a court of competent jurisdiction to allow such use.

(e) Requirements of Application. When considering an application, an applicant must:

(1) Submit a written application on a form approved by the city manager;

(2) Specify the superseding state or federal law which requires the use be allowed;

(3) Specify, in detail, what use, or code alterations related to such use, are required by the listed superseding state or federal law;

(4) Specify the scope of the accommodations required under the listed superseding state or federal law given the applicants individual circumstances;

(5) List the specific court order, if applicable, requiring the use;

(6) Attach any and all applicable documents necessary for the Council to consider the application.

(f) Standards for Consideration. Certain superseding state and federal laws require cities to consider specific facts about an individual applicant before the law mandates a required use. As a result, the standards to be used by the Council in considering an application include:

(1) That the applicant has all the State and federal licenses to operate as an assisted living facility at the location in question.

(2) For assisted living facilities and community homes, that the applicant demonstrates to the City Council through clear evidence that it is clinically dangerous or financially infeasible to operate an assisted living facility or community home anywhere in the City of Windcrest with six (6) or fewer disabled individuals living at such facility; the applicant bears the burden of establishing clinical necessity and fiscal feasibility in order to seek authorization to allow more than six (6), disabled individuals to be serviced at a single location.

(3) For religious organizations or religious uses, that the applicant demonstrates to the City Council through clear evidence that a superseding state or federal law mandates the specified use and/or scope of the use is required to be allowed given the applicant's individual circumstances.

(4) For ADA applicants that the applicant demonstrates to the City Council through clear evidence that a superseding state or federal law mandates the specified accommodation requested.

(5) The City Council can consider request submitted by the City Manager or an applicant that a court of competent jurisdiction has required the use be granted.