

# City of Combine, Texas

## Zoning & Land Development Regulations

1<sup>st</sup> Revision - August 24, 2020

2<sup>nd</sup> Revision – November 24, 2020



123 Davis Rd., Combine, TX 75159

Adopted August 2019

## Contents

ORDINANCE NO. 2020-002 .....	1
ARTICLE 1. GENERAL PROVISIONS .....	1
Sec. 1-1 Title .....	1
Sec. 1-2 Administration .....	1
Sec. 1-3 Purpose.....	1
ARTICLE 2. ZONING DISTRICTS.....	3
Sec. 2-1 R1 Single Family Residential District.....	3
Sec. 2-2 MH Manufactured Housing District .....	3
Sec. 2-3 AG Agricultural District .....	3
Sec. 2-4 GB General Business District .....	5
Sec. 2-5 I - Industrial District .....	9
Sec. 2-6 Residential Accessory Buildings/Structures .....	10
Sec. 2-7 Planning and Zoning Commission.....	11
Sec. 2-8 Zoning district map.....	12
Sec. 2-9 Zoning district boundaries.....	13
Sec. 2-10 Zoning of annexed territory.....	14
Sec. 2-11 Compliance with land development regulations .....	14
Sec. 2-12 Waivers and suspensions .....	15
Sec. 2-13 Amendments, changes and administrative procedures.....	16
Sec. 2-14 Schedule of fees; charges, and expenses .....	18
Sec. 2-15 Specific use permits.....	18
Sec. 2-16 Classification of new and unlisted uses.....	19
ARTICLE 3. SUBDIVISIONS.....	20
Sec. 3-1 Platting.....	20
Sec. 3-2 Definitions .....	20
Sec. 3-3 Special provisions .....	21
Sec. 3-4 Preliminary Subdivision plats .....	22
Sec. 3-5 Preliminary plat requirements for subdivisions .....	22
Sec. 3-6 Final plat requirements for subdivisions .....	24
Sec. 3-7 Standards and specifications .....	26
Sec. 3-8 Responsibility for street and utility installation .....	28
Sec. 3-9 Creation of building site .....	28
Sec. 3-10 Building permits and final inspections .....	29
Sec. 3-11 Rules for words and phrases .....	30

ARTICLE 4. NONCONFORMING LOTS, STRUCTURES AND USES.....	30
Sec. 4-1 Categories of nonconformity.....	30
Sec. 4-2 Nonconforming uses regulated .....	30
Sec. 4-3 Nonconforming status.....	30
Sec. 4-4 Nonconforming lots of record .....	31
Sec. 4-5 Nonconforming uses of land .....	31
Sec. 4-6 Nonconforming buildings and structures.....	31
Sec. 4-7 Nonconforming uses of buildings.....	32
Sec. 4-8 Repairs and maintenance .....	33
Sec. 4-9 Nonconforming uses discontinued.....	33
Sec. 4-10 Changes that lessen nonconformity.....	34
ARTICLE 5. SUPPLEMENTAL REGULATIONS .....	34
Sec. 5-1. Wireless communication facilities.....	34
Sec. 5-2 Severability.....	36
Sec. 5-3 Interpretation and Conflicts.....	36
Sec. 5-4 Penalty.....	36

**ORDINANCE NO. 2020-002**

**ARTICLE 1. GENERAL PROVISIONS**

**Sec. 1-1 Title**

This ordinance shall be known and may be cited as “ City Ordinance # 2020-002, the City of Combine Zoning and Land Development Ordinance.”

**Sec. 1-2 Administration**

Unless otherwise directed by the City Council, the Mayor or the Mayor’s designee is hereby designated by the City Council to supervise the administration and enforcement of this ordinance. The Mayor or his/her designee may be provided with the assistance of such other persons or consultants as the City Council may direct.

**Sec. 1-3 Purpose**

Land development regulations and zoning districts are herein established in accordance with the comprehensive plan for the purpose of promoting the health, safety, and general welfare of the citizens of the city and to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The zoning districts have been established with reasonable consideration for the character of each district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

**ARTICLE 2. ZONING DISTRICTS**

In order to regulate the use of land and buildings, and to regulate the location, height, bulk and size of buildings and other structures built on the land, the City of Combine, Texas is hereby divided into zoning districts as listed below:

Single-Family Residential District	R1
Manufactured Housing District	MH
Agricultural District	AG
General Business District	GB
Industrial District	I

**Sec. 2-1 R-1 Single-Family Residential District**

- A. General purpose and description. The R-1 Single-Family Residential District is designed to accommodate one single-family detached house on lots having a minimum size of one acre. Only one house is allowed on a County recorded plat of land.
- B. Area of Dwelling. Two thousand (2,000) square feet shall be the minimum living area of the dwelling [air-conditioned area] and two thousand five hundred (2,500) square feet shall be the minimum, including the required garage. A carport is not considered a garage.

- C. Height Regulations. No building, dwelling or structure in an R-1 District shall exceed two and one-half stories or 36 feet in height.
- D. Area, Frontage, Yard Spacing and Construction Regulations. The following regulations shall apply to every building, dwelling or structure in an R-1 District:
1. Front Yard Setback - The minimum required front yard setback shall be not less than sixty feet (60'). Where lots have double frontage, running through from one street to another, the required front yard setback shall be provided on both streets. On corner lots the minimum required setback shall be no closer than sixty feet from any street or highway right of way.
  2. Side Yard Setback - The minimum required side yard setback is not less than fifteen feet (15').
  3. Rear Yard Setback - The minimum required rear yard setback shall be not less than twenty percent (20%) of the depth of the lot.
  4. Area of The Lot - The minimum area of the lot shall be one acre (43,560 square feet).
  5. Width and Depth of Lot - The minimum width of the lot shall be one hundred fifty feet (150'). The minimum depth of the lot shall be greater than the width of the lot.
  6. Parking Regulations - Two off-street parking spaces shall be provided on each lot.
  7. Lot Coverage - The main structure and all accessory buildings combined shall not cover more than twenty-five percent (25%) of the area of the lot.
- E. Use Restrictions. In an R-1 District, no land or building shall be used and no building shall be erected for, or converted to, any use other than:
1. One single-family residence. No recreational vehicle, travel trailer, or any conveyance may be used as a permanent or temporary dwelling.
  2. Orchard, or nursery and greenhouse for the growing of plants, shrubs and trees, provided no retail or wholesale business is maintained on the premises.
  3. Home occupation activities or businesses in an R-1 zoning district may be allowed as provided by separate ordinance.
- F. Uses subject to Specific Use Permits. The following uses shall be permitted only after approval of a Specific Use Permit by the City Council [see Section 5-1 Specific use permits of this ordinance]:
1. Institutional: Churches and parish houses; cemeteries, schools and colleges, including dormitories; public buildings and structures of the recreational, cultural, administrative and public service type; parks, playgrounds, neighborhood recreational centers, golf course, including miniature golf courses, driving ranges or any form of commercial amusement; and fire stations.

2. **Public Utilities:** Public utilities and railroad right-of-way and tracks (not including railroad yard terminals), reservoirs, water towers, pumping plants, storage yards, and communications towers.

## **Sec. 2-2 MH Manufactured Housing District**

- A. **Area of Dwelling.** Nine hundred eighty (980) square feet shall be the minimum living area of the manufactured home. No garage or carport is required. If the MH Home is smaller than the required 980 square feet, you must add-on to make up the difference and the square footage must comply before occupying the home. A porch that is attached to the home with a ceiling and floor can be counted towards the square footage. Only one Mobile/Manufactured Home is allowed on a County recorded plat of land, with a minimum size of one acre.
- B. **Height Regulations, Area, Frontage, and Yard Spacing.** All requirements of R-1 Single Family Dwelling District apply to Manufactured Housing pertaining to height, area of coverage, frontage, and yard spacing.
- C. **Construction.** All Manufactured homes shall have the electricity, water and septic hookups inspected and be underpinned within thirty (30) days of the date moved on lot or tract.
- D. **Uses Subject to Special Use Permits.** The following uses shall be permitted only after approval of a Specific Use Permit by the City Council:
  1. Institutional: Churches and parish houses: cemeteries, schools and colleges, including dormitories; public buildings and structures of the recreational, cultural, administrative and public service type; parks, playgrounds, neighborhood recreational centers, golf course, including miniature golf courses, driving ranges or any form of commercial amusement; and fire stations.
  2. Public Utilities: Public utilities and railroad right-of-way and tracks (not including railroad yard terminals), reservoirs, water towers, pumping plants, storage yards, telephone exchange (provided no public business and no repair or storage facilities are maintained), communications towers.
- E. **Use Restrictions.** In a Manufactured Housing District, no land shall be used and no building shall be erected or converted to any use other than those uses permitted in an R-1, Single-Family Dwelling District. Leasing of two or more contiguous lots for purposes of placement of manufactured homes shall constitute a commercial use which shall not be permitted in a Manufactured Housing District. One manufactured home for single family use may be placed on a separate one-acre lot in a Manufactured Housing District. No mobile home rental parks are allowed in the city. No recreational vehicle, travel trailer, or any conveyance may be used as a temporary or permanent dwelling.
- F. **Permits required.** In a Manufactured Housing District, no land shall be used for the placement of a Manufactured House until a permit has been required for the placement of the Manufactured House.

## **Sec. 2-3 AG Agricultural District**

There exists, in certain areas of the city, land, which is presently used for agricultural purposes and to which all urban services are not yet available. These lands should appropriately be used for agricultural

purposes until needed for urban purposes in conformity with the comprehensive plan of the city. The uses permitted in the AG District are intended to accommodate farming, ranching, and gardening activities.

- A. Permitted Uses. In an AG District, no building, structure, or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended or designed for other than one of the following uses:
  - 1. Agriculture: Agricultural use is any customary agricultural use, building, or structure, including plant nurseries, greenhouses, orchards, and livestock farms, as permitted by city ordinances.
  - 2. Residential: One Single-family detached dwelling containing a minimum of 2,000 square feet living area [airconditioned area] and a minimum of 2,500 square feet including the garage. No recreational vehicle, travel trailer, or any conveyance may be used as a permanent or temporary dwelling.
  - 3. Dairies: Dairies and related establishments for processing milk products, not including retailing.
  
- B. Lot Area, Frontage, and Yard Requirements. The following minimum requirements shall apply:
  - 1. Agricultural Structures: Incidental structures in an AG District require a minimum of 80 feet front and rear yard setback and a minimum of 25 feet side yard setback.
  - 2. Single Family Dwellings: All single-family dwellings in an AG District require the same setbacks as homes in an R-1 District, with the exception of the back yard. Instead of the requirement for 20% of the lot for the back yard, a minimum of 80 FT is required for a back yard.

All Single-Family Dwellings in an AG District require lots with at least 250 feet of width and 250 feet of depth. An 80-foot front and rear yard setback is required and at least 25 feet of side yard setback is required on each side. If the property is located at the intersection of two streets, then the required front yard setback applies to both street frontages. The maximum area of lot coverage in an AG District for structures is thirty (30) percent.

- C. Height Regulations. No structure shall exceed thirty-six feet (36) in height.
  
- D. Uses Subject to Specific Use Permit. The following uses shall be permitted only after approval of a Specific Use Permit by the City Council.
  - 1. Institutional: Churches and parish houses; cemeteries, schools and colleges, including dormitories; public buildings and structures of the recreational, cultural, administrative and public service type; parks, playgrounds, neighborhood recreational centers, golf course, including miniature golf courses, driving ranges or any form of commercial amusement; and fire stations.
  - 2. Public Utilities: Public utilities and railroad right-of-way and tracks (not including railroad yard terminals), reservoirs, water towers, pumping plants, storage yards, and communications towers.

## Sec. 2-4 GB General Business District

### A. Area Regulations.

1. Front Yard - There shall be a front yard setback having a minimum depth of not less than fifty (50) feet. Where lots have double frontage, running through from one street to another, the required front yard setback shall be provided on both streets. Corner lots shall have a required front yard setback on both street frontages.
2. Side Yard - There shall be two side yards, one on each side of the lot, each having a width of not less than fifteen (15) feet. On the side of a lot in a General Business District adjoining any Single-Family District, there shall be a side yard equivalent to that required front yard setback in the adjoining district.
3. Rear Yard - There shall be a minimum rear yard setback of twenty (20) feet.
4. Area of The Lot - The minimum area of the lot shall be one (1) acre (43,560 square feet).
5. Width of The Lot - The minimum width of a lot shall be one hundred fifty (150) feet.
6. Depth of The Lot - The minimum depth of a lot shall be greater than the width of the lot.
7. Lot Coverage - No more than fifty percent (50%) of the total lot area shall be covered by buildings.

### B. Use regulations. In a General Business District, land, buildings and structures may be used only for lawful retail business or service establishments providing the following goods or services:

- Appliance Repair
- Animal Hospitals and Veterinary Clinics, excluding kennels or any outside boarding of animals
- Antiques: Indoor Only
- Aquarium
- Art Gallery
- Artist and/or Craftsman Store
- Auto Parts: Indoor Only
- Bakery
- Bank Savings and Loan Offices
- Barber and Beauty Shop: Retail
- Bird and Pet Shops: Retail
- Book or Stationary Store
- Bowling Alley: Air Conditioned and Soundproofed
- Building Materials – Retail Sales of materials for Building or Home Improvement. Outside storage will be permitted under this use. It is the intent to exclude concrete mixing operations, contractor yards, cement silos and bulk storage facilities.
- Business Schools
- Café/Cafeteria: Inside Service Only
- Camera Shop
- Candy and Tobacco Stores: Retail
- Caterer and Wedding Services
- Ceramic Products



- Cleaning and Laundry: Pick-Up and Delivery Stations
- Clothing Manufacturing
- Commercial Art Studios
- Department Store
- Dental and Medical Offices and Clinics
- Drug Store: Retail Sales Only
- Electrical Goods: Retail Sales Only
- Electrical Repair and Contracting
- Electrical Substation
- Envelope Manufacturing
- Exterminating Company: Retail Only
- Film Developing and Printing
- Fish Bait: Retail Sales
- Fix-It Shops: Repair of Items; Retail; No Outside Storage
- Florist: Retail Only
- Furniture Store: Retail Only
- Furniture Repair and Upholstering
- Frozen Lockers: Retail Only
- Government Facilities
- Grocery Store – Retail Sales Only
- Laundry, Automatic
- Library Rental
- Lithography
- Lumber Yards
- Meat Market: Retail Sales Only
- Movie Picture Theater or Motion Picture Studios
- Nursery: Retail Sales of Plants, Trees and Shrubs
- Office Building/Warehouse, i.e., office and related storage
- Optical Goods Manufacturing.
- Parking Lot for the Parking of Passenger Cars and trucks having one (1) ton or less capacity only. Area not meant for vehicle repairs.
- Piano and Musical Instruments
- Plumbing Shop/Plumbing Contractors. No Outside Storage of Materials
- Printing and Publishing of any kind
- Restaurants
- Retail Store or Shop for Custom Work or the Making of Articles to be sold for retail on the Premises
- Seamstress/Tailor Shop
- Seed Store
- Service Station: Gasoline Filling Station
- Shoe Repair: Retail Only
- Stone Monuments Works: Retail Only
- Storage and Sale of new or reconditioned auto parts and accessories when located inside building and in which no automobiles or parts of automobiles for sale are stored or displayed in the open.
- Studios: Dance, Music, Drama, Health and Weight Loss
- Studio: for Display and Sale of Glass, China, Art, Cloth, Draperies, Quilts and like items
- Venetian Blind Manufacturing

Accessory Buildings and structures incidental to the operation of the business or service activities specified in this ordinance shall be permitted; however, outside storage of goods, merchandise or equipment is prohibited. No open storage of articles, goods, merchandise or equipment shall be permitted unless said articles, goods, merchandise or equipment shall be blocked from public view by a solid fence or wall at least six (6) feet in height.

C. Uses permitted with specific use permits. The following uses in a General Business District shall be permitted only after approval of a Specific Use Permit by the City Council:

- Day Nurseries
- Automatic Car Wash
- Mortuary
- Any lawful retail business or service establishment providing Goods for Services not specifically named in this ordinance
- Manufactured home parks
- Commercial Amusement: All types, both indoor and outdoor, commercial recreation or amusement, including but not limited to baseball fields, skating rinks, swimming pools, driving ranges, drive-in theaters, miniature golf, carnivals and other similar open-air activities
- Wholesale Storage: Wholesale operations and storage of products for wholesale distribution.
- Manufacturing: Processing and fabrication of pre-manufactured parts or material into finished or semi-finished products for resale and/or distribution
- Motor Vehicles: All types of motor vehicle operations including but not limited to new and used sales and service, motorcycle sales and service, motor home sales and service and farming equipment
- Airport: Commercial, general aviation use and for maintenance purposes
- Commercial Greenhouses
- Schools: All types, including trade and commercial and Beauty and Barber Schools

D. Objectionable activities. There shall be prohibited all processes and equipment employed, goods processed or services rendered and/or sold that constitute or create a public nuisance by reason of dust, smoke, gas, fumes, odor, cinder, vibration, refuse matter, i.e. dumps, landfills, etc., or water-carrier waste.

E. Height regulations. No building shall exceed three (3) stories or 42 feet in height.

F. Parking regulations.

1. Furniture stores shall provide off-street parking space at the ratio of one (1) space for each one thousand (1,000) square feet of floor area.
2. Medical or Dental clinics shall provide off-street parking spaces at the ratio of one (1) space for each two hundred and fifty (250) square feet of floor area.
3. Banks, professional offices, business offices, other than medical or dental clinics, shall provide off-street parking space at the ratio of one (1) parking space for each three hundred (300) square feet of floor area.

4. Establishments for the sale and consumption on the premises of food or refreshments shall provide off-street parking space at a ratio of one (1) space for each one hundred fifty (150) square feet of floor area.
  5. Any building hereafter erected, altered or converted for personal service use shall provide off-street parking space at the ratio of one (1) space for each two hundred (200) square feet of floor area.
  6. Bowling alleys shall provide off-street parking spaces at a ratio of five spaces for each alley.
  7. Retail, office, and service buildings shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent to a public alley or private service drive to facilitate the movement of traffic on the public streets. Such space shall consist of a minimum area twelve (12) feet by twenty-five (25) feet for each twenty thousand (20,000) square feet of floor space or fraction thereof in excess of three thousand (3,000) square feet in the building.
  8. All parking areas shall be constructed with an all-weather hot mix asphalt, or reinforced concrete material providing a low maintenance facility.
  9. When and where necessary for Fire and safety purposes, special designated traffic lanes may be required on certain sites. The designated area shall be kept clear of all parking, storage, etc. at all times.
  10. Handicap parking will be provided in the ratio determined by state law.
- G. Lighting regulations. All outside lighting shall be placed and reflected in such a manner so as not to create annoyances, nuisances or hazards.
- H. Screening regulations.
1. In the event that a General Business District or Industrial District backs, sides, or is adjacent to a more restricted residential district (R1, MH, or AG), a screening fence or wall not less than six (6) feet in height shall be erected and maintained along or within one (1) foot of the property line that divides the two districts.
  2. All outside storage area in this district shall be screened from public view. The screening fence or wall shall be solid site barring materials. They must provide 100 % screening. The minimum height of screening fences or walls shall be six (6) feet above ground elevation.
  3. No screening fences or walls shall be constructed so as to obstruct the vision of motorists at alley, street or drive intersections.
- I. Site plan. A Site Plan shall be submitted to the city for review prior to the issuance of a construction permit. The Site Plan shall include all easements, property lines, physical features, buildings, outside storage areas, streets, alleys, fire lanes and hydrants, parking facilities and building elevations for the site and the area immediately surrounding the site.

## Sec. 2-5 I - Industrial District

### A. Area regulations.

1. Front Yard - There shall be a front yard having a minimum depth of not less than fifty (50) feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. On corner lots the minimum required setback shall be no closer than sixty feet from any street or highway right of way.
2. Side Yard - There shall be two side yards, one on each side of the lot, each having a width of not less than fifteen (15) feet. On a corner lot, a side yard of twenty (20) feet shall be required on the side street. On the side of the lot in an Industrial District adjoining a Single-family District, there shall be a side yard equivalent to that required in the adjoining residential district.
3. Rear Yard - There shall be a rear yard on the rear of the lot equal to twenty (20) feet.
4. Area of The Lot - The minimum area of the lot shall be one (1) acre (43,560 square feet).
5. Width of The Lot - The minimum width of a lot shall be one hundred fifty (150) feet.
6. Depth of The Lot - The minimum depth of a lot shall be greater than the width of a lot.
7. Lot Coverage - Not more than sixty percent (60%) of the total lot area shall be covered by buildings.

### B. Use regulations.

1. In an Industrial District, land buildings and structures may be used for any legal manufacturing and industrial plant operations or other legal use except as may be excluded by this ordinance.
2. Any other lawful industrial or manufacturing operation which creates odor, dust, smoke, gas or noise shall be permitted in the Industrial District only after approval of a Specific Use Permit as provided for in this ordinance.
3. Accessory buildings and uses incidental to the permitted uses are allowed.

### C. Height regulations. No building shall not exceed forty-two (42) feet in height.

### D. Parking regulations.

1. The parking regulations for Industrial District uses are the same as those in the GB District unless amended by this section.
2. Manufacturing, industrial and processing establishments, repair shops, warehouses, storage buildings, lumber and supply yards shall provide off-street parking space at a ratio of one (1) space for each five (5) employees. The maximum number of employees on duty at any time, day or night, shall be the basis for determining parking requirements for any establishment. Where the number of employees is indeterminate,

off-street parking space shall be provided in a ratio of one (1) space for each thousand (1,000) square feet of floor area.

3. All business uses shall provide and maintain off-street facilities for the loading of merchandise and goods within the building or on the lot and adjacent to a public alley or private drive to facilitate the movement of traffic on the public streets. Such space shall consist of a minimum area of twelve (12) feet by twenty-five (25) feet for each twenty thousand (20,000) square feet of floor space or fraction thereof in excess of three thousand (3,000) square feet in the building or on the lot used for retail, storage or service purposes.
  4. All parking areas shall be constructed with an all-weather hot mix asphalt or reinforced concrete material providing a low maintenance facility.
  5. Any building or structure hereafter erected or converted for personal service use shall provide off-street parking space at the ratio of one (1) space for each two hundred (200) square feet of floor area. [ Personal service uses are uses that include and are similar to the following: barber shop, nail salon, tattoo parlor, etc. This uses tend to generate more vehicular traffic than other uses.]
  6. When and where necessary for fire and public safety purposes, special designated traffic lanes may be required on certain sites. The designated area shall be kept clear of all parking, storage, etc., at all times.
- E. Lighting regulations. All outside lighting features shall be placed and reflected in such a manner so as not to create annoyances, nuisances or hazards.
- F. Prohibited Uses. The following uses are not permitted in the Industrial District:
- Paper Mills
  - Rendering Plants
  - Junk Yards
  - Manufacturing or storage of gun-powder, fireworks or explosives
  - Stock Yards
  - Concrete Batching Plant, Cement Silos and Bulk Storage facilities.
  - Smelter [any type]
  - Foundry [any type]
  - Residential Structures
  - Fertilizer manufacturing or bulk storage
- G. Uses allowed by specific use permit only.
- Concrete Products manufacturing

## **Sec. 2-6 Residential Accessory Buildings/Structures**

- A. General Purpose and Description. Accessory building, or use, is one which is subordinate to and serves a principal building or principal use, is subordinate in area, extent, of purpose to the principal building or principal use served, contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served, and is located on the same building lot as the principal use served.

- B. Size. A permit and inspection are required for any structure 500 square feet or larger. If the structure is under 500 square feet but has electrical or plumbing, a permit and inspection are required. A permit fee based on the valuation of construction cost of the Accessory Structure is due upon permit issuance.
- C. Height. No accessory building shall exceed 2 ½ stories in height, nor shall it be greater in height than the main structure.
- D. Front Yard. Attached accessory buildings, including garages and carports, shall have a front yard not less than the main building, or as specified in the particular district. Detached accessory buildings shall be located in the area defined as the side yard or rear yard.
- E. Side Yard There shall be a side yard not less than fifteen (15) feet from any side lot line, alley line, or easement line, except that adjacent to a side street, the side yard shall never be less than sixty (60) feet.
- F. Rear Yard. There shall be a rear yard not less than twenty percent (20%) of the depth of the lot. Carports, garages, or other accessory buildings located within the rear portion of a lot, as heretofore described, shall not be located closer than fifteen (15) feet to the main building.
- G. Lot Coverage The main structure and all accessory structures shall not occupy more than twenty percent (20%) of the lot area.

**Sec. 2-7 Planning and Zoning Commission**

- A. Planning and Zoning Commission Created. There is hereby created and established a planning and zoning commission for the city consisting of five members appointed by the City Council. In addition to the five regular members, one or more alternate members may be appointed to serve in the absence of one or more regular members when requested to do so by the Mayor or Chairperson of the Planning and Zoning Commission.
- B. Members. Each regular and alternate member shall be a resident of the city qualified to vote, hold no other paid, incompatible, or elected public office for the city, and shall not be in arrears in payment of taxes or any liability due to Kaufman or Dallas County or the City of Combine.
- C. Terms of Office. The term of office of regular and alternate members of the commission shall be for two years. Three regular members and one alternate member shall be appointed for two-year terms beginning on July 1st in even-numbered years and two regular members and one or more alternate members may be appointed for two-year terms beginning July 1st in odd-numbered years. In the event of a vacancy on the commission, the alternate member with the longest tenure shall, without further formal action, become a regular member until the expiration of the term of the office assumed by the alternate member. In the event of a vacancy in two offices, the alternate member with the longest tenure shall assume the office of the member with the longest remaining term of office. In the event of any vacancy on the commission, the City Council shall appoint new members to fill the vacant offices as soon as practicable to fill such vacancies for the remainder of the unexpired terms of office. Members of the commission may be removed from office by the City Council by majority vote.

- D. Meetings. Meetings of the commission shall be held as often as necessary to conduct the business of the commission at the call of the Chairperson and at such other times as the Mayor, the council or the commission may determine. All meetings of the planning and zoning commission shall be public, unless otherwise authorized by law, and the commission shall keep minutes of the proceedings showing the vote of each member upon each question coming before the commission. The minutes of the commission shall be public record.
- E. Quorum. A majority of three members of the commission, whether regular or alternate, shall constitute a quorum to do business. Alternate members may vote on matters before the commission only in the absence of regular members when requested to do so by the Mayor or Chairperson of the planning and zoning commission. The alternate member with the longest tenure on the commission present at the meeting shall be the alternate voting member.
- F. Chairperson Selection. The planning and zoning chairperson shall be selected by the City Council. The commission shall identify one of its regular members to be vice Chairperson to serve in the absence of the Chairperson. No regular member shall be qualified to serve as Chairperson or vice Chairperson unless that member has first served on the commission for a period of at least six months.
- G. Planning and Zoning Commission as Advisory Body to the City Council. The planning and zoning commission shall be an advisory body to the City Council and shall make recommendations to the City Council on those issues that come before it. Those issues may include but are not limited to: requests for changes in zoning district boundaries, changes to the zoning ordinance, revisions and updates to official maps, the comprehensive plan, variance requests, subdivision regulations and applications for platting and other items that the council or commission deem appropriate.

**Sec. 2-8 Zoning district map**

- A. Zoning district boundaries delineated on zoning district map. The boundaries of the zoning districts set out herein are delineated upon the zoning district map of the City of Combine, Texas, said map being hereby adopted as part of this ordinance as fully as if the same were set forth herein in detail.
- B. Regulations for maintaining zoning district map. The boundaries of the zoning districts set out herein are delineated upon the zoning map of the city, which map is hereby adopted as a part of this ordinance as fully as if the same were set forth herein in detail. One original, official version of the zoning district map hereby adopted bearing the signature of the Mayor and attestation of the City Secretary shall be filed and maintained as follows:
  - 1. The original map shall be filed with the City Secretary and shall be retained as the original record and shall not be changed in any manner. A second electronic version of the official map shall be maintained up-to-date by posting thereon all changes and subsequent amendments. Changes to zoning districts shall be made on the electronic version of the official map within 30 days following City Council approval of said change in zoning district designation. One copy of the original map shall be filed with the County Clerk of Dallas County and one copy of the original map shall be filed with the County Clerk of Kaufman County.

2. An electronic copy of the official map shall be available to the building official. The map shall be the same copy that is maintained by the City Secretary for code enforcement compliance and for enforcing the zoning ordinance.
3. An electronic copy of the official map shall be maintained in the records of the City Council for reference purposes. It shall be the same copy that is maintained up-to-date by posting thereon all changes and subsequent amendments. This electronic version shall be the same version as described in 2. above.
4. Reproductions of the official zoning district maps may be made from time to time for information purposes.

C. Map certified. The official zoning map shall be identified by the signature of the Mayor or Mayor's designee, attested by the city secretary and bearing the seal of the city under the following words:

"This is to certify that this is the official zoning map adopted by Ordinance No. 2019-006 of the City of Combine".

## **Sec. 2-9 Zoning district boundaries**

Rules for determining district boundaries. The district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following streets, highways, or alleys shall be construed to follow the centerline of such street, highway, or alley.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as following railroad or utility lines shall be construed to be the centerline of the right-of-way or easement; if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines or the easement lines.
5. Distances not specifically indicated on the original zoning map shall be determined by the graphic scale on the map.
6. Whenever a street, alley or other public way is vacated or abandoned by official action of the City Council, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated or abandoned street, alley, or public way, and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
7. Where physical features of the ground are at variance with information shown on the official zoning district map, or if there arises a question as to how a parcel of property



is zoned and such question cannot be resolved by the application of 1 through 6 above, or the zoning of property is invalidated by a final judgment of a court of competent jurisdiction, the property shall revert to its original zoning designation or the City Council may determine that the subject property be considered as an AG Agricultural District, temporarily. In an area determined to be temporarily classified as AG Agricultural District, no person shall construct, add or to alter any building or structure, nor shall any use be located therein or on the land which is not permitted in an AG Agricultural District, unless and until such territory has been re-zoned to permit such use by the City Council. It shall be the duty of the City Council to determine a permanent zoning for such area as soon as practicable. Permanent zoning designation shall be in conformance with the comprehensive plan.

## **Sec. 2-10 Zoning of annexed territory**

In a Type A general law city, annexation is only considered upon application for annexation by a property owner wishing to be annexed by the city. Following an application for annexation by a property owner the following requirements apply:

- A. Permanent zoning concurrent with zoning. An area or areas being annexed to the City of Combine may ordinarily be given permanent zoning concurrently with the annexation.
- B. Temporary classification. In instances in which the zoning of an annexed territory concurrently with the annexation is impractical, the annexed territory shall be temporarily classified as AG Agricultural District, until permanent zoning is established by the City Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning district regulations. The City Council shall determine a permanent zoning designation for such area as soon as practicable after annexation. Permanent zoning designation shall be in conformance with the comprehensive plan.
- C. Regulations in areas temporarily classified. In an area temporarily classified as AG Agricultural District:

No person shall erect, construct, or proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the City of Combine without first applying for and obtaining a building permit from the city, as may be required.

## **Sec. 2-11 Compliance with land development regulations**

- A. Compliance with land development regulations required. No land, buildings, structures, or appurtenances thereon located within the City of Combine which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted unless in conformance with these land development regulations and as prescribed for the zoning district in which such land or building is located as provided herein.
- B. Authority to enter upon private property. The Mayor or a designee may, in the performance of his functions and duties under the provisions of this ordinance, enter upon any land and make examinations and surveys as deemed necessary in the administration and enforcement of this ordinance.

- C. Change of use and classification. No change in the existing conforming use of a permanent structure, or of land to a use of a different classification under this ordinance, and no change in the conforming use of a permanent structure or of land may take place prior to a final inspection by the city.
- D. Exclusions. Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction at the time of the passage of this ordinance.

## **Sec. 2-12 Waivers and suspensions**

- A. Authorized Variances. The City Council may authorize a variance from these regulations when, due to special circumstances or conditions described below, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the required findings, the City Council shall consider the nature of the proposed land use, existing uses of land and zoning in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the community.
- B. Special circumstance required for variance or waiver. No variance shall be granted unless the City Council finds that:
  - 1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;
  - 2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
  - 3. The granting of the variance will not be detrimental to the public health, safety, welfare or injurious to other property in the area;
  - 4. The granting of the waiver/suspension:
    - a. The conditions upon which a waiver/suspension is based are unique to the property for which the waiver/suspension is sought, and are not applicable generally to other property; and
    - b. Because of the particular physical surroundings, shape and/or topographical conditions of the property involved, a hardship to the owner would result, as distinguished from mere inconvenience, if the stricter letter of these regulations is required.
  - 5. The granting of a waiver/suspension will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter. Such findings of the City Council together with the specific facts, upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted.

- C. Public Health and Welfare. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done.

Pecuniary hardship not undue hardship. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.

### **Sec. 2-13 Amendments, changes and administrative procedures**

- A. Authority to amend ordinance. The City Council may, after public hearings required by law, amend or supplement the regulations herein provided or the classification or boundaries of zoning districts subject to the receipt of a recommendation from the planning and zoning commission. An amendment or supplement to the text of the zoning ordinance and/or any change in the classification or boundaries of zoning districts may be authorized for consideration by the City Council, or may be initiated by the planning and zoning commission, or may be requested by the owner or authorized representative of affected real property.
- B. Public hearing and notice. Upon filing of an application for an amendment or variance to the zoning ordinance and/or the official zoning map, the planning and zoning commission shall hold a public hearing on the application.
1. Written notice of such hearing shall be sent to the owner of the property or his agent and to all owners of real property lying within 500 feet of the property on which the change in classification is proposed, such notice to be given not less than 10 days before the date of such hearing before the planning and zoning commission, to all owners as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States post office. Where property lying within 500 feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by one publication in the official newspaper at least 15 days before the time of the hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.
  2. An application for any change of zoning classification shall include names and addresses of all real property owners lying within 500 feet of the property on which the change in classification is proposed. The application shall also include a map showing the parcels within 500 feet of the property to be reclassified, each parcel to include the name of the property owner and address or legal description.
  3. If, at the conclusion of the hearing, the planning and zoning commission recommends amendment or variance of this ordinance to the City Council, said recommendation shall be by a final report of the planning and zoning commission recorded by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment or variance shall be submitted to the City Council for consideration and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
  4. The planning and zoning commission may recommend denial of an application with or without prejudice or may recommend approval or approval with conditions.

5. If the city council denies a request for an amendment or variance to the zoning ordinance, the applicant shall wait a minimum of one-year before the same or similar request on the same property is submitted for reconsideration. If it is later determined by the city council or the planning and zoning commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, the city council or planning and zoning commission may waive the waiting period and grant a new hearing.

C. Action of the City Council.

1. If the planning and zoning commission has recommended approval or denial of an application for an amendment or variance to the zoning requirements, the City Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one publication in the official newspaper at least 15 days prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all property owners of real property lying within 500 feet of the subject property. If the Planning and Zoning Commission has recommended denial or denial without prejudice of an application, in order for the application to be advanced to the City Council for public hearing and action, the applicant shall request in writing and within 10 calendar days, that the application be scheduled for public hearing and action by the City Council. Failure of the applicant to appeal the recommendation of the planning and zoning commission within the time allotted shall be cause for the termination of the application.
2. In the case of a protest against an amendment to the ordinance signed by the owners of 20 percent or more, either of the area of the lots or land immediately adjoining the area included in the proposed change and extending 200 feet from that area, such amendment shall not become effective except by the favorable vote of three-fourths of all members of the City Council.
3. In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the City Council may further consider whether said application shall be denied with or without prejudice against re-filing. If the City Council shall deny the application and fail to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against re-filing. If an application is denied with prejudice, no application may be filed for all or part of the subject tract of land for a period of one year from the date of denial by the City Council. If it is determined by the planning and zoning commission or City Council that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given agricultural zoning is exempt from the one year waiting period.

D. Time limit on ordinance adoption. If an amending ordinance is not approved or disapproved within six months from the time of its original consideration, the zoning amendment application, at the option of the City Council, may be recalled for a new public hearing, may be terminated or may be referred to the Planning and Zoning Commission for a new hearing.

E. Changes in zoning regulations. Amendments to the zoning ordinance not involving a particular property do not require notice to individual property owners. In such cases, notice

of required public hearings shall be given by publication in the official newspaper of the city, stating the time and location of the public hearings before the planning and zoning commission and before the City Council, which time shall not be earlier than 16 days from the date of such publication in either case.

## **Sec. 2-14 Schedule of fees; charges, and expenses**

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, zoning ordinance and variance applications, appeals, and other matters pertaining to this ordinance. The schedule shall be posted in the office of the City Secretary and may be altered or amended only by the City Council. No permits, applications for zoning changes or zoning variances, or other applications shall be considered unless and until required charges, fees, or expenses have been paid in full.

## **Sec. 2-15 Specific use permits**

### **A. Permit Conditions.**

1. Any applicant desiring to construct a building or other structure, or to use any building or property for any purpose requiring a Specific Use Permit provided by this ordinance, must obtain a recommendation from the Planning and Zoning Commission and a Special Use Permit from the City Council before beginning such construction or use.
2. The City Council may, by ordinance, grant Specific Use Permits authorizing construction and uses within its boundaries for those zoning districts as provided by this ordinance.
3. In granting Specific Use Permits the City Council must determine that such uses are harmonious with and adaptable to existing and proposed future buildings, structures and uses of abutting property and other property in the vicinity of the premises under consideration and be in accordance with the city's comprehensive plan.
4. The City Council, in considering any request for a Specific Use Permit, may require from the applicant: plans, information, operating data and expert evaluation concerning the location, function, and characteristics of any building or use proposed. The City Council may, in the interest of the public welfare and to assure location, arrangement and construction of any building or use for which a specific use permit is authorized, impose such development standards and safeguards as the conditions and locations to protect the welfare of adjacent properties from noise, vibration, electronic interference, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions.
5. A permittee shall comply with all local, state, and Federal Requirements concerning all air, water and solid wastes.
6. An application for a specific use permit shall be processed in the same manner as a request for a change in zoning district.

- B. Record of permit. All Specific Use Permits approved in accordance with the provisions of this ordinance shall be maintained by the City Secretary. Ordinances granting Specific Use Permits shall be filed in the City Ordinance Book and shown on the official zoning district map.
- C. Fees. Any person, firm, or corporation applying for a change in this ordinance or the zoning district classification of any property, or for a Specific Use Permit, shall be required to pay an application fee. The fee will be determined by the City Council. No part of this fee shall be refundable unless the application is withdrawn prior to the mailing of the required written notification or publication in a newspaper.
- D. Re-Applications. In the event an application for a change in zoning district classification or for a Specific Use Permit is denied by the City Council, a subsequent application for a change in zoning district classification or Specific Use Permit on the same tract of land shall not be considered by the City Council until a period of one (1) year has elapsed from date of denial.
- E. Time limit. A specific use permit issued under this section shall become null and void unless construction or use is substantially underway within one year following the granting of the specific use permit, unless an extension of time is approved the City Council. Additionally, a specific use permit may be issued for a limited amount of time. If such time restriction is imposed, the expiration date of the specific use permit shall be so noted on the specific use permit.
- F. Revocation of permit. A specific use permit may be revoked or modified, after notice and hearing, for either of the following reasons:
  - 1. The permit was obtained or extended by fraud or deception.
  - 2. One or more of the conditions imposed by the permit has not been met or has been violated.
- G. Amendments to specific use permit. The procedure for amending a specific use permit shall be the same as for a new application, provided the Mayor or his/her designee may approve minor variations from the original permit which do not increase density, change traffic patterns, or uses or result in an increase in external impacts on adjacent properties or neighborhoods.

## **Sec. 2-16 Classification of new and unlisted uses**

- A. New uses. It is recognized that new forms of land use not anticipated may seek to locate in the city. In order to provide for new forms of land use, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:
- B. City Council to determine zoning classification. The building official shall refer any question concerning any new or unlisted use to the applicant for presentation to the City Council. The applicant shall request an interpretation as to the zoning classification into which the new or unlisted use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount, and nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount, and nature thereof, enclosed or open storage, anticipated employment,

transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

- C. Planning and Zoning Commission to recommend. The City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted, if any. The City Council shall refer their determination to the planning and zoning commission for public hearing and recommendation for an amendment or amendment to the zoning ordinance.
- D. Public hearing required. The City Council shall hold a public hearing for the consideration of an amendment to the zoning ordinance and may approve or deny the inclusion of the use.
- E. Use standards. Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in paragraphs A., B. and C. above shall be followed.

### ARTICLE 3. SUBDIVISIONS

#### Sec. 3-1 Platting

- A. Permanent zoning required. The City Council shall not approve any plat of any subdivision within the city limits until the land area covered by the proposed plat has been permanently zoned by the City Council.
- B. Annexation petitions. The City Council shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the City Council unless and until such annexation shall have been approved in accordance with state law.
- C. Contemporaneous action on zoning and annexation. In the event the City Council holds a hearing on proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed subject to having received a recommendation from the Planning and Zoning Commission.
- D. Access easements to be recorded. If an access easement provides access to more than two residences, a plat conforming to these regulations must be submitted for recommendation by the planning and zoning commission, approved by the city council and recorded in the appropriate county.

#### Sec. 3-2 Definitions

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. Building Line. A line shown on the preliminary or final plat that defines an area on the lot between the street right-of-way line or property line and the building line within which no building shall be constructed.

- B. Building Setback Line. A line establishing the minimum distance a building may be erected from a street right of way line, alley, or property line.
- C. Engineer. A person duly authorized and licensed, under the provisions of the Texas Engineering Registration Act, a registered professional engineer, to practice the profession of engineering.
- D. Extraterritorial jurisdiction. The unincorporated area of the county which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for a distance of one-half mile unless amended by property owner application.
- E. Lot. An undivided tract or parcel of land having frontage on a public or private street or recorded access easement and which is designated as a distinct and separate tract and which is identified by a lot number or tract symbol on a recorded subdivision plat.
- F. Subdivision. A subdivision shall include any division of land situated within the corporate limits of the city, or within its extraterritorial jurisdiction, into two or more parts for the purpose of one or more of the following: laying out lots, streets, alleys, utilities and vehicular and pedestrian access.
- G. Surveyor. A registered professional land surveyor.

### **Sec. 3-3 Special provisions**

- A. Subdivisions and Plats. It shall be unlawful for any owner, or owner agent, to lay out, subdivide or plat any land into lots, blocks or other divisions, or to lay out streets within the city or the extraterritorial jurisdiction of the city, or to sell property therein by reference to any such subdivision or plat which has not been platted in accordance with the provisions of this ordinance.
- B. Sewer facilities. No permit shall be issued by the city for the installation of on-site sanitary sewer facilities upon any lot for which a final plat has not been filed for record, or upon any lot where there exists a violation of these standards.
- C. Issuance of Permits. No building, repair, plumbing or electrical permit shall be issued by the city for any structure on a lot for which a final plat has not been filed for record, or upon any lot where there exists a violation of these standards unless approved by the City Council as provided below.
- D. Construction authorization. No grading of streets or construction is authorized until a preliminary plat and required engineering plans are approved by the City Council unless otherwise allowed by State law.
- E. Public Utilities/Plats/Permits. The city shall not repair, maintain, install or provide any streets or public utility services by any city-owned or city-controlled public utility in any subdivision for which a final plat has not been filed for record, or where the standards required by this chapter have not been satisfied. No permit shall be issued for any structure or other improvements to be located within a division, subdivision, plat or replat unless all improvements required by this chapter and other applicable ordinances have



been inspected and approved and/or accepted by the city. A permit may be issued for temporary usage for construction purposes, or for which a special use permit has been obtained from the City Council for the installation of necessary improvements.

- F. Prior Ordinance Exceptions. The provisions of this section shall not be construed to prohibit the issuance of permits for construction, or the repair, maintenance or installation of any street or public utility services for or to any lot, or subdivision, recorded or unrecorded, in existence prior to the passage of this ordinance.
- G. Construction inspection. All improvements required under this chapter and any special conditions required by the City Council upon approval of a preliminary plat must be inspected during construction. Any and all inspection fees must be borne by the developer/owner of the plat or subdivision. The developer/owner shall use a professional engineer licensed in the state to inspect the required improvements. The engineer shall sign and seal a final inspection report certifying that the required improvements have been installed and completed in accordance with the requirements of this ordinance before final approval. The city does not assume any responsibility for the quality of construction or the means and methods used by the contractor or subcontractors.

### **Sec. 3-4 Preliminary Subdivision plats**

Prior to the filing of a preliminary plat application, an applicant should consult with and present a proposed subdivision plat to the City Secretary for comments and advice on the procedures, specifications and standards required by the city for a subdivision.

### **Sec. 3-5 Preliminary plat requirements for subdivisions**

An applicant shall submit an application for a preliminary plat prepared by a registered professional land surveyor. A preliminary plat shall not be recorded. A preliminary plat shall include:

- A. Time for filing and copies required. The applicant shall file an application for preliminary plat approval in writing, submitting with the application (6) six blue or black line copies of the preliminary plat prepared by a registered professional land surveyor, together with the original preliminary plat, with the City Secretary at least 15 days prior to the date at which formal application for the preliminary plat approval is to be considered by the City Council. The letter of transmittal or the application shall state the name, address and telephone number of the owner, applicant or agent and the surveyor who prepared the plat.
- B. Preliminary plats. Preliminary plats shall be drawn on 18 inches by 22 inches sheets at a scale of one-inch equals 200 feet or another scale approved by the city.
- C. Filing fees. The preliminary plat application shall be accompanied by the required filing fees. A preliminary plat application is not complete until all required fees have been paid. The application fees shall not be refunded if the preliminary plat is denied by the City Council.
- D. Form and content. The preliminary plat shall contain the following:
  - 1. Names, addresses, phone numbers and email addresses of the applicant, record owner, engineer and surveyor;
  - 2. Subdivision boundary lines, indicated by heavy lines and the computed acreage of the subdivision;

3. The exact location, dimensions, description and name of all proposed streets, alleys, and current and proposed drainage structures on and adjacent to the subject property;
4. Date of preparation, scale of plat and north point;
5. A number or letter to identify each lot or site and each block consistent with existing lot and block designations or in accordance with 9-11 addressing requirements;
6. Front building side and rear yard setback lines on all lots and sites
7. The 100-year floodplain as identified on the most current Kaufman County or Dallas County flood insurance rate map (FIRM) published by the Federal Emergency Management Agency.
8. A "Will Serve" letter from the electric provider giving confirmation of availability and capacity.

E. Processing of preliminary plat.

1. The applicant shall check the preliminary plat for conformity with the comprehensive plan, major street plan, and for compliance with the standards and specifications required by this ordinance.
2. The applicant shall present the preliminary plat application to the Planning and Zoning Commission.
3. Within 30 days following the acceptance of the preliminary plat application, the Planning and Zoning Commission shall recommend to the City Council that preliminary plat be approved, conditionally approved or denied. The recommendation of the Planning and Zoning Commission shall be forwarded to the City Council for consideration at the next regularly scheduled City Council meeting. If the City Council denies or conditionally approves the preliminary plat, the City Council shall inform the applicant in writing of the reasons for such action within 15 days following their decision.
4. Approval of a preliminary plat is an approval to proceed with the final plat preparation and application.
5. Approval of the preliminary plat will be valid for one year following the date of approval by the City Council.
6. If the City Council determines changes to a preliminary plat application are necessary, the applicant shall be notified in writing. Any required revisions may be included in the application for final plat.
7. If an application for final plat has not been submitted within twelve months following approval of the preliminary plat, the City Council may, upon written application of the applicant, extend the approval time for an additional six months.
8. Approval of a preliminary plat expires once the allotted time frame has passed. A new application for a preliminary plat will be required subject to all of the original fees and processes required by this chapter.

## **Sec. 3-6 Final plat requirements for subdivisions**

### **A. Form and content.**

1. The final plat shall include all conditions required by the City Council and this ordinance.
2. The final plat shall be drawn at a scale of 200 feet equals one inch or at another scale approved by the Building Official or Mayor. The final plat shall be printed on 24" x 36" paper or on paper that meets the requirements of the county where the final plat shall be filed.
3. Where more than one sheet is necessary to accommodate the entire plated area, an index sheet showing the entire subdivision shall be attached to the plat.
4. The final plat shall include the following:
  - a. The exact location, dimensions, name and description of all existing and recorded streets, alleys, reservations, easements or other public or private rights-of-way within the subdivision;
  - b. The exact location, dimensions, descriptions and names of all proposed easements, streets, alleys, drainage structures, blocks, lots and other sites within the subdivision;
  - c. All front, side and rear building setback lines; and
  - d. A legal description of all easements.
5. When filed of record, the final plat shall be accompanied by all plans and engineering calculations. All plans and supporting documentation shall bear the seal and signature of a registered engineer and/or registered professional land surveyor as required by law.
6. For streets and alleys: four (4) copies of plans and profiles for all proposed streets and alleys.
7. Water lines:
  - a. Four (4) copies of the proposed final plat showing the location and size of the existing and proposed water lines and fire hydrants; and profile sheets for the water lines.
  - b. A letter from the Combine Water Supply Corporation confirming that there is adequate capacity to serve the subdivision.
8. Storm drainage: four (4) copies of plans for all storm drainage structures.
9. The final plat shall include the following certifications:
  - a. Certificate of ownership and required declarations;

- b. A certificate by the registered professional land surveyor responsible for the preparation of the final plat and the professional engineer responsible for the supporting data, attesting to its accuracy.
- c. Signature of the City Secretary and signature of the Mayor or the Mayor's designee.

B. Processing final plat.

1. The applicant for consideration of a final plat shall submit to the City Secretary the complete application and supporting documentation as described in Section A. above.
2. The City Secretary shall schedule consideration of the application by the Planning and Zoning Commission within 30 days of acceptance of the completed application.
3. The Planning and Zoning Commission shall consider the application and shall make a recommendation of approval or denial to the City Council. The City Secretary shall schedule consideration of the Planning and Zoning Commission recommendation by the City Council at the next regularly scheduled City Council meeting.
4. The City Council may approve the final plat as a whole subdivision or may approve the development of the subdivision in phases. If the subdivision is to be developed in phases, each successive phase must be reviewed for compliance with City regulations and compliance with the preliminary plat previously approved by the City Council. Each phase of a subdivision final plat shall comply with this section of the ordinance.
5. No final plat shall be considered unless a preliminary plat has been approved by the City Council. Revisions to an approved preliminary plat that do not increase the approved residential density or change previously approved building setback lines may be shown on the final plat.
6. A final plat application shall be submitted to the City Secretary within twelve months following the date of approval of the preliminary plat, otherwise approval of the preliminary plat shall expire. If an extension of time is requested by the applicant in writing and the extension is granted by the City Council, an extension may not exceed six-months from the date the original preliminary plat was to expire.
7. When a final plat application is filed with the City Secretary, it shall be accompanied by the required fees. In addition to required fees, a current tax statement showing that all outstanding property taxes and a lien release showing any city liens have been paid. An application is not accepted if the applicant fails to submit required fees, tax and lien statements, or if the application and supporting documentation is not complete.
8. The City Council shall approve or deny the application for a final plat following consideration of the recommendation of the Planning and Zoning Commission. If the final plat is denied by the City Council, the City Secretary, within 15 days of the denial, shall inform the applicant in writing of the reasons for the denial.
9. After a final plat has been approved by the City Council and the applicant has constructed all the required improvements and the improvements have been approved and/or accepted by the city, the applicant shall submit the final plat to be recorded with the County Clerk of the county or counties within which the subdivision is located.

10. No plat shall be recorded without written consent of the owner or proprietor or the owner's or proprietor's designee. If the owner or proprietor fails to give such written consent as required within ten days from the date the City Council approved the final plat, the City Council may at any time thereafter revoke such approval.
11. The applicant shall provide a digital copy and one paper copy of the recorded final plat to the city within 10 days following the filing of the final plat with the appropriate county.

### **Sec. 3-7 Standards and specifications**

No preliminary or final plat shall be approved by the City Council and no completed improvements shall be approved or accepted by the city unless they conform to the following standards and specifications:

- A. Conformity with Comprehensive Plan. A subdivision shall conform to the comprehensive plan.
- B. Streets.
  1. Street layout. Adequate streets shall be provided by the applicant and the arrangement, character, extent, width, grade and location of each shall conform to the comprehensive plan of the city and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be designed for the most advantageous development of the entire neighborhood.
  2. Street paving. Public or private streets shall be constructed to support at least 75,000 pounds and in accordance with the following general specifications:
    - a. MH District: Asphalt or concrete paving is allowed. Plans shall be designed by a registered professional engineer and shall exhibit the engineers seal and signature.
    - b. R1 District: Only concrete paving is allowed. Plans shall be designed by a registered professional engineer and shall exhibit the engineers seal and signature.
    - c. All street pavement widths will be a minimum of 26 feet with fire hydrants placed every 500 feet;
    - d. All roadways or streets shall have a maximum grade of 0.4%. Grades greater than this will require approval by the City Council. Proposed streets or roadways that are the continuation of existing roadways or streets shall be a continuation, without an off-set, of the existing road way or street;
    - e. The entrances or exits to a subdivision shall be a public or private road or street or an approved access easement, and each lot shall front upon a public or private street or access easement. Entrances and exits must be separated from any other intersection on a state highway by at least 400 feet; and
    - f. Flared entrances to subdivisions shall be provided to accommodate large trucks with a minimum inside radius of 30 feet.

3. Street intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. All streets, major, collector or minor, unless approved by the City Council, shall intersect at or near 90-degree angles. All intersections shall have a minimum of 25-foot inside radius at each corner.
4. Dead-end streets. Dead-end streets shall be prohibited except as short stubs to permit future expansion. A dead-end street shall not exceed 150 feet in length.
5. Cul-de-sacs. In general, cul-de-sac shall have a minimum radius of 50 feet.
6. Right-of-way widths. Widths of rights-of-way shall be as follows.
  - a. Minor Arterial streets shall have a minimum right of way 100 feet.
  - b. Collector streets shall have a minimum right-of-way of at least 80 feet. Curves in collector streets shall have a centerline radius of 150 feet or more with exceptions to this standard granted by the City Council.
  - c. Minor streets shall have a right-of-way of at least 50 feet. Curves in minor streets shall be a minimum centerline radius of 100 feet.

C. Water lines.

1. All new subdivisions shall have a minimum six-inch diameter water line. Confirm with the Combine Water Supply Corporation for the latest TCEQ requirements.

D. Utility easements.

1. Utility easements shall be a minimum of 15 feet in width and located along the front property line. Each block that does not otherwise provide for access to public utilities by a public or private street or recorded access easement shall have a utility easement at the front of all lots reserved for the use of all public utility lines, conduits and equipment. The utility easement shall be continuous for the entire length of a block. The location and width of any sanitary sewer system, water, storm sewer, electric utility or other utility easements shall be determined by the supplier. All water lines in city rights-of-way shall become the property of the Combine Water Supply Cooperation upon acceptance by the Combine Water Supply Cooperation and all power lines shall become the property of the appropriate electricity provider upon acceptance by the utility provider.
2. Where utility easements are required by other than public utilities, the location and width shall be dedicated to the private utility company concerned.

E. Water installations. All subdivisions shall be provided with fresh water supply and water distribution systems. Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Board of Insurance and in accordance with city standards and specifications.

F. Roadways. No roadways will be accepted that cross a petroleum pipeline.

G. Maintenance for storm water drainage. The city does not provide maintenance for storm water drainage.

H. Drainage easements. Drainage easements shall generally be located along existing drainage ways and shall meet the following criteria:

1. All drainage easements in new subdivisions must be designed to permit drainage and flood control for all land whose natural drainage runs through the property.
2. All easements shall be designed to allow maintenance equipment to enter the easement and be able to perform necessary work.

### **Sec. 3-8 Responsibility for street and utility installation**

- A. Street construction. The applicant or developer shall be required to construct, at applicant or developer expense, all streets, water systems, drainage culverts, bridges, street lights and other appurtenances in strict accordance with the construction specifications of the city, necessary and required to adequately serve the subdivision or addition to be developed.
- B. Street and Drainage Improvements. All public street and drainage improvements constructed by the applicant or developer shall become the property (right of way) of the city upon acceptance by the city.

### **Sec. 3-9 Creation of building site**

Permit for building site. No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, tract, or lot has been created by compliance with one of the following conditions:

1. The lot or tract is part of a plat of record, properly approved by the city and filed in the plat records of the county or counties in which the lot or tract is located.
2. The plot, tract, or lot faces upon a public or private street or access easement and was separately owned prior to the effective date of this ordinance or prior to annexation to the city, whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this ordinance may be issued on each such original separately owned parcel.
3. The plot or tract is all or part of a site plan approved by the City Council where provisions have been made by the property owner for all utility and drainage easements, street and alley dedications and other public improvements required to meet the standards established for platting.
4. A tract or plot that is a minimum of five (5) acres of land used for agricultural purposes.
5. The City Council may, upon application and following a recommendation from the Planning and Zoning Commission, grant an exception or exceptions to the requirements for creation of a building site or the building codes of the city as justice and as fairness may allow; provided, however, that no exception shall be granted where it appears that a hazardous or unsafe condition may result or for financial considerations alone. Such special exceptions may be granted by the City Council when not contrary to the public interest and where literal enforcement of the terms of this ordinance or the building codes may result in unnecessary or undue hardship [a hardship that is out of the control of the applicant].

## Sec. 3-10 Building permits and final inspections

- A. Building permit required. No permanent or accessory structures may be constructed within the city limits prior to issuance of a building permit by the city. No permanent structure constructed or otherwise located within the city limits may be occupied prior to a final inspection by the city. No permit for the construction or placement of a building or buildings upon any lot, tract or plot shall be issued unless the lot, plot or tract is part of a plat of record, properly considered by the Planning and Zoning Commission and approved by the City Council and filed in the plat records of county or counties in which the plot or tract is located, unless such tract or plot is a minimum of five (5) acres of land used for agricultural purposes. However, the City Council may waive this requirement when, in the opinion of the City Council and based upon evidence provided by the property owner, there is reason to do so.
- B. Inspections required. Plans for any structure to be constructed or altered within the city limits must be approved by the city or a designee who, upon approval, may issue a building permit if the plans comply with the requirements of this code. After issuance of a building permit and prior to final inspection, the city or a designee shall conduct a foundation, plumbing, electrical and framing inspection. After all required inspections are successfully completed, the city or a designee shall perform a final inspection of the construction. If the results of the final inspection comply with the provisions of applicable ordinances and regulations, the city or a designee shall approve the building or project for occupancy.
- C. Application for building permit. All applications for building permits shall include two sets of plans, drawn to scale submitted to the City Secretary, in either hard copies or electronically, showing:
1. A site plan showing the exact sizes and locations on the lot of buildings and other structures already existing on the building site.
  2. The location and dimensions of new proposed building or alteration to existing building including foot print and elevations.
  3. Any other information as may be necessary to determine compliance with applicable provisions of the building code and this ordinance.
- D. Expiration of residential and accessory building permits. A permit becomes null and void if work or authorized construction has not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work has commenced. All construction must be completed within six (6) months from issuance of permit. If construction is not completed within six (6) months the permit holder may request a six (6) month extension at no cost. If construction or work is not completed within the six (6) month extension, the permit holder will be required to apply for a new permit at the current fee. All permits require approved final inspection prior to occupancy.
- E. Expiration of commercial building permit. A commercial building permit becomes null and void if work or authorized construction has not commenced within 365 days, or if construction or work is suspended or abandoned for a period of 365 days at any time after work has commenced. All construction must be completed within twelve (12) months from issuance of permit. If construction is not completed within twelve (12) months the permit holder may request a six (6) month extension at no cost. If construction or work is not completed within the additional six (6) months, the permit holder will be required to apply for



a new permit at the current permit fee. All permits require approved final inspection prior to occupancy.

### **Sec. 3-11 Rules for words and phrases**

- A. General interpretation. For the purpose of this ordinance, certain terms and words are defined and shall have the meanings ascribed in this ordinance unless it is apparent from the context that different meanings are intended.
- B. Tense and number. Words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number.
- C. Interpretation of certain words. The word “person” includes a firm, association, organization, partnership, trust, foundation, company, or corporation as well as an individual; the word “shall” is mandatory, not directory; the word “may” is permissive; the word “used” means “designed, intended, or arranged to be used”; “occupied” means “occupied or intended, designed, or arranged to be occupied.” The word “lot” includes the words “plot,” “parcel” or “tract of land”; the word “building” includes the word “structure”; and the word “including” means “including but not limited to.”

## **ARTICLE 4. NONCONFORMING LOTS, STRUCTURES AND USES**

### **Sec. 4-1 Categories of nonconformity**

Within the districts established by this ordinance, or amendments that may later be adopted, there exists:

- Lots and uses of land;
- Buildings and structures;
- Uses of land and buildings in combination; and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

It is the intent of this ordinance to permit nonconformities to continue under these regulations until they are removed, but not to encourage their survival. It is further the intent of this ordinance that such nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other buildings and structures or uses prohibited elsewhere in the same district.

### **Sec. 4-2 Nonconforming uses regulated**

Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. No nonconforming use of land, building, or nonconforming structure shall be enlarged, changed, altered, or repaired, except in conformance with the regulations contained in this section.

### **Sec. 4-3 Nonconforming status**

Any use, lot, or structure which does not conform to the regulations of the zoning district in which it is located, is nonconforming when:

- A. Regular or continuous use. The use, lot, or structure was in existence and lawfully operating on the date of the passage of this ordinance, and has since been in regular and continuous use; or
- B. Use previously conforming. The use, lot, or structure is lawful at the time of the adoption of any amendment to this ordinance, but because of the amendment, no longer complies with applicable regulations; or
- C. Use prior to annexation into the city. The use, lot, or structure was in existence at the time of annexation to the city and has since been in regular and continuous use.

**Sec. 4-4 Nonconforming lots of record**

In any zoning district in which residential, commercial, or industrial buildings are permitted, buildings may be erected on any single lot of record, or multiple lots of contiguous street frontage in the same ownership, which were recorded prior to the effective date of this ordinance or where an easement from a public way through private property allows access to a lot that otherwise would be considered to be landlocked.

This provision shall apply even though such lot or lots fail to meet the minimum requirements for area, width, or both, as governed by the applicable area regulations for that particular zoning district; however, all other provisions of the applicable zoning district area regulations shall apply.

**Sec. 4-5 Nonconforming uses of land**

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No increase in size. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- B. No relocation of nonconforming use. No nonconforming use shall be moved, in whole or in part, to any portion of the same lot or parcel other than the land occupied by the nonconforming use at the effective date of adoption or amendment of this ordinance.
- C. Abandonment of nonconforming use. If any nonconforming use of land is deemed to be abandoned, for any reason, for a period of more than six months, any subsequent use of the land shall conform to the regulations specified by this ordinance for the district in which the land is located.

**Sec. 4-6 Nonconforming buildings and structures**

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

- A. Nonconforming buildings and structures. Conforming buildings and structures existing prior to the effective date of this ordinance, which were rendered nonconforming by the adoption of this ordinance, are considered to be nonconforming structures.
- B. No enlargement. No nonconforming building or structure may be enlarged or altered in a way which increases its nonconformity, but any building or portion thereof may be altered to decrease its nonconformity or to comply with city building codes.
- C. Destruction of nonconforming building or structure. Should a nonconforming building or nonconforming portion of a building be destroyed by any means (other than by the hands of the owner) to an extent of more than 50 percent of its fair market value at the time of destruction, or 50 percent of the area of the structure, it shall not be reconstructed except in conformity with the provisions of this ordinance. However, when recommended by the planning and zoning commission and approved by the city council after a public hearing thereon, having due regard for the property rights of persons affected, and considering public welfare and the character of the area surrounding the nonconforming building and the conservation and protection of property, a nonconforming building or portion thereof may obtain a building permit for the reconstruction of the nonconforming structure.
- D. Relocation of nonconforming building. Should a nonconforming building be relocated within the city, it shall thereafter conform to the regulations of the district in which it is located.

**Sec. 4-7 Nonconforming uses of buildings**

If lawful use involving individual buildings exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in a particular district under the terms of this ordinance,

the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No modification to nonconforming use of building. No existing building devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the building to a use permitted in the district in which it is located, or to comply with city building codes.
- B. Nonconforming use extension. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. Changes to nonconforming uses. If no structural alterations are made, except as required by the city's building codes, any nonconforming use of a building, or building and premises, may be changed to another nonconforming use provided that the City Council, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the City Council may require appropriate conditions, permits and safeguards in accord with the provisions of this ordinance.

- D. Change to conforming use. Any building in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- E. Discontinuation or abandonment. When a nonconforming use of a building is discontinued or abandoned for six consecutive months, the building shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- F. Elimination of nonconformity. Where nonconforming use status applied to a building and premises in combination, removal or destruction of the building shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the fair market value at time of destruction.

#### **Sec. 4-8 Repairs and maintenance**

- A. Repair and maintenance. Ordinary maintenance or repairs on a nonconforming building or portion of a building containing a nonconforming use, may be performed in any period of 12 consecutive months subject to the issuance of a building permit. The replacement of nonbearing walls, fixtures, wiring or plumbing, subject to the issuance of a building permit and to an extent not exceeding 50 percent of the current replacement cost of the nonconforming building or that portion containing a nonconforming use provided that the nonconformity shall not be increased.
- B. Unsafe buildings. If a nonconforming building or portion of a building containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the city to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located.
- C. Restoration of unsafe buildings. Nothing in this ordinance shall be deemed to prevent the restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **Sec. 4-9 Nonconforming uses discontinued**

The nonconforming use of any building or structure which has been discontinued shall not be returned to any nonconforming use. A nonconforming use shall be considered discontinued when:

- A. It has been replaced with a conforming use;
- B. The building or structure containing the nonconforming use is vacant and remains unoccupied or out of use for a continuous period of six months, or the equipment and furnishings of the nonconforming use have been removed from the premises; or
- C. The intention of the owner to permanently discontinue the nonconforming use is apparent.
- D. The City Council may provide a date for the termination of a nonconforming use after establishing an amortization schedule that fully amortizes the owners documented investment and returns on that investment in the nonconforming use.

## **Sec. 4-10 Changes that lessen nonconformity**

Changing to a more restricted or less intensive nonconforming use that lessens the extent of the original nonconformity may be permitted at the time of issuance of a building permit or approved final inspection subject to approval by the City Council.

## **ARTICLE 5. SUPPLEMENTAL REGULATIONS**

### **Sec. 5-1. Wireless communication facilities**

- A. Purpose. Certain radio equipment used in transmitting and receiving signal energy are essential and are deemed to promote the health, safety, and general welfare of the citizens of the city. The placement of such equipment shall be located such that the health, safety, welfare, and aesthetic quality of the community shall not be compromised. Therefore, the regulations governing the location of such equipment shall consider the aesthetic quality of the community equal to the health, safety, and general welfare of the community. The antennas, masts, and towers hereinafter enumerated shall not be deemed violations of this article when made under the conditions herein provided. Property zoned AG Agricultural District is considered as a residentially zoned district for the purpose of this section.
- B. Specific Use Permit required. A specific use permit must be obtained for any antenna, tower, facility, structure and/or satellite receive-only antenna.
1. Notwithstanding the requirements for specific use permits contained herein, the following limitations shall apply to any request for a specific use permit:
    - a. The regulation of the placement, construction, and modification of personal wireless service facilities:
      - (i) shall not unreasonably discriminate among providers of functionally equivalent services; and
      - (ii) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
  2. In considering whether to grant a specific use permit, the following shall be considered:

The provisions of 47 C.F.R. § 25.104 which preempt local zoning or other regulations that differentiate between satellite receive-only antennas and other types of antenna facilities.
- C. Evaluation. To properly evaluate all applications to locate commercial antennas or towers, the following information must be provided by the applicant:
1. Describe the nature of the antenna site. Indicate whether the proposed structure is a monopole or mounted to a self-supporting structure. Indicate the proposed height;
  2. Provide photos or drawings of all equipment, structures and antenna;
  3. Describe why the antenna or tower is necessary;

4. State the name(s) of the telecommunications providers or other users of the antenna or tower and describe the use to be made by each user;
5. Indicate if this antenna or tower site is to be connected to other sites; and if so, describe how it will be connected and who will be the backhaul provider;
6. The applicant must address whether or not they have made an effort to co-locate the facilities proposed for this antenna or tower on existing towers or facilities in the same general area. Identify the location of these existing sites. If yes, please describe in detail these efforts and explain in detail why these existing sites were not feasible. Attach all studies or tests performed which demonstrate why the existing sites will not provide sufficient signal coverage. Provide written documentation from existing sites owners and/or operators, which confirm the statements provided. Indicate whether or not the existing sites allow or promote co-location and, if not, describe why not;
7. Indicate whether or not co-location will be allowed to other telecommunications providers at the requested site. If they are not allowed, state every reason and the basis for each reason;
8. If the requested location is in a residential district the applicant must address whether or not they have made an effort to locate the facility in a commercial or other nonresidential district. Identify the location of these commercial and or other nonresidential district sites. Describe in detail these efforts and explain in detail why these commercial or nonresidential district sites were not feasible. Attach all studies or tests performed which demonstrate why the commercial or industrial sites will not provide sufficient signal coverage. Provide written documentation from commercial or nonresidential district sites' owners and/or operators which confirm the statements provided;
9. Indicate the proposed provider's current coverage area for the city. Attach maps showing the areas the proposed provider's existing antennas currently cover, the areas the applicant's existing sites and other existing sites would cover, and the areas the applicant's existing sites and the requested site would cover;
10. Describe the applicant's master antenna and tower plan for the city. Attach maps and other related documentation. Provide information indicating each phase of the plan;
11. Describe the applicant's plan to minimize the number of telecommunications antenna and towers needed to cover the city;

D. Co-locations. The City Council may approve a requested application subject to the finding that co-location of this facility with a nearby existing tower facility is technically not feasible and subject to the following conditions;

1. Applicant will permit co-location of others at the site;
2. Applicant will configure its antenna and other equipment to accommodate other providers;
3. Applicant will identify its backhaul provider connecting antenna sites; and

4. Applicant will give notice to the city identifying any providers who co-locates to the site and identify their backhaul provider.

E. Written report upon denial of request. The City of Combine shall document any denial of a specific use permit request to place, construct, or modify personal wireless service facilities in writing. Such documentation shall be supported by substantial evidence within the written record.

### **Sec. 5-2 Severability.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

### **Sec. 5-3 Interpretation and Conflicts**

Unless the context clearly indicates otherwise, the following rules apply in interpreting this ordinance:

1. Words used in the present tense include the future tense.
2. Words in the singular include the plural, and words in the plural include the singular.
3. The word “building” includes the word “structure”, and the word “structure” includes the word “building.”
4. The word “lot” includes the words “building site,” “site,” “plot” or “tract.”
5. The word “shall” is mandatory and not discretionary.
6. The words AND or OR shall include the other as if written and/or, if the sense requires it.
7. Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.
8. If there is a verbiage conflict, the text of this ordinance controls.

### **Sec. 5-4 Penalty.**

Any person intentionally, knowingly or recklessly violating any provision of this chapter within the corporate limits of the city, shall be guilty of a misdemeanor, and upon conviction, shall be fined an amount not exceeding \$500 per violation; provided however, if a person intentionally, knowingly or recklessly violates any provision of this Chapter governing fire safety, zoning or public health, then the maximum fine shall not exceed \$2000, for each violation. Each day that such violation continues shall constitute a separate offense. Prosecution or conviction under this chapter shall never be a bar to any other remedy or relief for a violation of this ordinance.