

**ORDINANCE # 50
ZONING ORDINANCE**

IS

AMENDED BY # 79

AMENDED BY # 91-6

AMENDED BY # 99-5

AMENDED AND ENACTED BY # 99-7

AMENDED BY # 06-06

AMENDED BY # 10-17

AMENDED BY # 13-09

ORDINANCE NO. 50

AN ORDINANCE OF THE CITY OF DANBURY, BRAZORIA COUNTY, TEXAS, DIVIDING SAID CITY INTO CERTAIN ZONES OR DISTRICTS AND ESTABLISHING ZONING WITHIN SAID CITY, CONTAINING DEFINITIONS, DIVIDING SAID CITY INTO DISTRICTS AND ESTABLISHING USE REGULATIONS, MINIMUM LOT DIMENSIONS, SET BACK DIMENSIONS, AREA REGULATIONS, NONCONFORMING AND GENERAL USE REGULATIONS, HEIGHT AND AREA REGULATIONS AND EXCEPTIONS, PROVIDING FOR CERTIFICATE OF OCCUPANCY AND COMPLIANCE, PROVIDING DESCRIPTIONS OF DISTRICTS, PROVIDING A BOARD OF ADJUSTMENTS, PROVIDING FOR APPEALS, PROVIDING A METHOD OF CHANGES AND AMENDMENTS, CONTAINING GENERAL PROVISIONS, PROVIDING FOR COMPLETIONS OF EXISTING BUILDINGS, RATIFYING PREVIOUS ORDINANCES, CONTAINING A SAVINGS CLAUSE, PROVIDING A PENALTY AND FINE FOR VIOLATION OF THE ORDINANCE, PROVIDING CIVIL REMEDIES, CONTAINING A PROVISION MAKING THE PROVISIONS CUMULATIVE, STATING THAT A FIRE ORDINANCE SHALL CONTROL, DECLARING AN EMERGENCY, AND OTHER THINGS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DANBURY, BRAZORIA COUNTY, TEXAS, duly assembled at a continuation of a regular monthly meeting, at its regular meeting place with a quorum present, and after all notices having been given as required by law, as follows, to-wit:

Sec. 1. Definitions.

For the purpose of this ordinance certain terms and words are herewith defined as follows:

- (1) Accessory building. A subordinate building or portion of main buildings the use of which is incidental to that of the main building.
- (2) Alley. A public way of urban uses not exceeding twenty feet in width, unless otherwise designated to be of greater width in dedication, recorded deed or decree of court.
- (3) Apartment house. See "Dwelling, Multiple".
- (4) Boarding house. A building other than a hotel, where lodging and/or meals for five or more persons are served for compensation.

(5) Building. A structure, having a roof supported by columns or walls for shelter or enclosure of persons, animals or chattels.

(6) Tourist camp. Same as hotel.

(7) City Council. The governing body of the City of Danbury, composed of the mayor and five aldermen.

(8) Person. This includes the plural and any firm, partnership, association or corporation.

(9) Curb level. The mean level of the established curb in front of the building. Where no curb has been established the city engineer, if any, shall establish such curb level for the purpose of these regulations; otherwise, said level shall be approved by the building inspector.

(10) Dwelling, single family. A building occupied by but one family alone.

(11) Dwelling, two families. A building arranged, intended or designed to be occupied by two families.

(12) Dwelling, multiple (apartment). A dwelling occupied otherwise than as a single family or two family dwelling.

(13) Family. Any number of individuals living and cooking together on the premises as a single housekeeping unit.

(14) Garage, private. A garage with capacity for not more than three motor vehicles, for storage only.

(15) Garage, public. Any building or premises used for housing or caring for or for the care of more than three motor driven vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

(16) Height of building. The vertical distance measured from the mean curb level to the level of the highest point of the building. Where a building is situated on a terrace above the curb level such building height shall be measured from the level of the adjoining ground. The height of accessory

buildings shall be measured from the ground line to the eaves.

(17) Hotel. A building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied singly for hire, in which provision is not made for cooking in any individual apartment, and in which there are more than twenty (20) sleeping rooms, with or without a public dining room for the accommodation of at least twenty (20) guests and a general kitchen.

(18) Lodging house. A building, other than a hotel where lodging for five or more persons is provided for compensation.

(19) Lot. Land occupied or to be occupied by a building and its accessory buildings and including such open spaces as are required under this ordinance, and having its frontage upon a public street, or any private way used for street purposes.

(20) Lot, corner. A lot fronting on two or more streets intersecting at an angle of not more than one hundred thirty five (135) degrees.

(21) Lot area. A parcel of land under common ownership with a minimum area of seven thousand two hundred fifty (7,250) square feet and a minimum width of fifty (50) feet.

(22) Lot, interior. A lot with frontage on but one street.

(23) Lot, through. A parcel of land extending through a block from one street to another.

(24) Lot lines. Lines bounding a lot.

(25) Nonconforming use. A building or premises occupied and used for a purpose that does not conform with the use regulations of the district in which it is located.

(26) Setback. The minimum horizontal distance between the front line of the building excluding steps and unenclosed porches, and the street line.

(27) Plate or sign. Any structure or part thereof on which is lettered, pictured or displayed matter the chief purpose of which is for advertising or publicity.

(28) Stable, private. A stable with a capacity of not more than three horses.

(29) Stable, public. A stable in which orses are kept for remuneration, hire or sale.

(30) Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between such floor and the ceiling next above it.

(31) Story, half. That portion of a building between the eaves and the ridge lines of a pitched roof, which may or may not be used for tenant purposes.

(32) Street. A public thoroughfare more than twenty (20) feet in width, unless designated otherwise.

(33) Place. An opened unoccupied space dedicated to purposes of access for abutting property.

(34) Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, excepting such alterations as may be required for the safety of the building.

(35) Yard, depth of rear. The minimum horizontal distance between the real line of a building, other than of a building for accessory use, and the real lot line or center of alley in case an alley exists.

(36) Yard, rear. A space unoccupied except for a building for accessory use as hereafter permitted, extending for the full width of the lot between a building other than a building for accessory use and the rear lot line or, to the center of the alley in case an alley exists.

(37) Yard, side. An open unoccupied space on the same lot with the building, between the building and the side lot line and extending from the street

line to the rear yard.

(38) Porch, unenclosed. A platform attached to a building and covered by a roof supported by columns or piers of moderate width; the opening between such supports may be fitted with open wire cloth screens, but not with any material interfering to a greater extent with a passage of light and air. If a balustrade or shirting is built around the exterior edge of an otherwise open porch extending into the setback area, such balustrade or shirting shall not be higher than thirty (30) inches above the porch floor.

(39) Porch, enclosed. Any porch with frame or masonry exterior walls to a point thirty (30) inches or more above the porch floor, and the remainder of the opening to the ceiling enclosed with glass or window construction of any type.

Sec. 2. District regulations.

(a) For the purpose of this ordinance, the City of Danbury is hereby divided into the following districts, to-wit:

"A" Residence Districts;

"B" Restricted Commercial and Residence Districts;

"C" Commercial Districts;

"D" Industrial Districts; and,

"E" Heavy Industrial Districts.

(b) The said districts and the boundaries thereof are delineated and shown upon a map attached hereto marked Exhibit "A - Zoning Map of the City of Danbury." The said map and all the notations, references and other data shown thereon, and all corrections, amendments, additions and deletions thereto, are hereby made and shall be as much a part of this ordinance as if all the information and data set forth and shown on said map were fully described herein.

Sec. 3. "A" Residence District.

(a) Use regulations.

Unless hereinafter provided, no building shall be hereafter erected, repaired or altered with an "A" Residence District, except for one or more of the following uses:

- (1) One-family residence, two-family residence;
- (2) Church, parish house, public school, or library;
- (3) Private club, other than a riding club, and also other than a club the chief activity of which is a service customarily carried on as a business;
- (4) Public park, playground, tennis court, swimming pool, wading pool, athletic field, golf course, but not including a miniature golf course, or swimming pool operated as a commercial enterprise.
- (5) Public recreational building, museum, art gallery, auditorium or community building;
- (6) Farming, truck gardening, orchard, nursery or greenhouse; provided no sales office is maintained as a building separate and apart from a residence or accessory buildings customarily incident to such use as a residence;
- (7) Accessory building customarily incident to the above when located upon the same lot;
- (8) Customary home occupation engaged in by the occupants of a dwelling or residence and uses customarily incident to the above when located on the same lot. Such uses may include a beauty salon, the office of a physician, surgeon, dentist, musician, lawyer, artist, architect or engineer, when situated in the same building used for residential purposes; and,

- (9) A name plate or sign not exceeding four (4) square feet in area, pertaining to the lease or sale of property on which such sign is located, or to the activities carried on in a public or semipublic building, shall be permitted as an accessory use.

(b) In an "A" Residence District, the minimum dimensions of yards and the minimum lot area per family, except as provided in Section 9, shall be as follows:

- (1) Lot area per family. Each dwelling hereinafter erected or structurally altered in this district shall provide a lot with area dimensions of not less than seven thousand two hundred fifty (7,250) square feet and with a minimum width of fifty (50) feet, as provided in Section 1, of paragraph 21, of this ordinance defining "Lot Area." Property which has been used once to fulfill the minimum area requirements about a building shall not be used again to fulfill the area requirements about a second building, provided however, that where the ownership of a lot is separate and distinct from adjacent lots and is included in a plat or deed of record at the time of the passage of this ordinance, and has less area than herein required, this regulation shall not apply.
- (2) Setback. There shall be a setback line of not less than twenty-five (25) feet provided that, when the majority of buildings built on one side of a street between two intersecting streets at the time of the passage of this ordinance have been built with a minimum setback of more or less than twenty-five (25) feet from the street line, no building hereafter erected or altered shall project beyond the

minimum setback line so established; provided that no building shall be required by this ordinance to set back more than forty (40) feet in any case; and provided further that this regulation shall not be so interpreted as to reduce the buildable width of a corner facing an intersection street and which is separate and distinct from adjacent lots and is included in a plat or deed of record at the time of the passage of this ordinance to less than twenty-four (24) feet.

- (3) Side yard. There shall be a side yard of not less than five (5) feet in width on each side of a dwelling.
- (4) Rear yard. There shall be a rear yard having a minimum depth of twenty-five (25) feet. This is not to be construed to reduce the building depth of a house below twenty-four (24) feet; however, in no case shall the rear yard be less than seven (7) feet in depth.
- (5) Accessory Building. An accessory building not exceeding twelve (12) feet in height may occupy not more than thirty (30) per cent of the rear yard.
- (6) Places of public assembly. Any such use such as churches, schools and community buildings or any place of public assembly seating one hundred (100) persons or more, located in an "A" Residence District, shall observe the regular setback requirements of that district and there shall be a side yard of not less than fifteen (15) feet and there shall be a rear yard of not less than fifteen (15) feet.

Sec. 4. "B" Restricted Commercial and Residential districts.

- (a) Use regulations.

Unless hereinafter provided, no building or premises shall be used and no building shall be hereafter erected or structurally altered within a "B" Restricted Commercial and Residential District" except for one or more of the following uses:

- (1) Any use permitted in "A" Residence Districts;
- (2) Apartment house, boardinghouse, lodginghouse, rooming house, hotel or apartment hotel;
- (3) Hospital or clinic (other than for tubercular, liquor, narcotic, insane or feeble minded patients), nurses home;
- (4) Institutions of an educational or philanthropic nature, other than a correctional or penal institution;
- (5) Retail store or shop in which articles are sold at retail on the premises or are made to be sold at retail on the premises, provided mechanical power units not in excess of ten horsepower each are used, and further provided, that such use is not noxious or offensive by reason of the emission of smoke, dust, noise, odor, fumes or gas;
- (6) Office building, offices, banks, moving picture show, postoffice, telegraph office, or theatre;
- (7) Dry cleaning and pressing shop or laundry having no more than four employees; restaurants, auto sales rooms, public garage and service stations.
- (8) Accessory building customarily incident to the above when located upon the same lot, and when not noxious or offensive by reason of the emission of smoke, dust, noise,

odor, fumes or gas;

(9) Customary home occupation and uses customarily in-

cident to the above when located upon the same lot.

(10) Funeral homes;

(11) Any plat or sign not interfering with the view in that area

pertaining to the lease or sale of property on which such

sign is located or to the activities carried on in a public

or semi-public building shall be permitted as an accessory

use.

(12) Any use such as churches, schools and community build-

ings or any place of public assembly seating one hundred

persons or more, located in a "B" Restricted Commercial

and Residence District shall observe the regular setback

requirements of that district and there shall be a side

yard of not less than fifteen (15) feet and there shall be

a rear yard of not less than fifteen (15) feet.

(b) Area regulations.

(1) Lot area. In "B" Restricted Commercial and Residence

Districts the minimum dimensions of yards for property

occupied for residential use and the minimum lot area

per family and the setback, side yard, rear yard and

other requirements shall be the same as provided in

"A" Residence Districts, as set forth in paragraph (b)

section (3) of this ordinance.

Section 5. "C" Commercial districts.

(a) Use regulations.

In a "C" Commercial District, no building or premises shall be used

and no building shall be erected, or structurally altered, except for one or more

of the following purposes:

- (1) Any use permitted in "A" Residence Districts and/or in "B" Restricted Commercial and Residence Districts;
- (2) Bottling works, bus stations, cold storage plant, commercial amusement park, creamery, dyeing establishment, engraving plant, freight station, ice cream manufactory, laundry, milk depot, monument works, passenger station, pasteurizing plant, printing plant, gasoline self-service filling station, drive-in eating and drinking establishments, wholesale office, storage of materials in buildings, manufacturing or commercial enterprises not hereinafter listed in section 4 of this ordinance, provided that mechanical power units not in excess of ten (10) horsepower each are used, and further provided that such use is not noxious or offensive by reason of the emission of smoke, dust, odor, fumes, noise or gas; and
- (3) Accessory buildings and uses customarily incident to the above, when located upon the same lot and when not noxious or offensive by reason of the emission of smoke, dust, odor, fumes, noise or gas.

(b) Area regulations.

For property occupied for residential use in a "C" Commercial District, the area regulations for the setback, rear yard, side yard requirements and all other area regulations, shall be the same as provided for in paragraph (b) of section 3 of this ordinance.

(c) Nothing contained in this section shall prevent the use of the entire lot for the uses, other than residential, which are permitted in this section.

Sec. 6. "D" Industrial Districts.

(a) Use regulations.

In a "D" Industrial District, no building or premises shall be used and no building shall be erected, or structurally altered, except for one or more of the following uses:

- (1) Any use permitted in "A" Residence Districts or "B" Restricted Commercial and Residence Districts, or "C" Commercial Districts.
- (2) Canning and preserving plant, central power or lighting plant, cotton gin or cotton compress, dye manufactory, lumber yards, flour mills, grain elevator, railroad yards, railroad shops, railroad roundhouse, textile manufactory, paving plant, and other similar uses;
- (3) Public stable, disinfectant or insecticide manufactory, veterinary hospital, blacksmith shop, storage of live poultry, and other similar uses; coal yard, loading or storage tracks, warehouse, warehousing.
- (4) Bulk storage in the open of any material except bones, sulphur, chemicals, hides, junk, wrecked or junked automobiles, trucks or tractors, scrap iron, scrap paper or rags and other articles which emit odors and/or fumes, and correctional or penal institutions.
- (5) Accessory buildings and uses customarily incident to the above when located upon the same lot.

(b) Area regulations.

For property occupied for residential use in an Industrial District, the area regulations and the setback, rear yard, side yard requirements and all other area regulations shall be the same as provided for in paragraph (b) of

section 3 of this ordinance.

(c) Nothing contained in this section shall prevent the use of the entire lot or lots for the uses, other than residential, which are permitted by this section.

Sec. 7. "E" Heavy Industrial Districts.

(a) Use regulations.

In an "E" Heavy Industrial District no building or premises shall be used, and no building shall be erected, or structurally altered except for one or more of the following uses:

- (1) Any use permitted in "C" Commercial Districts, and "D"

Industrial Districts, except dwellings.

- (2) Permissible on appeal to the Zoning Board of Adjustment

are the following uses: Manufacture or refining of ammonia, bleaching powder, chlorine, asphalt, brick, terra-cotta, tile or pottery (except in handicrafts), cement, gypsum, lime, plaster of paris, coke, creosote, dextrin, glucose, starch, dye, explosives or fireworks or storage in excess of five hundred pounds, fertilizer, gas (fuel or illuminating) in excess of one thousand cubic feet per day or storage in excess of ten thousand cubic feet, except in a municipal or public service plant, gelatin or glue or size from fish or animal refuse or offal, hair, hydrochloric, nitric, picric, sulphuric or sulphurous acid, linoleum or oil-cloth, match, pyroxylin or articles thereof or storage in excess of five hundred pounds, rubber, or treatment thereof involving offensive odor; tar, turpentine, or varnish; and such uses as blast furnace (junk or wood yard); distillation of bones, coal, wood, or tar, or manufacture of any of their products, crop forge; fat, grease, lard or tallow manufacture, refining

or rendering; flour or gristmill; hot rolling mills; incineration, reduction or dumping of dead animals, garbage, offal or refuse except by the city or its agents or when accumulated and consumed on the same premises without the emission of odor; lumber mill; petroleum or other inflammable liquids (production or refining in excess of 1,000 gallons) slaughtering or stockyards; tanning, curing or storage of raw hides or skins; tire recapping.

- (3) Accessory buildings and uses customarily incident to the above when located upon the same lot.

Sec. 8. Nonconforming and general use regulations.

- (1) The lawful use of the premises existing at the time of the adoption of this ordinance may be continued, although such use does not conform to the provisions hereof, and such use may be extended throughout the building provided no structural alterations are made therein, except those required by law or ordinance or such as may be required for safety, or such as may be necessary to secure or insure the continued advantageous use of the building during its natural life or the erection of its full height as originally planned of a building with foundations and structural members designed to carry a higher building.

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(2) If no structural alterations are made, other than as hereinbefore provided, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing at the time of the adoption of this ordinance is permitted according to the provisions of this ordinance, provided that whenever a district shall be hereafter changed, any then existing nonconforming use of a building in such change district may be continued or changed to a use

permitted in the same district as that in which the existing use is permitted, provided all other regulations governing the new use are complied with. Whenever the nonconforming use of a building has been changed to a more restricted use, or to a conforming use, such shall not thereafter be changed to a less restricted.

- (4) Public garages, tourist camps or gasoline filling stations may be built in the districts permitting such use.
- (5) No permit shall be granted for such public garage, tourist camp or gasoline filling station within two hundred (200) feet of any public library, public or private school, playground, park, church, hospital, children's or old people's home, or any other place of public assembly having a seating capacity of one hundred (100) people or more, except in case of an intervening street. Where a street intervenes between the proposed garage or filling station and any library, school, etc., no permit shall be granted for such public garage, tourist camp or gasoline filling station within one hundred fifty (150) feet from any such library, school, etc., nor shall such permit be granted in any case for any location where by reason of traffic conditions or fire or explosion hazard a public garage, tourist camp or filling station would imperil the public safety.
- (6) In the case of a library, school, church, hospital, children's or old people's home, or any other place of public assembly, the measurements shall be from the nearest pump or tank to the front entrance, or to the nearest portion of the auditorium OR ROOM IN WHICH THE PUBLIC IS GATHERED. In the case of a part of a playground, the measurements shall be from the nearest pump or tank to any regular entrance of said park,

or playground. Provided, however, that the foregoing description shall not be construed to include small local parks not designated or used as public assembly grounds.

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(7) Hereafter no gasoline pump shall be set closer than twelve (12) feet to the property line. The distance shall be measured to the center line of the pump.

Sec. 9. Height and area regulations and exceptions.

Height and area requirements shall be subject to the following exceptions and regulations:

- (1) Chimneys, towers, tanks, penthouses or necessary mechanical appurtenances may be erected to their required height.
- (2) On a lot used primarily for residential purposes, an accessory building may be built not exceeding twenty (20) feet in height and not occupy more than thirty (30) per cent of the rear yard.
- (3) Every part of a required yard shall be open from its lowest point and unobstructed, except that open porches, fire escapes, open stairways and chimneys may be permitted by the building inspector where same are to be placed as not to obstruct light and ventilation.
- (4) No cornice shall project over the street or curb line.

Sec. 10. Certificate of occupancy and compliance.

- (1) No premises shall be occupied or used and no building now ~~now~~ or hereafter erected or structurally altered shall be occupied, used or changed in the use until a certificate of occupancy and compliance shall have been issued by the building inspector to the owner of the building, stating that the building or proposed use of a building, or premises, complies with all the building and health laws and ordi-

nances of the City of Danbury and with the provisions of these regulations.

- (2) Certificates of occupancy and compliance shall be applied for by the owner of lot or lots upon which the proposed building is to be erected or structurally altered, coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the building inspector, and copies shall be furnished, on written request, to any person having a proprietary or tenancy interest in the building affected.
- (3) No permit for excavation for any building shall be issued before application has been made for certificate of occupancy and compliance.
- (4) No person, firm, corporation or public utility shall furnish water, gas or electric energy to, nor make connection with, any building in the City of Danbury which has been erected or structurally altered after the effective date of this ordinance, unless and until such persons, firm, corporation or public utility shall have received from the building inspector, city secretary or city council notification that such erection or structural alteration of such building complies with this and other ordinances of the City of Danbury. A certificate of occupancy and compliance, signed by the building inspector, with authorization endorsed thereon under corporate seal of the City of Danbury shall be sufficient notification of such compliance.

Sec. 11. Description of districts.

(1) A map of the City of Danbury, showing the various districts created by this ordinance, is attached to this ordinance, marked "Zoning Map, City of Danbury, Texas", and all corrections, amendments, additions and deletions to it are hereby made a part hereof in aid of the description of the districts and for all purposes, the same as if included herein.

(2) The districts herein created are described as follows:

(a) "A" Residence Districts.

"A" Residence Districts shall include the entire City of Danbury, and all the land within the corporate limits, except those parts of the City of Danbury includes within "B" Restricted Commercial and Residence Districts, "C" Commercial Districts, "D" Industrial Districts and "E" Heavy Industrial Districts. "A" Residence Districts are shown in white on the official zoning map attached to this ordinance.

(b) "B" Restricted Commercial and Residence Districts.

"B" Restricted Commercial and Residence Districts shall include the following blocks and parts of blocks, which are shown in brown on the zoning map attached to this ordinance, to-wit:

BLOCK NUMBER	LOT NUMBER
4	4, 5, 6, 7, 8 & 9
5	4, 5, 6, 7, 8, 9, 10, 11 & 12
6	3, 4, 5 & 6
19	1, 2, 3, 4, 5 & 6
20	7, 8, 9, 10, 11 & 12

BLOCK NUMBER**LOT NUMBER**

29	7, 8, 9, 10, 11 & 12
30	1, 2, 3, 4, 5 & 6
37	
38	
39	
40	
41	
42	
45	
46	
47	
48	
77	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 12 (24 lots)
79	
80	
81	
82	
83	
84	
85	7, 8, 9, 10, 11 & 12
91	7, 8, 9, 10, 11 & 12
102	7, 8, 9, 10, 11 & 12
108	7, 8, 9, 10, 11 & 12
115	7, 8, 9, 10, 11 & 12

All area Swest of Avenue L and Northwest of intersection
of Pacific Railroad Right-of-Way.

All area Southwest of Avenue L and Northwest of intersection
of Avenue L and 3rd Street

Sec. 11, 2(c) - "C" Commercial Districts.

Commercial Districts shall include the following blocks and parts of blocks, which are shown in red on the zoning map attached to this ordinance, to-wit:

BLOCK NUMBER	LOT NUMBER
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3 (FORMERLY BLOCKS 1, 2 & 3)	
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BLOCK NUMBER	LOT NUMBER
77	13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 & 24 (24 lots)
78	
91	1, 2, 3, 4, 5 & 6
101 (replatted)	West part
102	1, 2, 3, 4, 5, & 6
115	1, 2, 3, 4, 5 & 6
116 (replatted)	West part

All area Northeast of Avenue A and Northwest of the intersection of Avenue A and 5th Street.

All area Southeast of 1st Street, Southeast of the intersection of 2nd Street and Avenue A, Northeast of Avenue A and Northwest of County Road No. 602.

Sec. 11, 2 (d) "D" Industrial District.

Industrial Districts shall include the following blocks and parts of blocks shown in green on the zoning map attached to this ordinance, to-wit:

No area designated as Class "D" Industrial District at this time.

Sec. 11, 2 (e) "E" Heavy Industrial Districts"

Industrial Districts shall include the following parcels of land which are shown in yellow on zoning map attached to this ordinance, to-wit:

No area designated as Class "E" Heavy Industrial District at this time.

Sec. 12. Buildings for telephone service excepted.

This ordinance shall not apply to the location, construction, maintenance or use of central office buildings or corporations, firms or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or use of any equipment in connection with such buildings or a part of such telephone system, necessary in the furnishing of telephone service to the public .

Sec. 13. Board of Adjustment.

- (a) The Board of Adjustment of the City of Danbury is hereby created. It shall be composed of five (5) members, each to be appointed by the Mayor of the City of Danbury for a term of two (2) years, and removable for cause by the city council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant by the Mayor.
- (b) The board of adjustment shall adopt rules in accordance with this ordinance and all other ordinances of the City of Danbury not in conflict herewith enacted under the provisions of the laws of the City of Danbury and the State of Texas.
- (c) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board 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, the minutes shall show such facts, and the board shall keep records of its examinations, and other official actions, all of which shall be immediately filed in the office of the city secretary and shall be a public record. All such minutes shall be kept in a well bound book provided by the City of Danbury for the purpose, and shall be labeled "Board of Adjustment Minutes".
- (d) Appeals to the board of adjustment may be taken in the manner and in keeping with the procedure outlined in this ordinance, and in accordance with the rules adopted by the board of adjustment governing the manner in which the hear-

ings before the board of adjustment shall be conducted.

- (e) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the building inspector or other officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the building inspector, or other officer from whom the appeal is taken, and on due cause.
- (f) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney.
- (g) The board of adjustment shall have the following powers:
 - (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this or of any ordinance adopted pursuant thereto.
 - (2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

- (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- (h) In exercising the above mentioned powers the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end it shall have all the powers of the building inspector of the office from whom the appeal is taken.
- (i) The concurring vote of four (4) members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of the building inspector, or other administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in such ordinance.
- (j) Nothing herein shall be so construed as to prevent or interfere with the right of any person at interest to seek redress in a court of competent jurisdiction, as provided by law, after determination of the appeal by the board of adjustment.

Sec. 14. Appeal.

Any person, firm or corporation aggrieved or affected by any decision or act of the building inspector or any administrative officer of the City of Danbury, acting under and by virtue of this ordinance, and amendments thereto, may appeal to the board of adjustment of the City of Danbury by filing with the officer from whom the appeal is taken and with the city secretary of the City of Danbury, within ten

(10) days after the date of the decision of the building inspector, or action of any other administrative officer acting under this ordinance, a notice of appeal specifying the grounds thereof. Such appeal shall be taken within a reasonable time, to be fixed by the board of adjustment, not to exceed thirty (30) days. The officer from whom the appeal is taken shall forthwith transmit to the city secretary all the papers constituting the record upon which the action appealed from was taken.

When in its judgment the board of adjustment decides that said appeal involves an application for special exception to the regulations of the zoning ordinance of the City of Danbury and is further of the opinion that the public convenience and welfare will not be substantially or permanently injured it shall, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize special exceptions to the regulations of the zoning ordinance; but such exceptions shall not be permitted if to grant the same would be against the public interest and defeat the purpose of this ordinance.

Sec. 15. Changes and amendments.

The City Council of the City of Danbury may from time to time amend, supplement or change by ordinance the boundaries of the districts herein established, or the regulations herein contained. The City Council shall give notice to the citizens of the City of Danbury of such proposed amendment, supplement or change and of a public hearing to be held in connection therewith, by publication in the official paper of the City of Danbury once a week for three (3) consecutive weeks. Such notice shall state the time, place and nature of such public hearing and such hearing shall not be held earlier than twenty-one (21) days from the date of the first publication of said notice.

The city council shall thereafter and in accordance therewith hold such public hearing. If there is a protest filed with the city secretary against

such proposed amendment, supplement or change, duly signed by the owners of twenty per cent (20%) or more, either of the area of the lots included in such change, or of those immediately in the rear thereof, extending two hundred (200) feet therefrom or of those directly opposite thereto, extending two hundred (200) feet from the street frontage of such opposite lots, such proposed amendment, supplement or change shall not become effective except by a three-fourths (3/4) vote of all of the members of the city council.

Sec. 16. General provisions.

(a) Yard or other open space to be used but once.

- (1) No yard, or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be used again as a yard or other open space for another building.

(b) Rules with respect to boundaries.

- (1) Where uncertainty exists with respect to the boundaries of the various districts shown on the maps accompanying and made a part of this ordinance the following rules apply:
 - (a) The district boundaries are either streets or alleys unless otherwise shown, and where the designation on the map accompanying and made a part of this ordinance, indicating the various districts are approximately bounded by street, or alley line, said street or alley shall be construed to be the boundary of such district.
 - (b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be a lot line, and

and where the designation on the maps accompanying and made a part of this ordinance indicating the various districts are approximately bounded by lot lines, said lot lines shall be construed to be the boundary line of such district, unless said boundaries are otherwise indicated on the maps.

(c) Interpretation, purpose and conflict.

- (1) In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this ordinance shall control.

Sec. 17. Completion of existing buildings.

Nothing in this ordinance shall be so construed as to require any change in the plans, specifications, construction or intended use of a building actually under construction at the time of the passage of this ordinance or for which an unexpired building permit has been issued.

Sec. 18. Previous ordinances ratified.

All ordinances heretofore passed by the city council, except where in conflict herewith, and all action taken by the city council, the City of Danbury or any officer thereof under the authority of any such ordinance, should be and the

same are hereby in all respects ratified and confirmed.

Sec. 19. Conflict with other laws.

Wherever these regulations require a greater width or size of yards or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied or impose higher standards than are required in any statute of the State of Texas, or ordinance or regulation of the City of Danbury, the provisions of this ordinance shall govern. Wherever the provisions of any statute of the State of Texas, or ordinance of the City of Danbury require a greater width or size of yards or other open spaces or require a lower height of building, or a less number of stories or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by this ordinance, then the provisions of such statutes or ordinance shall govern.

Sec. 20. Penalty for violation of this ordinance.

Any person who shall erect or structurally alter any building or use or occupy any premises in the City of Danbury in violation of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not less than one dollar (\$1.00), nor more than one hundred dollars (\$100.00). Each day of such violation shall be a separate offense.

Sec. 21. Civil remedies.

In addition to other remedies, the City of Danbury may institute any appropriate action or proceedings to prevent the unlawful erection or structural alteration of any building in the City of Danbury, or to restrain, correct or abate any violation of this ordinance; to prevent the occupancy of any building erected or structurally altered in violation of this ordinance; or to prevent any act, conduct, business or use in or about the premises, performed, engaged in or to which the premises are devoted in violation of this ordinance.

Sec. 22. Provisions cumulative.

No provisions of this ordinance shall be held to repeal any other ordinance or any provision thereof except where in direct conflict herewith and the provisions of this ordinance shall be held cumulative of other ordinances with reference to matters contained herein, except in cases of conflict, in which event the provisions of this ordinance shall prevail.

Sec. 23. Validity.

If any section, paragraph, subdivision, clause, phrase or provisions of this ordinance shall be adjudged invalid or shall be held unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part of the provisions thereof, other than the part or provision thereof so decided to be invalid or unconstitutional.

Sec. 24. Fire ordinance shall control.

Notwithstanding any other provisions contained in this ordinance, all ordinances of the city of Danbury, defining the fire zone, and prohibiting structures and alterations therein unless they comply with the provisions of such ordinances, shall take precedence over and govern this ordinance, except as to lot area, height, setback, use, side yard, rear yard and open space provisions, which if not conflicting with such fire ordinance shall govern.

Sec. 25. There exists a public emergency requiring that this ordinance be finally passed on the date of its introduction, created by the large amount of uncontrolled construction and other development of said City without zoning regulations, and the public peace, health, safety and general welfare necessitate that this ordinance shall be finally passed on its introduction, and require that it shall become effective immediately upon its passage and approval by the Council, and after the caption hereof has been published one time in the official newspaper of said City.

PASSED AND APPROVED this 29 day of June, A. D., 1970.

Paul D. Harvey
Paul D. Harvey, Mayor

ATTEST:

Betty R. Wollam
Betty R. Wollam,
City Secretary.

THE STATE OF TEXAS)
COUNTY OF BRAZORIA)

I hereby certify that the above and foregoing is a true and correct
copy of Ordinance No. 50 passed by the City Council of the City of Danbury,
Texas, on the 29th day of June, 1970, and signed by the Mayor and the City
Secretary.

Witness my hand and seal of office this the 29nd day of June, 1970

Betty R. Wollam
Betty R. Wollam, Secretary

ORDINANCE NO. 10-17

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, APPROVING ZONING MAPS BUT NOT CHANGING ANY ZONING REGULATIONS OR BOUNDARIES; AUTHORIZING THE CITY SECRETARY TO PREPARE AMENDED ZONING MAPS FOR ANY CHANGES IN ZONING APPROVED BY THE CITY COUNCIL; AND PROVIDING A SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DANBURY, TEXAS:

1. The original comprehensive Zoning Ordinance of the City of Danbury, Ordinance No. 50, describes the zoning districts by lots and block. In addition, Ordinance No. 50 states that the Zoning Map of the City of Danbury is attached thereto as Exhibit A. However, no such map is attached to Ordinance No. 50 at this time.
2. The map attached to this ordinance as Exhibit A is hereby approved by the City Council as a replacement for Exhibit A to the original Zoning Ordinance, No. 50. The map attached hereto as Exhibit A correctly reflects the zoning locations and boundaries described in said Ordinance No. 50.
3. Ordinance No. 91-6 later amended the original Zoning Ordinance, No. 50. Ordinance No. 91-6 includes a map as Exhibit B thereto, but portions of that map do not appear on the photocopy attached to Ordinance No. 91-6.
4. Therefore, the City Council hereby approves the map attached hereto as Exhibit B as a replacement for the map attached to Ordinance No. 91-6 as Exhibit B.
5. The maps attached to this ordinance do not change any zoning classifications or boundaries. Rather, those maps merely illustrate the zoning classifications and boundaries in effect at the times of Ordinances Nos. 50 and 91-6, respectively.
6. The City Secretary is hereby authorized to prepare amended zoning maps showing any other changes in zoning approved by the City Council at any time. Such other maps shall not require further approval by the City Council, although the Council retains the authority to determine any changes in zoning.
7. On the maps attached hereto, the following colors shall depict the following zones:

White:	Zone "A" Residence District;
Brown:	Zone "B" Restricted Commercial and Residence District; and
Red:	Zone "C" Commercial District.
8. Ordinances Nos. 50, 91-6, and all other ordinances and parts of ordinances of the City shall remain in full force and effect.

9. If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

10. This ordinance shall be effective immediately upon its passage and approval.

READ, PASSED and APPROVED this 28th day of October, 2010.

Bill Turnipseed
BILL TURNIPSEED, Mayor
City of Danbury, Texas

ATTEST:

Jenny Brogger
JENNY BROGGER, City Secretary
City of Danbury, Texas



"Exhibit A"

ORD. 50
Zoning

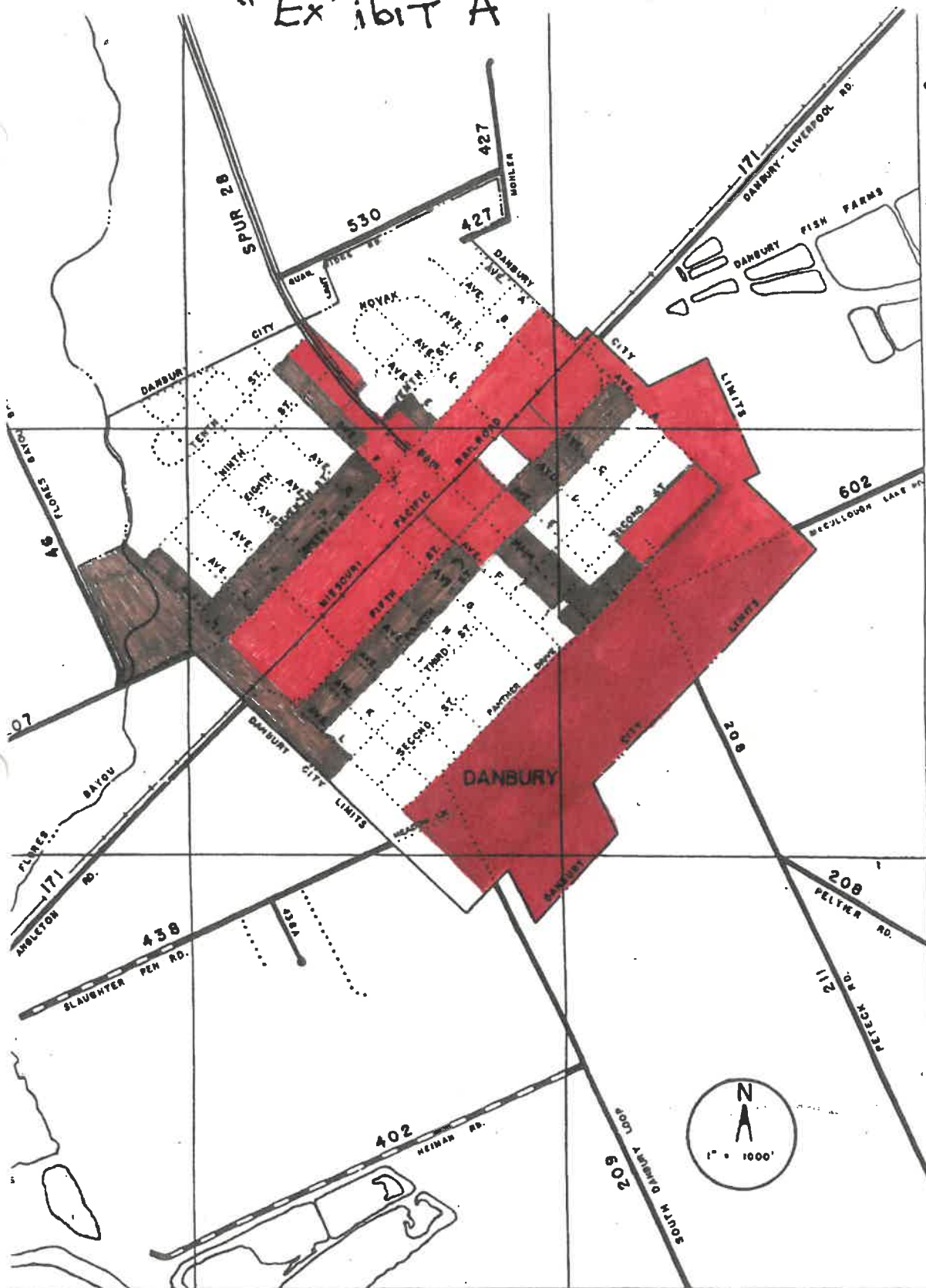
"A" Residence
Districts

"B" Restricted
Commercial
& Residence
Districts

"C" Commercial
Districts

"D" Industrial
None In City

"E" Heavy
Industrial
None In City



B FROM PAGE 11

C

"A" = white

"B" = Brown

"C" = Red

NOT TO SCALE

(c) Commercial
(b) Restricted Commercial-Residential

This map colored according to
the zoning districts as listed in
Ord. 50. by: Theresa C. Farley
10-21-10

From: Larry Boyd <larryboyd@swbell.net>

To: George and Ann Phillips <phillipsg3@aol.com>

Subject: Mobile Homes

Date: Mon, Jul 17, 2017 7:15 pm

Attachments: TEXAS OCCUPATIONS CODE Sec. 1201.008.docx (18K), Tex. Atty Gen. LO 97-002.docx (21K)

George:

You have asked whether Danbury must allow Hud-code manufactured homes in at least one zone, and the answer is yes.

Texas Occupations Code subsections 1201.008 (a, b) (attached) states, in pertinent part:

“(a) A municipality may prohibit the installation of a **mobile home** for use as a dwelling in the municipality.

“(b) On application, the municipality shall permit the installation of a **HUD-code manufactured home** for use as a dwelling in any area determined appropriate by the municipality, including a subdivision, planned unit development, single lot, and rental community or park.” (Emphasis added.)

The Texas Attorney General has reconciled these subsections by noting that “a” applies to mobile homes, whereas “b” applies to Hud-code manufactured homes, which are post-1976 homes manufactured to standards enacted by the U.S. Department of Housing and Urban Development. Accordingly the Attorney General has stated that subsection 1201.008(b) requires a city to allow Hud-code manufactured homes in some zone:

“The city has the power to zone such units [Hud-code manufactured homes, as distinguished from other mobile homes] in the sense of determining suitable or unsuitable locations for their installation, but does not have the power to forbid them altogether.” Tex. Att’y Gen. LO-97-002 (1997) (attached).

In 1999, Danbury added section 4(c) to the Zoning Ordinance to allow Hud-code manufactured homes in Zone “B,” Restricted Commercial and Residential District, in order to comply with that state law and Attorney General’s Opinion.

Please let me know if you need anything else.

Larry

Laurence E. Boyd
209 E. Mulberry, Suite 200
P.O. Box 269
Angleton, TX 77516-0269
(979) 849-2332
(979) 849-8422 (fax)
larryboyd@swbell.net

TEXAS OCCUPATIONS CODE

Sec. 1201.008. REGULATION BY MUNICIPALITY. (a) A municipality may prohibit the installation of a mobile home for use as a dwelling in the municipality. The prohibition must be prospective and may not apply to a mobile home previously legally permitted by and used as a dwelling in the municipality. If a mobile home is replaced by a HUD-code manufactured home in the municipality, the municipality shall grant a permit for use of the manufactured home as a dwelling in the municipality.

(b) On application, the municipality shall permit the installation of a HUD-code manufactured home for use as a dwelling in any area determined appropriate by the municipality, including a subdivision, planned unit development, single lot, and rental community or park. An application to install a new HUD-code manufactured home for use as a dwelling is considered to be granted unless the municipality in writing denies the application and states the reason for the denial not later than the 45th day after the date the application is received.

(c) Subsections (a) and (b) do not affect the validity of an otherwise valid deed restriction.

(d) Except as approved by the department, a local governmental unit may not require a permit, a fee, a bond, or insurance for the transportation and installation of manufactured housing by a licensed retailer or installer. This subsection does not prohibit the collection of actual costs incurred by a local governmental unit that result from the transportation of a manufactured home.

(e) Notwithstanding any zoning or other law, in the event that a manufactured home occupies a lot in a municipality, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.

(f) An owner's ability to replace the home as a result of a fire or natural disaster cannot be restricted. Other than in the case of a fire or natural disaster, a general-rule or home-rule municipality by an ordinance or charter may limit the ability of the owner to replace his home to a single replacement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. [1460](#)), Sec. 2, eff. January 1, 2008.

Office of the Attorney General of Texas

February 19, 1997

The Honorable Keith Oakley
Chair, Committee on Public Safety
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78711-2548

Letter Opinion No. 97-002

Re: Municipal zoning regulation of
manufactured housing (ID# 38855)

Dear Representative Oakley:

You have asked this office whether the City of Greenville, Texas, by modifying its zoning ordinance to permit some but not all types of manufactured housing within a designated residential district, is likely to fall afoul of the Manufactured Housing Standards Act (the "act"), article 5221f, V.T.C.S. While this office cannot comment in the opinion process on a particular proposed municipal ordinance, we can discuss the question on a more general level. You ask, on that level, whether a city may allow one type of manufactured house, namely the double-wide composition-shingled type, to the exclusion of single-wide or aluminum-roofed manufactured houses. The answer to that question depends upon whether single-wide or aluminum-roofed dwellings are to be characterized for the purposes of article 5221f as "mobile homes" or "HUD-Code manufactured housing," which is to say whether such dwellings meet the standards of the United States Department of Housing and Urban Development ("HUD") for manufactured housing.

The relevant sections of article 5221f are section 4(g) and section 4A. Section 4(g) provides:

A local governmental unit of this state, without the express approval of the board following a hearing on the matter, may not adopt different standards from those promulgated by the [executive] director [of the Department of Housing and Community Affairs] for the construction or installation of manufactured housing within the local governmental unit.

Thus, section 4(g) preempts any local governmental entity from regulating the construction or installation of manufactured housing. It is important to note, however, that the section does not speak of the authority of local government with respect to zoning.

Indeed, in *Brookside Village v. Comeau*, 633 S.W.2d 790, 796 (Tex. 1982), the supreme court ruled that the Manufactured Housing Standards Act did not preempt local zoning ordinances:

The referenced state and federal legislation has, to an extent, preempted the field as to construction, safety, and installation of mobile homes. We find nothing in the statutes, however, that creates a conflict with the Brookside Village ordinances regulating the location of mobile homes.

Id. at 796.

Comeau, however, does not end the inquiry. Subsequent to the *Comeau* case, section 4A was added to article 5221f. Section 4A reads, in relevant part:

(a) An incorporated city *may prohibit the installation* of a mobile home for use or occupancy as a residential dwelling within its corporate limits. Any such prohibition must be prospective and shall not apply to a mobile home previously legally permitted and used or occupied as a residential dwelling within the city

(b) Upon application the installation of HUD-Code manufactured homes shall be permitted as residential dwellings in *those areas determined appropriate by the city* [Emphasis added.]

A mobile home is defined by the act as "a structure" of certain characteristics "that was constructed before June 15, 1976." V.T.C.S. art. 5221f, § 3(1). A "HUD-code manufactured home" is defined as "a structure" of the same characteristics save that it was "constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development." *Id.* § 3(19).

As we read section 4A, then, mobile homes that do not meet HUD standards may be prohibited by cities under section 4A(a). However, under section 4A(b), units that do meet HUD's standards must be provided for within cities. The city has the power to zone such units in the sense of determining suitable or unsuitable locations for their installation, but does not have the power to forbid them altogether.

The bill analysis prepared for section 4A by the House Committee on Business and Commerce is to the same effect. It declares that "city governments would be allowed to designate locations for manufactured housing developments but would not be allowed to pass banning ordinances." Accordingly, the city may only forbid single-wide or aluminum-roofed units if they do not meet HUD standards. Whether particular sorts of manufactured housing meet the federal standards is in our view a question better directed to the Department of Housing and Urban Development than to this office.<footnote 1> If they do not, the City of Greenville may, under the terms of article 5221f, V.T.C.S., forbid their installation. If they do, it may zone their location, but not prohibit it.

S U M M A R Y

Under the terms of the Manufactured Standards Housing Act, article 5221f, V.T.C.S., an incorporated city may forbid the installation of single-wide or aluminum-roofed dwellings only if such dwellings fail to meet the standards specified by the United States Department of Housing and Urban Development.

Yours very truly,

James E. Tourtelott
Assistant Attorney General
Opinion Committee

Footnote

<1>We assume that mobile homes manufactured before June 15, 1976 do not meet HUD standards. In any event, a mobile home manufactured before that date, even if it otherwise meets such standards, does not come within the article 5221f, section 3(19) definition.

[*\(Back to opinion\)*](#)