

**CHAPTER 16.  
LAND USE**

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16.10. **Definitions**. For purpose of this Ordinance the terms defined in this section have the meanings given them:

16.10.01. **“Accessory use of structure@** a use or structure on the same lot with and incidental and subordinate to, the principal use or structure.

16.10.02. **“Agricultural Field Crop Production@** means the production of crops by means of cultivation, and includes forage crops, but does not include livestock production.

16.10.03. **AD appellant/petitioner@** the person or persons who have requested from the board a variance, or who have appealed a decision of the zoning administrator.

16.10.04. **“Board”** the zoning board of appeals and adjustments established by this Chapter.

16.10.05. **ADwelling, one-family@** a building used exclusively for occupancy by one family.

16.10.06. **ADwelling, two-family@** a building used exclusively for occupancy by two families living independently of each other.

16.10.07. **ADwelling, multiple@** a building or portion thereof used for occupancy by three or more families living independently of each other.

16.10.08. **ADwelling unit@** a dwelling or portion of a dwelling or of an apartment or

hotel used by one family for cooking, living and sleeping.

16.101.09. **AEssential services**@a municipal or public utility service or structure.

16.10.10. **AFamily**@an individual or two or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time bases by the family in the dwelling unit, living together as a single housekeeping unit in a dwelling unit and also including roomers, provided that the family plus the roomers shall not exceed a total of five persons, provided further that the limit of five persons shall not apply where the entire group living in the dwelling unit consists of persons related by blood, marriage or adoption, including foster children and domestic servants.

16.10.10. **AHeight of building**@the vertical distance from the average elevation of the finished grade at the front of the building to the highest point of the roof.

16.10.12. **AHome occupation**@a lawful occupation customarily carried on by a resident of a dwelling as an accessory use within the same dwelling.

16.10.13. **ASalvage yard**@land or structures used for the storage of inoperable vehicles and other junk, including scrap metals, or for the dismantling or >wrecking= of automobiles or other vehicles or machinery and used appliances stored in the open, other than the storage of materials which is incidental or accessory to any business or industrial use of the same lot.

16.10.14. **AJunk**@shall include but not be limited to motor vehicles which do not have attached valid and current license plates issued by the proper state agency, and motor vehicles which, although such valid and current license plates are attached, are not presently operable; parts for motor vehicles and machinery; used appliances stored in the open; decayed, weathered or broken construction materials no longer suitable for construction purposes.

16.10.15. **ALot**@a single parcel of land (located within a block of in a platted area) which, at the time of application for a permit for a building on the land, is designated by its owner or developer as a parcel to be used, developed or built upon as a unit under single ownership or control. A lot may or may not coincide with a lot or record.

16.10.16. **ALot, corner**@a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

16.10.17. **ALot, interior**@a lot other than a corner lot.

16.10.18. **“Mobile home**@the words mobile home, when used in this Ordinance, shall mean a transportable, single-family dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as permanent housing, and having no foundation other than wheels, jacks, piers, pillars or skirtings.

16.10.19. **A Modular home**@a modular home is not a mobile home. A modular home may be similar to a mobile home except that it shall be not less than 16 feet wide (double wide). It may be a residence having length, width and height dimensions similar to those of a mobile home. A modular home shall not have a permanent chassis or wheel base. A modular home shall be located on a permanent foundation. For purposes of this chapter, a **A double wide mobile home**@is a **A modular home**.@A modular home is not a prefabricated home as defined herein.

16.10.20. **A Non-conforming structure or use**@a structure or use lawfully in existence on the effective date of this Ordinance or any amendment thereto and not conforming to the regulations for the district in which it is situated.

16.10.21. **A Story**@that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is not floor above it, then the space between the floor and the ceiling next above it.

16.10.22. **A Story-half**@that portion of a building under a gable, hip or gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.

16.10.23. **A Structure**@anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

16.10.24. **A Structural alteration**@any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

16.10.25. **A Travel trailer**@a mobile home, modular home, or other prefabricated transportable or non-transportable dwelling unit under 30 feet in length and 12 feet in width which is suitable for use as a residence.

16.10.26. **A Yard**@an open space other than a court, which open space is unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

16.10.27. **“Yard front**@ a yard extending across the front of the lot between side lot lines and lying between the front street line or lakeshore line of the lot and the nearest line of the principal building.

16.10.28. **AYard, rear**@ a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

16.10.29. **AYard, side**@ a yard between the side line of the lot and nearest line of the building and extending from the front yard to the rear yard.

16.10.30. **“Pre-fabricated stationary home”** a prefabricated home is a dwelling that is wholly or substantially built in a factory with major components then delivered to the building site for assembly. In order to be classified as a prefabricated stationary home and not a modular home, the home must meet the following requirements:

- A. A roof with a minimum of 5/12 pitch;
- B. A permanent foundation;
- C. 1,700 square feet of finished living space on the main floor.

16.10.31. **“Home Based Office or Business”** means a business operated entirely within the dwelling.

16.10.32. **“Feedlot”** feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

16.10.33. **“Animal Units”** means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or a manure storage area, calculated by multiplying the number of animals of each type in items A to I by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of this chapter, the following multiplication factors shall apply:

- A. dairy cattle:
  - (1) one mature cow (whether milked or dry);
  - (a) over 1,000 pounds, 1.4 animal unit; or

- (b) under 1,000 pounds, 1.0 animal unit;
- (2) one heifer, 0.7 animal unit; and
- (3) one calf, 0.2 animal unit;

B. beef cattle:

- (1) one slaughter steer or stock cow, 1.0 animal unit;
- (2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;
- (3) one cow and calf pair, 1.2 animal unit; and
- (4) one calf, 0.2 animal unit;

C. one head of swine:

- (1) over 300 pounds, 0.4 animal unit;
- (2) between 55 pounds and 300 pounds, 0.3 animal unit; and
- (3) under 55 pounds, 0.05 animal unit;

D. one horse, 1.0 animal unit;

E. one sheep or lamb, 0.1 animal unit;

F. chickens:

- (1) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
- (2) one chicken if the facility has a dry manure system:
  - (a) over five pounds, 0.005 animal unit; or
  - (b) under five pounds, 0.003 animal unit;

G. one turkey:

- (1) over five pounds, 0.018 animal unit; or
- (2) under five pounds, 0.005 animal unit;

H. one duck, 0.01 animal unit; and

I. for animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

16.10.33. **"Pastures"** pasture means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

16.11. **Zoning Districts and District Regulations.**

16.12. **Establishment of Districts.** For the purpose of this Ordinance the City of Tyler is divided into the following use districts:

A. Residential - single family R1

B. Residential - multi family	R2
C. Mobile home	R3
D. General business	B1
E. Downtown	D1
F. Commercial - Industrial	C1
G. Flood Plain	F1
H. Agricultural	A1

16.13. **Map.** The boundaries of the use districts are delineated on the Official Zoning Map, which is hereby adopted by reference and declared to be a part of this Chapter. Such map shall be on permanent file and available for public inspection in the city hall. It shall be the responsibility of the City Administrator and the Planning Commission to maintain and keep the map up to date and to record each amendment thereto within 30 days after official publication of the Chapter adopting the amendment.

16.14. **Annexed Land.** Any land hereafter annexed to the city shall be considered to be in the Residential R1 district until otherwise classified.

16.15. **Compliance with Chapter.** No structure or land shall hereafter be used, or occupied, and no structure shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with the regulations specified in this Chapter for the district in which it is located.

16.16. **Schedule of Regulations.** The attached ~~A~~Schedule of District Regulations@ applying to land and buildings as indicated for the various districts established by this Chapter is hereby adopted and declared to be a part of this Chapter and may be amended in the same manner as any other part of this Chapter.

#### 16.17. **Supplementary Regulations**

16.18. **In General.** The regulations specified elsewhere in this Chapter are supplemented and modified by the provisions of this section.

16.18.01. The uses described in the attached Schedule of District Regulations, Part 1, in each category, represent the most common uses anticipated in that particular district. The listings are not exclusive, but are meant to provide a guideline for the types of uses anticipated in that particular district. For any use not specifically mentioned in the Schedule of Regulations, the Planning Commission shall determine the appropriate classification by determination of which use listed in the Schedule of Regulations is most nearly similar to the prospective use.

## 16.19. **Off-street Parking.**

16.19.1. **Off street parking and loading zones.** No building shall be hereafter erected, substantially altered, or its use changed unless off-street parking and loading spaces have been provided in accordance with the provisions of this Chapter. The number of off-street parking spaces provided shall be at least the minimum number provided in the schedule contained in 16.302.6. When a building is enlarged, additional off-street parking shall be required only with respect to the additional usable floor area.

16.19.2. **Change in facilities.** An off-street parking area shall not be changed to any other use until equal facilities are provided elsewhere. No parking area used or designated in connection with a building in existence on the effective date of this Chapter shall be reduced to provide fewer than the minimum number or parking spaces required under this Chapter.

16.19.3. **Fractional space.** When an application of the standards of this Chapter with respect to number of off-street parking spaces results in the need to provide a fraction of one space, any fraction of one-half or less shall be disregarded and any other fraction shall be construed as one.

16.19.4. **Uses not mentioned.** For any use not specifically mentioned in the schedule of off-street parking and loading requirements, the number of spaces required shall be that required for that use named in the schedule which is determined by the Planning Commission to be most similar.

16.19.5. **Improvement and maintenance.** Required parking and loading spaces, together with driveways, aisles and other circulation areas, shall be improved in such a way as to provide a durable and dust-free surface. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. The owner of any parking or loading area shall maintain the area in good condition without holes and free of all dust, trash and other debris.

16.19.6. **Schedule of off-street parking spaces.** The minimum number of off-street parking spaces for each type of use shall be determined in accordance with the following schedule:

CITATION	USE	MINIMUM NUMBER OF PARKING SPACES
R1	Single Family or Two Family Dwelling or Townhouse	2 per unit
R2	Mutli-Family Dwelling	2 per unit
R-R2	Senior Housing; Assisted Living	1 for each maximum occupancy
R3	Mobile Home Park	2 per unit
R1	Schools	1 per employee & 1 per 10 students
R1	Churches	1 per 4 seats
R1	Hospital; Long-term care facilities	1 per 3 beds
B1&D	Theaters, auditoriums, etc.	1 per 3 seats
B1&D	Dance halls, bars, restraunts, etc.	1 per 3 maximum occupancy.
B1&D	Bowling Alleys	4 per lane
C1	Motels, hotels	1 per unit
C1	Mortuaries	1 per (3) three maximum occupancy assembly room
B1&D	Retail Stores	1 per 300 square feet
B1&D	Offices	1 per 400 square feet
B1&D	Wholesale, warehouse	1 per employee
C1&D	Industrial Establishments	1 per 2 employees

## 16.20. **Mobile Homes.**

16.20.1. **Building Permit Required.** No mobile home shall be brought into or placed upon any lot in the City of Tyler, in a mobile home park or elsewhere, without first obtaining a building permit.

16.20.2. **Application Requests.** All building permits relating to mobile homes shall require the applicant to provide the date of manufacture. No mobile home shall be located in the City of Tyler unless such mobile home bears a construction label as required by HUD CFR 3280.8 and a data plate containing the information required by HUD CFR 3280.5. No mobile home will be permitted within the City of Tyler unless the same has been constructed after June 14, 1976.

16.20.3. **Installation.** All building permit applications shall include the name, address, and phone number of the registered installer who will be installing the mobile home; provided, however, an owner/occupant may install a mobile home owned by him personally. A person owning a mobile home for lease will not be considered an owner/occupant, and a registered installer will be required to install homes being offered for lease.

16.20.4. **Storm Shelter.** No mobile home permit shall be issued unless the mobile home operator has a storm shelter constructed in accordance with the requirements of the Minnesota Department of Health and approved by the Department of Health and City Council.

16.21. **Modular Home Regulations.** A modular home shall have the definition contained in the Tyler City Code, Section 16.10.19. Any modular home or manufactured home meeting some, but not all, of the requirements of this Section and Section 16.10.19 shall be considered a mobile home and shall comply with the Zoning Chapter as a mobile home. A modular home shall, in addition to the requirements of Section 16.10.19, comply with the following additional requirements:

16.21.01. Such home shall comply with all zoning regulations for the zone in which they are located;

16.21.02. A building permit and all other required permits shall be required for such structures;

16.21.03. A permanent foundation as contained in the definition of such homes shall be solid for the complete circumference of the home;

16.21.04. All such modular homes shall be built in compliance with Minnesota Statutes

and Rules regulating such manufactured homes;

16.210.5. Connection to all available City utilities is required. The question of whether a City utility is available shall be determined by the City Council;

16.21.06. The modular home shall be installed in such a way that the longest dimension of the structure shall be placed with the narrowest dimension of the lot on which the structure is located.

16.21.07. All metal siding shall have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.

16.21.08. Modular homes shall be permanently anchored to the foundation. Each modular home shall have a permanently constructed foundation which shall be constructed below the frost line. The foundation shall be solid for the entire circumference of the home.

16.21.09. If a modular home has been transported using axles or wheels, all such axles or wheels must be removed from the structure and are not permitted to remain attached.

16.21.10. No modular home shall be brought into the City of Tyler if the same was constructed more than twenty (20) years before the date on which it is proposed to be moved into the City.

16.42. **Nonconforming Uses and Structures.** Nonconformities are declared by this Chapter to be incompatible with permitted uses in the districts in which the nonconformity occurs. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Chapter by attachment on a building or land of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

16.43. **Nonconforming Lots of Record.**

6.43.1. **Dwelling on small lot.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this Chapter or amendment despite the fact that the lot fails to meet the requirements for area or width, in the district; but yard dimensions and other requirements for the lot shall conform to regulations for the district. This exemption from area and width requirements applies only to a lot without continuous street frontage with other lots in the same ownership.

16.43.2. **Lots in the same ownership.** If two or more lots or combinations of lots and portions of lots with continuous street frontage in single ownership are of record on the effective date of this Chapter, and if all or part of the lots do not meet the width and area requirements of this Chapter for lots in the district, that land involved shall be considered to be an undivided parcel for the purpose of this Chapter, and no portion of such parcel shall be used which does not meet lot width requirements of this Chapter, nor shall the parcel be so divided that any remaining lot does not comply with such requirements.

16.43.03. **Nonconforming use of land.** Any nonconforming use of land may be continued until expiration of the time fixed by section 16.405, subject to the following provisions:

16.43.03.01. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area than was occupied when the use became nonconforming;

16.43.03.02. No such nonconforming use shall be moved in whole or part to any other lot except to an area where the use is proper and conforming;

16.43.03.03. If any nonconforming use ceases for more than 60 days, any subsequent use of the land shall conform to the regulations of this Chapter for the district in which the land is located.

16.43.03.04. When a nonconforming use is superseded by a conforming use the nonconforming use shall not thereafter be resumed.

16.43.04. **Special exceptions for nonconforming mobile homes.** A special exception shall exist for mobile homes and the lots on which they are located as of the effective date of this Chapter.

16.43.04.01. Any lot on which a mobile home is presently located and which mobile home conforms in all other respects with this Chapter, except that the mobile home is located in an area which is designated for a use in which a mobile home is not a permitted use, may continue to be used as a lot for a mobile home as long as:

16.43.04.01.01. All other requirements of this Chapter are met and the structures in all other respects are conforming;

16.43.04.01.02. A mobile home is continuously located on said lot

and that the lot should not be vacant for a period in excess of 30 days during any six-month period.

16.43.04.02. **Replacement.** An existing mobile home may be replaced by the owner or occupant of the mobile home with another mobile home, providing the replacement home is at least five model years newer than the mobile home previously located on said lot; unless the mobile home located on the lot at the time a replacement is requested is less the five model years old, in which case the replacement mobile home shall be a mobile home built in the current model year. All of the rights, special exceptions and authorization for use which would exist for a mobile home which was in place on a lot on the effective date of this Chapter shall then be available to and inure for the benefit of a mobile home placed on said lot.

16.44. **Nonconforming Structures with Conforming Use.** A nonconforming structure, lawful except for the provisions of this Chapter, may be continued so long as it remains otherwise lawful, subject to sections 16.45 and 16.46 and the subsections thereof and the following provisions:

16.44.01. **Change in nonconformity.** No such structure shall be enlarged or altered in a way which increases its nonconformity, but it may be altered to decrease its nonconformity;

16.44.02. **Substantial destruction.** If the nonconforming structure or nonconforming portion of the structure is destroyed to an extent of more than 60 percent of its replacement costs exclusive of the foundations any reconstruction shall conform to the provisions of this Chapter;

16.44.03. **Moving structure.** If the nonconforming structure is moved to another lot it shall thereafter conform to the regulations for the district to which it is moved.

16.45. **Nonconforming Uses of Structures and Land.**

16.45.01. **Continuance permitted.** A nonconforming use of a structure or of structure and land in combination may be continued so long as it remains otherwise lawful, subject to the following provisions.

16.45.02. **Structural change.** No existing structure containing a nonconforming use shall be enlarged, extended, reconstructed, moved or structurally altered except in changing the use of the structure to a conforming use.

16.45.03. **Extension of nonconforming use.** A nonconforming use may be

extended throughout any parts of a building which were manifestly arranged or designed for such use when the use became nonconforming, but no such use shall be extended to occupy any land outside the building.

16.45.04. **Resumption of nonconforming use.** Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall hereafter conform to the regulations for the district, and the nonconforming use shall not thereafter be resumed.

16.45.05. **Discontinuance.** When a nonconforming use of a structure or structure and land in combination ceases for six (6) consecutive months or for twelve (12) months during any two (2) year period, the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district.

16.45.06. **Destruction of nonconforming structure.** When a nonconforming use of a structure and land in combination exists, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this provision means damage to an extent of more than sixty (60) percent of the replacement.

#### 16.46. **Time for Termination.**

16.46.01. **In general.** Notwithstanding any other provision of this article, no nonconforming building or use specified in this section shall continue beyond the period specified in this section.

16.46.02. **Salvage yards.** No salvage yard may continue without a special use permit for more than two (2) years after the effective date of this Chapter, except that a salvage yard may continue as a nonconforming use in a business or commercial-industrial district if within that period it is completely enclosed within a building or within a continuous solid fence of such height, not less than eight (8) feet in any case, as to screen completely the operations of the salvage yard. Plans of such building or fence shall be approved by the Planning Commission before it is erected.

16.46.03. **Amortization period for buildings.** No nonconforming use of a building and no nonconforming building may be continued for more than the end of a reasonable period for amortization of the building specified in this subdivision or more than ten (10) years after the effective date of this Chapter, whichever is later. Such amortization period, commencing with completion of erection of the building is fixed at:

16.46.03.01. Thirty (30) years for any building of ordinary wood frame

construction;

16.46.03.02. Forty (40) years for any building of wood and masonry construction;

16.46.03.03. Fifty (50) years for any building of other construction.

16.47. **Repairs and Maintenance.** Any nonconforming structure or portion of structure containing a nonconforming use may be maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the cubic content existing when it became nonconforming is not increased. This Chapter does not prevent the strengthening or restoring of any structure or part thereof declared to be unsafe by order of an official charged with protecting the public safety.

16.48. **Uses under Special-use Permit.** When a use is granted a special-use permit in a district in which such a use is authorized under permit, the use is deemed a conforming use.

16.49. **Nonconformities Created by Amendment.** When a nonconformity in a structure or the use of land or a structure is created by an amendment to this Chapter, the rights granted by this section to the continuance of nonconformities apply to nonconformities existing on the date of the amendment.

16.50. **Building under Construction.** Nothing in this Chapter requires a change in the plans, construction or designated use of any building on which actual construction was lawfully done prior to the effective date of this Chapter or amendment thereto and has been carried on diligently. Actual construction means the placing of construction materials in permanent position and fastening them in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding and is carried out diligently, such demolition or removal is deemed to be actual construction.

16.51. **Administration and Enforcement.**

16.52. **Administration Officer.** The City Administrator shall serve as the zoning administrator who shall be responsible for enforcing this Chapter. In carrying out this general authority, he or she shall:

16.52.1. Administer the requirements of this Chapter for building permits and issue or deny each application in accordance with the provisions of this Chapter within forty (40) days of receipt of the application for a building permit;

16.52.2. Conduct inspections of buildings and the use of land to determine compliance with the terms of this Chapter;

16.52.03. Maintain permanent and current records pertaining to the Chapter, including but not limited to, maps, amendments, special uses, variances, appeals, planned unit developments and applications therefore;

16.52.04. Receive, file and forward applications for appeals, variances, special-use permits or other action to the appropriate official bodies;

16.52.05. Provide clerical and technical assistance to the board;

16.52.06. Make recommendations to the Council on the institution of appropriate actions or proceedings for enforcement of this Chapter, on amendments, and on any other matters relating to the administration of this Chapter.

16.53. **Building Permits.** No structure shall be erected, added to, structurally altered or moved when the construction, erection, alteration or moved item has a value in excess of \$100.00, until a permit therefore has been issued by the zoning administrator. Except upon written order of the board no building permit shall be issued for any structure where the construction, additional moving or use thereof would be in violation of this Chapter. Application for a building permit shall be made to the zoning administrator on a form furnished by the city. With every application for a building permit there shall be submitted two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory building to be erected, and such information as may be necessary to determine compliance with this Chapter. The fee for a building permit shall be fixed in Chapter 18 of the Tyler City Code. The fee for a building permit shall be paid by the applicant at the time application for a permit is made. The zoning administrator shall issue the building permit only if he determines that the building plans and the application comply with the terms of this Chapter.

16.53.01. **Building Permits - Duration.** All building permits issued by the zoning administrator shall state the date on which the permit was issued. In addition to the date on which the permit was issued, the zoning administrator shall, after consultation with the applicant, state a date on the building permit not more than one year after the date of issuance, by which date all work to be performed according to the terms of the building permit shall have been completed. The zoning administrator shall provide to the applicant the original or a copy of the original building permit.

All work on the project for which the building permit has been issued shall be completed by the completion date shown on the building permit, or if no date is shown, then not later than one year after the date the building permit is issued. The failure of the zoning administrator to include a date on the building permit by which the work is to be completed shall not affect the requirement that the work shall be completed within one year from the date of issuance, nor shall it constitute a defense to the timely

completion of the project.

If any person, corporation, partnership or other applicant for a building permit shall fail to complete a project within the time period set forth above, he shall be guilty of a misdemeanor. The failure of work to be completed on the project shall constitute a misdemeanor for both the applicant and the owner of the premises. The applicant and the owner shall be responsible for the timely completion of the project by contractors if the applicant or owner elects to hire contractors to perform the project. The failure of the zoning administrator to provide a copy of the building permit or to state the dates as set forth above shall not constitute a defense for the violation of this provision.

**16.53.2. Issuance of a Building Permit.** Building Permits may be issued by the City Council after receipt by the zoning administrator of an application and the appropriate filing fee at the City Council's next regular or special meeting upon a majority vote in favor of issuance. No building permit shall be issued within seventy-two (72) hours after application under any circumstances. It shall constitute cause to reject any Building Permit Application if the same is not fully completed in compliance with all the requirements of the Tyler City Code of 2005. Failure to obtain a valid Building Permit prior to commencing construction is a misdemeanor. In addition to any criminal penalties imposed, the structure or so much of it as has been completed may be ordered removed from the premises built upon.

#### **16.54. Board of Appeals and Adjustments.**

**16.54.1. Board created.** There is hereby created a Board of Appeals and Adjustments comprised of the members of the City Council of the City of Tyler. The term of the members of the Board of Appeals and Adjustments shall be co-terminous with his term on the City Council. Each member shall serve until his successor is qualified. Members shall serve without compensation. Staff services for the board shall be furnished by the zoning administrator.

**16.54.2. Procedure.** Three members of the board constitute a quorum, and a majority of all the members is necessary for any decision of the board. The mayor shall serve as chairman and the City Administrator as secretary. Subject to the provisions of this Chapter, the board may adopt rules necessary to the conduct of its affairs. The chairman, or, in his absence, the acting chairman may administer oaths to witnesses. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions.

**16.54.3. Powers and duties of board.** The board shall have the power and duty of

hearing and deciding, subject to judicial appeal, appeals or requests in the following cases:

16.54.3.1. Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this Chapter.

16.54.3.2. Requests for variances from the literal provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

16.55. **Appeal.** An appeal for administrative review as specified in 16.54 may be taken to the board by any person, firm or corporation or any city officer, department or agency affected by a decision of the zoning administrator. Such an appeal shall be taken by filing a notice of appeal specifying the grounds thereof with the zoning administrator, and the board within thirty (30) days after the decision. If the appeal is not taken by the owner of the property which is the subject matter of the decision appealing from, the notice shall not be so filed until after it has been served upon such owner either in person or by mail. The zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. An appeal for an administrative review or a variance stays all proceedings, including criminal proceedings, in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In that case the proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction. An application for a variance may be filed by the owner of the affected property at any time.

16.56. **Variances.** A variance shall be granted to allow a use not permissible under the terms of this Chapter in the district involved. In granting a variance the board, or the council on appeal, may prescribe appropriate conditions in conformity with this Chapter. When such conditions are made part of the terms under which the variance is granted violation of the conditions is a violation of this Chapter. A variance shall not be granted by the board, or by the council on appeal unless it conforms to the following standards:

16.56.01. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and do not result from the actions of the petitioner;

16.56.02. Literal interpretation of the provisions of this Chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this Chapter.

16.56.03. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures or building in the same

district;

16.56.04. The proposed variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or welfare of the residents of the city.

16.57. **Decision by Board.** Upon filing with the board a request for variance or an appeal from an administrative order or determination, the board shall set a date for hearing thereon, which shall be no later than forty (40) days from the date of filing, and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of any such hearing shall be mailed not less than ten (10) days before the date of hearing to the person who filed the appeal or request, and in the case of a request for a variance, to each owner of property situated wholly or partly within 350 feet of the property to which the variance relates, insofar as the names and addresses of such owners can be determined by the clerk from records available to the public. Within a reasonable time after the hearing the board shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail, but the board shall not make its order until the planning agency has had a reasonable time, not to exceed sixty (60) days, to review and report to the board upon the appeal or petition. The decision of the board shall be final, subject only to judicial review taken by the appellant or petitioner. If the appellant or petitioner desires judicial review of a board decision he shall, within forty-five (45) days of the date of the board's order, file with the City Administrator a notice of intention to appeal for judicial relief; if said notice shall not be filed, the action of the board shall be final.

16.58. **Form of Action Taken and Record Thereof.** The board and the Council on appeal shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including its final order. The City Administrator shall maintain a permanent record of the disposition of all appeals to the Council from decisions of the board.

16.59. - 16.60. **Reserved.**

16.61. **Special Use Permits.** A special use permit may be issued in accordance with this section for any use of purpose for which such permits are required or permitted by this Chapter.

16.61.01 Application for a special use permit shall be made by the owner to the Planning Commission on a form prescribed by the Commission and accompanied by such other information as required by rules of the Commission.

16.61.02. The Planning Commission may hold such hearings on the proposal to issue a special use permit as it considers necessary and it shall thereafter make such recommendations of the proposal to the Council as it deems advisable.

16.62. **Standards.** The Planning Commission shall recommend a special use permit and the Council shall order the issuance of such permit only if it finds that such use at the proposed location:

16.62.01. Will not be detrimental to or endanger the public health, safety morals, comfort, convenience or general welfare of the neighborhood or the city;

16.62.02. Will be harmonious with the general and applicable specific objectives of the comprehensive plan of the city and this Chapter;

16.62.03. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;

16.62.04. Will not be hazardous or disturbing to existing or future neighboring uses;

16.62.05. Will be served adequately by essential public facilities and services, including, but not limited to, streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;

16.62.06. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

16.62.07. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors or other hazardous materials;

16.62.08. Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;

16.62.09. Will conform to specific standards of this Chapter applicable to the particular use.

16.62.10. No special use permit shall be issued for the operation of a feedlot within the City of Tyler.

16.62.11. No special use permit shall be issued for the use of a pasture within the City of Tyler

16.63. **Conditions.** In recommending or approving any special use permit the Planning Commission and the council may impose conditions which it considers necessary to meet the standards of this Chapter and to protect the best interests of the surrounding area or the city as a whole.

16.64. **Expiration.** If substantial construction has not taken place within one year after the date of a special use permit, the permit is void.

16.65. **Amendment.** An amendment to this Chapter may be initiated by the City Council or the Planning Commission. When the amendment involves changes of district boundaries affecting an area of five acres or less and an amendment is initiated by petition, the petition shall be signed by not less than fifty (50) percent of the owners of property situated within 350 feet of the proposed change. Amendments shall be considered and adopted in accordance with procedural requirements imposed by statute.

16.66. **Penalty.** Any person who violates any provision of this Chapter is guilty of a misdemeanor. Each day that the violation is permitted to exist constitutes a separate offense.

16.67 - 16.69. **Reserved.**

16.70. **Accessory Building Height & Width Regulations.** No accessory buildings without a special use permit within areas designated as R-1, R-2, or R-3 shall be constructed or existing buildings renovated to include sidewalls in excess of 10 feet in height or 40 feet in length.

16.71. **Pipeline Setback.** All buildings and places of public assembly shall be constructed not closer to the pipeline than the boundary of the pipeline easement.

16.72. **Variance.** Variance procedures for this provision shall be those followed by the City Council of the City of Tyler on all other zoning issues and as set forth in M.S. 462.351 et seq. as amended from time to time.

16.73. **Schedule of Regulations**

16.73.01 Residential R1	
Permitted Uses	Special Uses

<b>16.73.01 Residential R1</b>	
<ul style="list-style-type: none"> <li>(1) Agricultural Field Crop Production</li> <li>(2) Single-family Dwellings</li> <li>(3) Public and Parochial Schools</li> <li>(4) Public Parks and Playgrounds</li> <li>(5) Churches</li> <li>(6) Essential Services</li> <li>(7) Accessory Uses</li> <li>(8) Fire Stations</li> <li>(9) Public Parks, Fairgrounds &amp; Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>(1) Cemeteries</li> <li>(2) Recreational Uses</li> <li>(3) Pre-schools and Licensed Daycare Centers</li> <li>(4) Two-Family Dwellings</li> <li>(4) Public Utility Buildings</li> <li>(5) Water Recreation and Water Storage</li> <li>(6) Municipal Buildings and Libraries</li> <li>(7) Home Based Occupations</li> <li>(8) Health Clubs and Wellness Centers</li> <li>(9) Accessory Building with sidewall exceeding 10 feet in height and 40 feet in length</li> </ul>

<b>16.73.02. Residential R2</b>	
<b>Permitted Uses</b>	<b>Special Uses</b>
<ul style="list-style-type: none"> <li>(1) Agricultural Field Crop Production</li> <li>(2) Single-family Dwellings</li> <li>(3) Two-family Dwellings</li> <li>(4) Multi-family Dwellings</li> <li>(5) Public and Parochial Schools</li> <li>(6) Public Parks and Playgrounds</li> <li>(7) Churches</li> <li>(8) Essential Services</li> <li>(9) Accessory Uses</li> <li>(10) Modular Homes</li> <li>(11) Museums</li> <li>(12) Hospitals and Clinics</li> </ul>	<ul style="list-style-type: none"> <li>(1) Cemeteries</li> <li>(2) Home Based Occupations</li> <li>(3) Recreational Uses</li> <li>(4) Pre-schools and Licensed Daycare Centers</li> <li>(5) Public Utility Buildings</li> <li>(6) Fire Stations</li> <li>(7) Water Recreation and Water Storage</li> <li>(8) Municipal Buildings and Libraries</li> <li>(9) Home Based Offices and Businesses</li> <li>(10) Health Clubs and Wellness Centers</li> <li>(11) Accessory Building with sidewall exceeding 10 feet in height and 40 feet in length</li> </ul>

<b>16.73.03. Residential R3</b>	
<b>Permitted</b>	<b>Special Uses</b>
<ul style="list-style-type: none"> <li>(1) Agricultural Field Crop Production</li> <li>(2) Single-family Dwellings</li> <li>(3) Two-family Dwellings</li> <li>(4) Multi-family Dwellings</li> <li>(5) Public and Parochial Schools</li> <li>(6) Public Parks and Playgrounds</li> <li>(7) Churches</li> <li>(8) Essential Services</li> <li>(9) Accessory Uses</li> <li>(10) Mobile Homes</li> <li>(10) Modular Homes</li> <li>(12) All uses permitted in Districts R1 and R2</li> </ul>	<ul style="list-style-type: none"> <li>(1) Cemeteries</li> <li>(2) Home Occupations</li> <li>(3) Recreational Uses</li> <li>(4) Pre-schools and Licensed Daycare Centers</li> <li>(5) Public Utility Buildings</li> <li>(6) Fire Stations</li> <li>(7) Water Recreation and Water Storage</li> <li>(8) Municipal Buildings and Libraries</li> <li>(9) Home Based Offices and Businesses</li> <li>(10) Health Clubs and Wellness Centers</li> <li>(11) Accessory Building with sidewall exceeding 10 feet in height and 40 feet in length</li> </ul>

<b>16.73.04. General Business B1</b>	
<b>Permitted Uses</b>	<b>Special Uses</b>
<ul style="list-style-type: none"> <li>(1) Retail Businesses</li> <li>(2) Eating and Drinking Establishments</li> <li>(3) Offices</li> <li>(4) Personal and Professional Services</li> <li>(5) Municipal Buildings and Libraries</li> <li>(6) Fire Stations</li> <li>(7) Commercial Schools</li> <li>(8) Commercial Recreation</li> <li>(9) Animal Clinics</li> <li>(10) Agricultural Field Crop Production</li> <li>(11) Funeral Homes</li> <li>(12) Auto Service and Repair</li> <li>(13) Hotels and Motels</li> </ul>	<ul style="list-style-type: none"> <li>(1) Water Recreation and Water Storage</li> <li>(2) Research Laboratories</li> <li>(3) Public Utility Buildings</li> <li>(4) Planned Unit Business Projects</li> <li>(5) Multiple-family Dwellings</li> <li>(6) Wholesale Businesses</li> <li>(7) Supply Yards</li> <li>(8) Multi-family Dwellings</li> <li>(9) Hospitals and Clinics</li> <li>(10) Pre-schools and Licensed Daycare Centers</li> </ul>

<b>16.73.05. Downtown D1</b>	
<b>Permitted Uses</b>	<b>Special Uses</b>
<ul style="list-style-type: none"> <li>(1) Retail Businesses;</li> <li>(2) Eating and Drinking Establishments</li> <li>(3) Offices</li> <li>(4) Personal and Professional Services</li> <li>(5) Municipal Buildings and Libraries</li> <li>(6) Fire Stations</li> <li>(7) Commercial Schools</li> <li>(8) Funeral Homes</li> <li>(9) Public Parks</li> <li>(10) Public Utility Buildings</li> <li>(11) Auto Sales, Service and Repair</li> <li>(12) Banks and Lending Institutions.</li> <li>(13) Laundromats</li> </ul>	<ul style="list-style-type: none"> <li>(1) Water Recreation and Water Storage</li> <li>(2) Research Laboratories</li> <li>(3) Planned Unit Business Projects</li> <li>(4) Apartment Dwellings</li> <li>(5) Wholesale Businesses</li> <li>(6) Supply Yards</li> <li>(8) Recreational</li> </ul>

<b>16.73.06. Commercial - Industrial C/I</b>	
<b>Permitted uses</b>	<b>Special Uses</b>
<ul style="list-style-type: none"> <li>(1) Research and Testing Laboratories</li> <li>(3) Supply Yards</li> <li>(4) Warehousing</li> <li>(5) Auto Sales, Service and Repair</li> <li>(6) Truck Terminals</li> <li>(7) Light Manufacturing</li> <li>(8) Home and Trailer Sales and Display</li> <li>(9) Grain Handling and Storage and Feed Sales</li> <li>(10) Wholesale Business</li> <li>(11) Essential Services</li> <li>(12) Accessory Uses</li> <li>(13) Agricultural Field Crop Production</li> </ul>	<ul style="list-style-type: none"> <li>(1) Water Recreation and Water Storage</li> <li>(2) Fire Station and Municipal Buildings</li> <li>(3) Public Utility Buildings</li> <li>(4) Planned Unit Business Projects</li> <li>(5) Retail Businesses</li> <li>(6) Offices</li> <li>(7) Manufacturing</li> <li>(8) Planned Unit Industrial Projects</li> <li>(9) Salvage Yards</li> </ul>

<b>16.73.07. Agricultural A1 &amp; Flood Plain F1</b>	
<b>Permitted Uses</b>	<b>Special Uses</b>
(1) Playgrounds and Public Parks. (3) Essential Services (4) Accessory Uses (5) Municipal Buildings (6) Agricultural Field Crop Production (7) Golf Courses (8) Fairgrounds (9) Waste Water Treatment Facilities (10) Municipal Airports	(1) Feedlots (2) Pastures

<b>16.74. Area, Yard, Building Requirements in Feet</b>								
<b>Zoning Designation</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>B1</b>	<b>B1</b>	<b>D1</b>	<b>C/I</b>	<b>AG1/FP</b>
<b>Minimum Lot Size (square feet)</b>	10,000	10,000	10,000	0	0	0	25	2 acres
<b>Front Yard (feet)</b>	25	25	25	25	25	5	25	25
<b>Side Yard -Each (feet)</b>	10	10	10	5	5	0	5	5
<b>Side Yard- Corner lot Side facing Street (feet)</b>	25	25	25	25	25	5	5	5
<b>Rear Yard (feet)</b>	15	15	15	15	15	15	15	15