

**ORDINANCE NO. 43**

**AN ORDINANCE OF THE TOWN OF ROUND TOP, TEXAS, ESTABLISHING LAND USE REGULATIONS; PROVIDING RULES AND REGULATIONS RESTRICTING THE SIZE, HEIGHT, AND DENSITY OF BUILDINGS AND OTHER STRUCTURES, THE SIZE OF YARDS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND; ESTABLISHING VARIOUS LAND USE DISTRICTS; PROVIDING REGULATIONS FOR NONCONFORMING USES; PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, INTERPRETATION, AND AMENDMENT OF THIS ORDINANCE; ESTABLISHING A BUILDING OFFICIAL AND A BOARD OF ADJUSTMENT AND PRESCRIBING THEIR POWERS AND DUTIES; PROVIDING DEFINITIONS; PROVIDING A PENALTY IN AN AMOUNT BETWEEN \$100.00 AND \$2,000.00 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.**

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WHEREAS, the Town of Round Top, Texas (the "Town"), was incorporated in 1870 by the Legislature of the State of Texas, and given police power authority to make rules, regulations, and ordinances to maintain the peace, good order and government of the Town, as would not be repugnant to the laws and Constitution of the State; and

WHEREAS, the Town is the location for numerous significant cultural and tourism related events annually and is the site of significant cultural and architectural places of statewide and local importance, as well as large scale special events which burden and impact the peace and order of the Town; and

WHEREAS, the Council and citizens of the Town wish to preserve and protect the historical, cultural and architectural places and areas, and to preserve and protect the rural character, peace, and order of the Town; and

WHEREAS, the Town Council of the Town finds that to promote the public health, safety, morals, and general welfare of the citizens, and to protect and preserve the historical, cultural and architectural places and areas located within the Town's jurisdiction, land use and historic preservation regulations should be adopted; and

WHEREAS, the Charter of the Town and Chapter 211, Texas Local Government Code, as amended, empowers the Town to enact a Land Use Ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, pursuant to such authority, the Town Council deems it necessary, for the purposes of maintaining the peace, good order and government of the Town, and promoting and protecting the health, safety, and general welfare of the Town and its inhabitants, to enact a Land Use Ordinance; and

WHEREAS, the Town Council appointed a Land Use Committee and charged the Committee with the duty to recommend to the Town Council a comprehensive Land Use plan designating the boundaries of the various original districts and appropriate regulations to be enforced therein; and

WHEREAS, since receiving such direction from the Town Council, the Land Use Committee formulated the preliminary Land Use districts and their boundaries and the preliminary regulations, which were adopted on an interim basis following the public hearings as required by law, while additional public hearings were underway; and

WHEREAS, the Land Use Committee has made a preliminary report on the effects of such regulations and proposed changes thereto, has given due notice of hearings relating to the various Land Use districts, regulations and restrictions, and has held additional public hearings; and

WHEREAS, the Town Council has received such preliminary report, has given due notice of hearings relating to the various Land Use districts, regulations and restrictions, and has held such public hearings as are required by law; and

WHEREAS, the Town Council has given reasonable consideration to, among other things, the character of the Town, the peace and order its citizens enjoy and wish to maintain, the peculiar suitability of the land within the Town for particular uses, such as special events, with a view to conserving the value of buildings and the examples of the Town's cultural and historical past, encouraging the most appropriate use of land throughout the Town; and

WHEREAS, the Town has also considered all public comments received during the public hearings, being mindful of the Town's special place in Texas history; and

WHEREAS, all requirements of the Charter of the Town, Chapter 211, Texas Local Government Code, as amended, and all the ordinances of the Town have been met; now, therefore,

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ROUND TOP, TEXAS:**

**Section 1.** The facts and matters contained in the preamble of this Ordinance are hereby found to be true and correct.

**Section 2.** The following is hereby adopted as the Land Use Ordinance of the Town of Round Top, to provide as follows:

## LAND USE ORDINANCE

### TOWN OF ROUNDTOP, TEXAS

#### ARTICLE I. GENERAL PROVISIONS

##### Sec. 1-1. Short Title

This Ordinance shall be known and may be cited as “The Town of Round Top Land Use Ordinance.”

##### Sec. 1-2. Authority and Purpose

This Ordinance is adopted under the authority granted to the Town in the Town Charter passed by the Texas Legislature in 1870, under the authority of the Constitution and laws of the State of Texas, including, but not limited to, Chapter 211 of the Texas Local Government Code, for the following purposes:

- (a) To promote and protect the peace, good order, health, safety and general welfare of the residents, citizens and inhabitants of the Town of Round Top.
- (b) To foster orderly and healthful development, good government, peace and order, and trade, economic development, and commerce.
- (c) To preserve and protect the rural and historical character of the Town, and its unique historical, cultural, and architectural buildings, places and areas.
- (d) To promote high standards of building and site design within residential and nonresidential districts to preserve an atmosphere consistent with the character of the Town.
- (e) To protect and enhance the appeal and attraction of the Town of Round Top to residents, visitors and tourists, and to serve as a support and stimulus to business and economic development.
- (f) To foster civic pride in the beauty and notable accomplishments of the past.
- (g) To enhance and protect the natural environment, natural areas, and rural atmosphere of the Town of Round Top.

##### Sec. 1-3. Scope

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the peace and good order, health, safety, morals, and general welfare of the citizens of the Town. This Ordinance is not intended to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinances, or any rules or regulations previously adopted pursuant to law relating to the use of buildings or premises; nor is it intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants or private deed restrictions. This ordinance covers the use of land, buildings, signs, greenery, fences, trees, pets, etc. within the Town. Following is a list of most of the items where the property owner is required to obtain a permit:

- (a) There is a change in the exterior structural appearance of a structure
- (b) There is the erection of a new structure
- (c) There is the moving into Town of a structure.
- (d) There is the moving of a structure within the Town, whether on the same lot or to another lot

- (e) There is the removal of a structure from a town lot to outside of the Town
- (f) There is the destruction of a structure
- (g) There is a repair to an existing structure
- (h) There is the erection of any sign or commercial message in public view, other than those signs which would be permitted under the First Amendment to the United States Constitution.
- (i) There is a change to an existing sign
- (j) There is a planned cutting down of a tree greater than six (6) inches in diameter
- (k) There is an authorization granted to a portable vendor to sell wares from a property owner's property within the Town limits, whether private, public or non-profit.
- (l) There is a change in the use of a building, i.e. residential to commercial.
- (m) There is a change in the use of the land
- (n) There is decorative art attached, applied or painted on the exterior of a building in public view.

#### **Sec. 1-4. Newly annexed areas**

- (a) **Land Use classification for newly annexed areas.** Within sixty (60) days following the annexation of territory into the Town, the Town Council shall initiate proceedings to establish permanent use classifications for all such newly annexed territory. Town Council shall specify a permanent classification for any such annexed territory within ninety (90) days of the annexation. Pending completion of such proceedings, such territory shall be classified as District "R," Single Family Residential. Such temporary use classification shall remain in effect only until such time as the Town Council establishes the permanent use classification, following procedures required by Chapter 211, Texas Local Government Code, and Article VI of this Ordinance.
- (b) **Permits in temporarily zoned areas.** In newly annexed areas temporarily classified as District "R," Single Family Residential, no permit for the construction of a building, or certificate for the use of land, other than for a building or use allowed in said District, shall be issued by the Building Official, pending consideration of a permanent use classification.

#### **Sec. 1-5. Land use policies**

- (a) **Purpose.** The land use policy statements set forth in this Section have been developed as part of the Town's ongoing comprehensive planning process and were designed to provide guidance in implementing this Ordinance. Said policies are hereby adopted as a part of this Ordinance to provide guidelines for considering future amendments to these Land Use regulations.
- (b) **Land use goals -Town wide**
  - (1) Provide for the orderly growth, development and redevelopment by adopting a comprehensive Land Use ordinance for the Town.
  - (2) Accommodate a mixture of new commercial and residential development that will strengthen the Town's existing dynamic character of land -uses, but restrictive enough to eliminate, over time, incompatible uses that destabilize adjoining and area property values.

- (3) Promote a healthy balance between residential and nonresidential land uses designed to maintain and enhance property values and revenue streams by providing a Land Use plan that accommodates unforeseen future markets for quality residential and/or commercial development.
- (4) Provide for the elimination of buildings and/or uses which are visually or functionally incompatible with adjacent or area buildings and/or uses, accounts for uses existing at the time of its adoption, will result in greater integrity of the Town's long-term development.
- (5) Support private and public initiatives, which encourage investment in beautification programs, and stimulate such programs by providing for adequate open space through Land Use.
- (6) Develop and maintain regulations that are organized, fair, straight forward, and easy to interpret by citizens, property owners, developers, Town officials, and other interested parties.
- (7) Provide adequate controls to protect the natural environment and preserve natural areas and the rural atmosphere of the Town.

(c) **Specific geographic areas.** Within the Town limits, three distinct geographic areas exist. These geographic areas are:

- (1) Single-family residential subdivisions traversed by quiet, local streets, and which are relatively well-insulated from commercial encroachment;
- (2) The central part of town around the Town Square, which contains the majority of significant historical buildings in the Town; and
- (3) The land lying adjacent to Highway 237, with higher volume commercial businesses, and temporary vendors who conduct business in Town during special events.

(d) **Objectives.** Objectives sought to be implemented through adoption of Land Use regulations applicable to the specific geographic areas of the Town are as follows:

- (1) **Single-family Residential District (R).** Land Use regulations applicable to single-family residential areas are intended to protect the integrity, safety, and aesthetic characteristics of existing and future neighborhoods throughout the Town, and shall be implemented by:
  - a. Providing a purely residential Land Use district that limits uses to single-family residential purposes and low noise, low traffic commercial activities of the property owner. Commercial uses are limited to "in home" or compliant secondary buildings built in a similar style to the main residence. Examples are:
    - i. Bed and breakfasts with three or less rooms
    - ii. Vacation rentals
    - iii. Small professional office
    - iv. Arts studio
  - b. Imposing performance standards and requiring substantial buffer yards, screening, and landscaping for uses adjacent to and surrounding the residential district.

- (2) **Business/Historic District (B/H).** This district contains all the significant historical buildings within the Town limits. It includes the Town Square, the Bethlehem Lutheran Church, the Henkel Square Market, Bybee Square, the Round Top Inn, the “fort block” and other structures that exist within the B/H District as shown on the Land Use map. The uses and character of this district shall be implemented by:
- a. **Tracts of less than one acre:** Providing guidelines for new development which, while ensuring compatibility with buildings in the district, and compliance with the general purpose and intent of this Ordinance, will promote and permit innovation and flexibility in land use and site design, and support relatively small scale (tracts less than one acre) mixed use development that is deemed to be beneficial to the community.
  - b. **Tracts of one+ acre (Developments):** Providing guidelines for new development will promote and permit innovation and flexibility in land use and site design to support larger scale mixed use development (typically but not exclusively multiple buildings developed by a single user) that is deemed to be beneficial to the community. Additional standards and requirements apply to this level of development.
  - c. Providing performance standards that place emphasis on buffer yards, screening, and landscaping that are specifically designed to stabilize and enhance property values by limiting or prohibiting the continuation of incompatible land uses that negatively impact adjoining properties and detract from the visual image of the Town.
- (3) **Commercial District (C).** This district is designated for high volume commercial businesses, which serve residents, and heavy tourist events and establishes a permitting process that enables the Town to monitor the location of these uses and temporary events such as Fourth of July or Antique Weekends, and thereby manage traffic and other aspects of the public health, safety and welfare, peace and order and protect adjoining properties from incompatible uses and prevent detracting from the visual image of the Town.
- (4) **Manufactured Home Subdivisions (MH).** Manufactured housing is hereby found to be incompatible with the rural atmosphere of the Town, and with the intent and purposes of this Ordinance. However, it is expressly recognized that federal and state law allows cities to regulate where such structures are placed, and the Town believes that concentration of these uses, subject to particular standards, is in the public’s interests. Mobile homes are not allowed within the Town’s limits. “Manufactured Home” and “Mobile Home” shall have the same meanings assigned to those terms by State law.

## Sec. 1-6. Definitions and interpretation

- (a) **Interpretation, conflict.** This Ordinance shall be construed liberally to effect the purposes hereof. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the protection and promotion of public health, safety, convenience, comfort, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, when this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall prevail.
- (b) **Definitions.** For the purposes of this Ordinance, certain words and terms are hereby defined. Words used in the present tense shall include the future tense; the singular number shall include the plural number, and the plural number shall include the singular number. The word "building" shall include the meaning of the word "structure." The word "lot" shall include the meaning of the words "plot," "parcel," or "tract"; and the term "used for" shall include the meaning of the terms "designed for" or "intended for." The word "shall" is mandatory, not directive. Words, phrases, and terms not defined herein but defined in the building code of the Town shall be construed as defined in said code. Words, phrases, and terms not defined herein nor defined in the building code of the Town shall be given their usual and customary meanings except where the context clearly indicates a different meaning. The following definitions shall apply in the interpretation and enforcement of this Ordinance:
- (1) "Accessory structure" shall mean a detached structure which is incidental, auxiliary, and subordinate to the principal building, is subordinate in area, extent, or purpose to the principal building, contributes to the comfort, convenience and necessity of occupants of the principal building, and is located on the same lot as the principal building.
  - (2) "Accessory use" shall mean a subordinate use customarily incident to and located on the same lot occupied by the principal building or use.
  - (3) "All-weather surface" shall mean a covering for driveways and parking spaces that is dust free, not adversely affected by inclement weather, and paved over a minimum of six inches (6") of limestone base with two inches (2") of asphalt topping, or its equivalent.
  - (4) "Alley" shall mean a public right-of-way which affords a secondary means of access to abutting property.
  - (5) "Banner" shall mean a temporary sign for commercial or promotional purposes not intended for long term use, and constructed on vinyl, plastic, PVC, fabric or other material suitable for short term signage. Flags, posters, wall-hangings and other similar forms of signage that contain commercial messages in public view are considered to be "banners" for the purposes of the Ordinance.
  - (6) "Bed and Breakfast" shall mean an establishment whose primary purpose is the lodging of temporary guests in a home-like environment.



- (7) "Block" shall mean a group of lots bounded by streets, or by a combination of streets and public parks, cemeteries, or corporate boundary lines, or other natural or geographic boundaries. If the word "block" is used as a term of measurement, it shall mean the distance along the side of a street or other boundary line between two intersecting streets or, if the street is of a dead end type, between the nearest intersecting street and the end of such dead end street.
- (8) "Buffer yard" shall mean a land area required under the provisions of this Ordinance to separate different classifications of land uses from each other. A buffer yard is in addition to the required front, side or rear yards, but may, where applicable and otherwise required, be included in and as a part of required common areas for residential, or commercial subdivisions or developments.
- (9) "Building" shall mean any structure designed or built for the support, shelter, protection, housing, or enclosure of persons, animals, chattels, or property of any kind.
- (10) "Building area" shall mean the maximum portion of a lot over which buildings and structures may be constructed.
- (11) "Building code" or "architectural standards" shall mean and refer to any rule, regulation, ordinance, or law of the Town governing the design, construction, and maintenance of any building or structure, or part thereof.
- (12) "Building height" shall mean the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch.
- (13) "Building line" shall mean a line parallel or approximately parallel to the lot line and beyond or outward of which no building or structure shall be erected or constructed except where specifically authorized herein.
- (14) "Building, main" shall mean the building in which the main or principal use of the lot on which it is located is conducted.
- (15) "Building Official" shall mean the officer or other designated authority, or his duly authorized representative, charged with the administration and enforcement of the ordinances of the Town.
- (16) "Building, residential" shall mean a building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) family or lodger.
- (17) "Business" shall mean any isolated or continuous activity of commercial enterprise conducted for compensation or profit.
- (18) "Certificate of Occupancy" shall mean an authorization, issued by the Town of Round Top, allowing the occupancy and use of a building or property for purposes proposed by the property owner and approved by the Building Official. Requirements for Certificates of Occupancy are defined in **Section 1-106**.
- (19) "Council" shall mean the governing body of the Town of Round Top, Texas.
- (20) "Decorative Art" shall mean non-commercial flags, wall-hangings, tapestries, paintings and other art works that do not have a commercial message displayed.

- (21) "Development" shall mean newly constructed or erected buildings or structures situated on one acre or more, relocated buildings or structures onto such a lot, or the use of open land for a new or different use. To "develop" is to create a development. Typically a "development" will be a master planned set of structures owned and/or created by a property owner, such as an individual, a business, a corporation or other like entity. It may lease or sell individual properties or structures within the development to other parties. Given the potential impact of a development on the community, any new development requires the further approval of Town Council.
- (22) "Dwelling" shall mean a building or portion thereof designed and used exclusively for residential occupancy, including single-family dwellings, but not including hotels, motels or boarding houses.
- (23) "Fence" shall mean a structure or vegetative hedge designed, constructed, or planted to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. Provided, however, dikes and retaining walls erected or constructed for the purpose of diverting water and retaining soil shall not be deemed a fence, nor shall backdrops erected for tennis courts or similar sports/recreational uses.
- (24) "Floor area, gross" shall mean the area within the inside perimeter of exterior walls of a building, with no deduction for corridors, stairs, closets, thickness of walls, columns, or other features, but exclusive of areas open and unobstructed to the sky.
- (25) "Front Yard" shall mean the yard area that adjoins the street which is referenced as the physical address of the property. For example, for a home with the address of 123 White St., the front yard is the one adjoining White St.
- (26) "Green screening" shall mean shrubs and trees, landscaping elements such as lattice partitions covered in vegetation or like screen of a minimum height of seven (7) feet that is dense enough to conceal and/or reduce noise levels in an adjacent property or condition.
- (27) "Greenspace" is defined as areas of grass, trees, hedges, gullies, streams or other landscape, either planted or natural.
- (28) "High-density area" is defined as a subset of the Business/Historic district, close to the Town Square, in which businesses are permitted to be placed on small minimum lots (6,000 sq ft), consistent with the historic development of the Town. Regulations and provisions for high-density areas are defined within the Ordinance in **Section 1-61 (b)**.
- (29) "Landscaping" shall mean decorative vegetative material such as grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable material commonly used in conjunction with inorganic materials such as rock, pebbles, sand, walls or fences, which are used to improve the aesthetic appearance of open spaces.
- (30) "Living Trailer" means a structure constructed to be used for dwelling, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation and which could have provisions for electrical connection, water connection, and waste disposal connection. Living Trailers of any size whether being lived in or not are not permitted within the Town Limits.

- (31) "Lot" shall mean a lot, tract, or parcel of land *that existed prior to the date of adoption of applicable subdivision regulations of the Town*, which has been designated on a subdivision plat duly filed with the appropriate County Clerk and that is held in separate ownership and described by metes and bounds upon a deed duly recorded or registered with that County Clerk.
- (32) "Lot line" shall mean the boundary line of a lot; provided, however, no lot line, whether front, side, or rear, shall extend beyond an adjacent street line.
- (33) "Lot of record" shall mean a tract of land designated as a "lot," "tract," or "reserve" on a subdivision plat duly recorded, pursuant to applicable law, in the county clerk's office of the county in which the lot is located.
- (34) "Manufactured Home" means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight feet (8') or more in width or forty feet (40') or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. A structure described by this paragraph shall be allowed for placement only in a Mobile Home Subdivision, zoned MH in accordance with the Town's Ordinances. Any structure not described by this paragraph shall not be allowed for placement anywhere else in the Town.
- (35) "Mobile Home" means a portable vehicle constructed on a chassis and which has been designed so that it may be occupied and used without a permanent foundation, and which is used as a single-family dwelling unit suitable for year-round occupancy and which has provision for electrical and water connections and which provides for waste disposal in compliance with the plumbing code requirements for dwellings. Mobile homes are not permitted to be located within the Town limits.
- (36) "Natural areas" shall mean creeks, waterways, and their adjacent banks; and unimproved forested areas within the 100-year flood plain.
- (37) "Natural environment" shall mean the application of these regulations for the preservation, to the greatest extent possible, of a quiet, rural environment free from air, water and noise pollution generally associated with urban areas.
- (38) "Nonconforming structure" shall mean a building or structure which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
- (39) "Nonconforming use" shall mean a use of a building or land which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
- (40) "Noxious" shall mean capable of causing injury to living organisms by chemical or biological reaction or is capable of causing detrimental effects upon the physical or economic comfort or well-being of humans.
- (41) "Owner" shall mean, as to particular property, any person, agent, firm, association, or corporation having a legal or equitable interest therein.

- (42) "Parking space" shall mean an area built within the boundaries of the lot to which it pertains in accordance with applicable Town standards, of a sufficient size to store one (1) automobile, and designed and constructed for vehicular storage and not as a street or vehicular way.
- (43) "Portable Vendor" shall mean a portable vehicle or trailer constructed on a chassis, either towed or self-propelled, which has been designed to be occupied and/or used without a permanent foundation; and from which food, goods or services are sold.
- (44) "Recreational Vehicle" shall mean a portable vehicle or trailer constructed on a chassis, either towed or self-propelled, which has been designed to be occupied and used without a permanent foundation.
- (45) "Rural Atmosphere" shall mean the use of these regulations to preserve, to standards adopted for the Town.
- (46) "Screening" shall include a barrier of stone, brick, pierced brick, masonry block, or other similar permanent material of equal character, density, and design, at least six feet (6') in height, or a vegetative hedge at least six feet (6') in height, installed according to accepted planting procedures, with a quality and density of plant material sufficient to block vision, noise pollutants or other negative by-products associated with the use that is hidden by the screening hedge, but not including cane, bamboo, or other similar extended single trunk vegetation.
- (47) "Secondary Building" shall mean any building that is not the main residence or business on a property. Secondary buildings may be a second residential structure on a property, such as a guest house or a temporary vacation rental. Secondary buildings may also be utility structures like a garage, carport, storage shed, well house, barn, stable or structure for housing livestock when allowed, or other non-habitation. On commercial properties, secondary buildings may also include warehouses, covered storage areas, antique dealer pavilions, gas station pavilions, ATMs or drive-thru banking pavilions.
- (48) "Street" shall mean any public or private roadway right-of-way which affords a primary means of access to abutting property. A driveway or alley which provides only secondary vehicular access to a lot or to an accessory parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance of a building, shall not be considered a street.
- (49) "Structure" shall mean anything constructed or erected below, at, or above grade, which requires location on the ground or is attached to something having a location on the ground, and which, out of necessity or precaution, includes support, bracing, tying, anchoring, or other protection against the pressure of the elements.
- (50) "Temporary Vendor" shall mean any vendor who sets up a temporary location within the Town limits to sell food, goods or services during a designated special event (i.e., Antique Fair, 4<sup>th</sup> of July, Chili cook-off, Wine Festival, Christmas on the Square). Established businesses within the Town limits are considered temporary vendors when they establish an ancillary location (eg. tent, booth or table etc.) outside their permanent business for a longer period than a sanctioned special event. All temporary vendors must obtain an approved temporary vendor permit from the Town. (See Section 1-102)
- (51) "Town" shall mean the Town of Round Top, Texas.

- (52) "Use" shall mean the purpose or activity for which land, or the buildings or structures thereon, are occupied, maintained, or committed.
- (53) "Use, main" shall mean the principal use of land or buildings as distinguished from a subordinate or accessory use.
- (54) "Utility Yard" shall mean an area which contain items and equipment stored outside such as utility or building infrastructure or other utility and maintenance items whose public view would detract from the appearance of the structure.
- (55) "Vacation Rental" shall mean a short term agreement (less than 60 days) for lodging by persons other than the property owner in a principle residence or compliant secondary building.
- (56) "Yard" shall mean an open space on a lot, at a grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise specifically permitted by this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the pertinent lot line and the edge of the main building, exclusive of all roof overhangs, eaves, or any other protrusions beyond the walls thereof, shall be used. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the Land Use district in which such lot is located.
- (57) "Yard, front" shall mean an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and the front of the main building or any projection thereof other than steps or unenclosed porches.
- (58) "Yard, rear" shall mean an area extending along the whole length of the rear lot line between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than steps or unenclosed porches.
- (59) "Yard, side" shall mean an area extending along the side lot line from the front yard to the rear yard, and being the minimum horizontal distance between the applicable side lot line and any building or projection thereof other than steps or unenclosed porches.

**[Sec. 1-7 -Sec. 1-19. Reserved]**

## **ARTICLE II. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES**

### **Sec. 1-20. Establishment of districts**

For the purposes of this Ordinance, the Town is hereby divided into four (4) use districts, which shall be known and described, respectively, as follows:

District R (Single-family Residential Dwelling District)

District B/H (Business/Historic District)

District C (Commercial District)

District MH (Manufactured Home Subdivision)

### **Sec. 1-21. Land Use district map**

The location and boundaries of the districts of the Town shall be shown on the map attached hereto, which map is designated as the "Official Land Use District Map of the Town of Round Top, Texas." Said map and all notations, references, and other information shown thereon and all amendments thereto are made a part of this Ordinance as if fully set forth and described herein.

### **Sec. 1-22. Identification of Land Use district map**

The Land Use district map shall be identified by the signature of the Mayor, attested by the Town Secretary, and the seal of the Town under the following words: "This is to certify that this is the official Land Use District Map referred to in the Town of Round Top Land Use Ordinance," together with the number and the date of the adoption of this Ordinance.

### **Sec. 1-23. Changes in Land Use district map**

If, in accordance with the provisions of this Ordinance and V.T.C.A., Local Government Code §211.001 through 211.013, changes are made in district boundaries or other matters portrayed on the official Land Use district map, such changes shall be entered on such map promptly after the amendment has been approved by the Town Council, with an entry on the official Land Use district map as follows: "On \_\_\_\_\_ (date), by Ordinance No. \_\_\_\_ (number), the following changes were made in the Official Land Use District Map: \_\_\_\_\_ (brief description of nature of changes)," which entry shall be signed by the Mayor and attested by the Town Secretary.

### **Sec. 1-24. Location of Land Use district map**

Regardless of the existence of purported copies of the official Land Use district map which may be made or published from time to time, the official Land Use district map shall be located in the office of the Town Secretary, and it shall be the final authority as to the current use classification of land areas, buildings, and other structures in the Town.

**Sec. 1-25. Interpretation of Land Use district boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the official Land Use district map, the following rules shall apply:

- (a) Street lines. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.
- (b) Lot lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Town limits. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.
- (d) Waterway lines. Boundaries indicated as approximately following the center lines of streams, canals, drainage ways, or other bodies of water shall be construed to follow such center lines.
- (e) Extensions. Boundaries indicated as parallel to or extensions of features indicated in Subsections (a) through (d) above shall be thus construed.
- (f) Distances. Distances not specifically indicated on the official Land Use district map shall be determined by the scale of the map.
- (g) Physical features. Where physical features existing on the ground are at variance with those shown on the official Land Use district map, or in any other circumstances not covered by Subsections (a) through (f) above, the Board of Adjustment shall interpret the district boundaries.
- (h) Any tract annexed by the Town of Round Top in the future will automatically become subject to this Land Use Ordinance.
- (i) Extra Territorial Jurisdiction. The Town of Round Top has a statutory extra territorial jurisdiction (ETJ) of one-half mile outside the Town's boundaries, as described by the law of the State of Texas. To the degree allowed by state law, the Town has jurisdiction over certain public health, environmental and public infrastructure issues in its ETJ.

**[Sec. 1-26 -1-29. Reserved]**

### ARTICLE III. COMPLIANCE WITH REGULATIONS

#### Sec. 1-30. Applicability

Except as specifically authorized to the contrary in this Ordinance, the following regulations apply in all districts:

- (a) Use of land and buildings. No land, or any building thereon, shall be used except for a purpose permitted in the district in which such land is located.
- (b) Height of buildings. In all districts, no building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered to exceed the height limit of fifty feet (50') from the original grade of the site, notwithstanding that chimneys, steeples, and other such features may reasonably extend beyond this height.
- (c) Building construction. In all districts, no building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered shall not exceed two stories (excluding attics) and adhere to the height requirement.
- (d) Off-street parking. No building shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered except in conformity with the off-street parking regulations of the district in which such building is located (if no specific regulation, the regulation of district C applies (also see Section 1-43 Off-street parking and loading)). All off-street parking shall not be multi-story.
- (e) No encroachment on yard area. No part of any lot area, yard, open space, or off-street parking required by this Ordinance shall be encroached upon or reduced below the minimum requirements of this Ordinance for the district in which such lot is located.
- (f) No reduction in lot or yard area below requirements. No lot or yard existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein for lots and yards in the district in which such lot or yard is located. Any lot or yard created after the effective date of this Ordinance shall equal or exceed the minimum dimension and area requirements of this Ordinance for lots and yards in the district in which such lot or yard is located. New developments of over one acre, that will include several new buildings planned for commercial use, may apply for designation as a high-density area, and be allowed additional flexibility with respect to the placement of structures on the property. Regulations and provisions for high-density areas are contained in **Section 1-61 (b)**.
- (g) No primary dwelling or residence of less than 1,000 square feet excluding decks and porches shall be approved for construction in any district of the Town of Round Top. A primary dwelling or residence must be completed before permits for any additional structures are granted. Any variance to this stipulation granted by the Building Official shall be reviewed and approved by the Board of Adjustments before becoming effective.



- (h) Before any building with bathroom facilities (new building, moved-in building, change of ownership, existing building unused for more than six months or more) can be approved by the Town, the property owner must have applied for, and been accepted for wastewater services provided by the Town of Round Top. New buildings cannot be constructed or placed over an existing septic system nor be within ten (10) feet of such a system. This applies to all Districts. Exception to this requirement to connect to the Town's WasteWater system are: Property in Round Top Oaks Subdivision and connection creates an extreme hardship on property owner (which can be approved by the Town Council).
- (i) Green screening is an advantage to the Town in certain situations to keep certain items from the full visibility of the general public. In those situations the Building Official will determine if such screening is required. If it is deemed necessary, the Building Official could require a land owner to put up shrubs and trees to a height of seven (7) feet and dense enough to conceal the item(s). This green screen can be required on both the street and the neighbor's sides.
- (j) All waste containers, dumpsters and utility yards shall be shielded from public view by fencing or greenscreening. Property owner shall keep all such areas free of infestation by insects, rodents and other pests. No odor from such areas shall be detectable from any adjacent property.

**Sec. 1-31. Nonconforming uses and structures**

- (a) Authority to continue nonconforming uses. The use of land or buildings or structures which was lawful upon the effective date of this Ordinance, although not conforming to the provisions hereof, may be continued subject to the terms hereof. No nonconforming use or nonconforming building or structure may be extended or expanded; provided, however, extension of a nonconforming use wholly within an existing building or arrangement of buildings designed and constructed for such use shall be permitted provided no structural alteration of such building or buildings is required, and the use of additional land is not required. If the nonconforming use of a building or land is discontinued for ninety (90) consecutive days or more, the future use of such building or land shall be in conformity with the provisions of this Ordinance. For the purposes hereof, a use is discontinued when the land or a building becomes devoted to a different main use, or the land or building is no longer used for any purpose.
- (b) Nonconforming accessory uses. No accessory use to a nonconforming use shall continue after termination of the nonconforming use unless such accessory use otherwise complies with the provisions of this Ordinance.

**Sec. 1-32. Authority for continued existence of nonconforming structures**

A structure lawfully existing on the effective date of this Ordinance, although not conforming to the provisions hereof, shall be allowed to continue in existence subject to the following:

- (a) Notwithstanding the following provisions, the limitations below regarding architectural style, shall not apply to ranch style, brick structures (used as single-family homes or for other permitted uses in their district) which are in existence on the date of adoption of this Ordinance, and such structures are hereby specifically permitted to be expanded, rehabilitated, or modified in their existing style, so as to assure architectural compatibility with the existing structures. All other requirements of this Ordinance shall apply to such structures.

- (b) Nonconforming structures shall not be extended or enlarged, nor shall they be structurally altered, unless such alteration converts such structure into conformity with the provisions hereof. Routine repairs and nonstructural alterations shall be permitted if they do not have the effect of extending or enlarging the nonconforming characteristics thereof.

Examples:

- (1) repair of the exterior of a building with like and kind
- (2) re-painting a home with same color
- (3) replacing a roof that is compliant with a matching roof
- (4) repairing a fence with matching and compliant fencing

Nonconforming single-family dwelling main buildings may be extended or enlarged if the extension or enlargement does not increase the nature or degree of the nonconformity, and the building is conforming in terms of lot size or the depth of the required front, side, or rear yard.

- (c) Nonconforming structures shall not be rebuilt in the case of total destruction, or partial destruction exceeding fifty percent (50%) of its fair market value. If any such structure is damaged or destroyed to the extent of more than fifty percent (50%) of its fair market value, such structure shall not be rebuilt except in conformity with this Ordinance. If such structure is accidentally damaged to the extent of fifty percent (50%) or less of its fair market value, it may be repaired, restored, or renovated to its previous nonconforming status provided actual restoration, renovation, or repair is commenced within six (6) months following the date the damage is incurred.

### **Sec. 1-33. Nonconforming status**

The following are hereby declared to be lawfully existing nonconforming uses or structures:

- (a) Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located but lawfully existing at the time of the adoption of this Ordinance;
- (b) Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located but lawfully existing at the time of the adoption of any amendment to this Ordinance, the result of which amendment renders such use or structure nonconforming; and
- (c) Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located at the time of annexation into the Town.

### **Sec. 1-34. Change in ownership**

In the event of a change in ownership of a property which has nonconforming uses, nonconforming conditions, or nonconforming structures, a review of the nonconforming issues will be conducted by the Building Official. If there are nonconforming conditions which can be corrected without undue hardship to the new property owner, a letter will be issued to the new property owner, requesting correction of the nonconforming condition. However if the nonconforming is in relation to health and safety the issue must be corrected.

With the exception of the provisions included throughout this Ordinance, the status of nonconforming uses and nonconforming structures are not affected by ownership and/or occupancy change.

**Sec. 1-35 Subdivision of Tracts**

**Subdivision of Tracts:** In all cases, any subdivision of existing lots or tracts within the Town limits must be reviewed and approved by the Town Council in strict compliance with the Town's Subdivision Ordinance and applicable state law. The application for subdivision approval must be submitted before any sale or transfer of ownership and be accompanied by the items required by the Town's Subdivision Ordinance. Residential lots less than four acres may not be subdivided.

**Properties Bisected by a change in District Boundaries**

In the case of a change in District Boundaries by the Town Council, property owners whose property will be bisected by a district boundary in such a change shall have the right to subdivide their property in such a way that each portion of said property is within a single district, notwithstanding that the size of any sub-divided tract shall not be smaller than  $\frac{1}{2}$  that district's minimum lot size requirement. Any lot in existence at the time the Land Use Ordinance was enacted is deemed compliant with the lot size requirement. Any smaller lot size in all districts can only be created by a variance issued by Town Council.

**[Sec. 1-36 -1-39. Reserved]**

## ARTICLE IV. PERFORMANCE

### Sec. 1-40. Compliance required

It shall be unlawful for any person to use or permit the use of any land or structure within the Town limits in a manner which creates any dangerous, injurious, noxious, or other similar condition.

- (a) **Hazardous Conditions:** It shall be unlawful for any property owner to allow buildings or grounds that are the source of the emitting of vibration, air pollution, or odorous matter: the storage of explosive, hazardous, toxic, or noxious matter or materials: or the casting of glare at levels which adversely affect surrounding areas or adjoining premises.
- (b) **Neglect of Buildings:** It shall be unlawful for any property owner to allow buildings on their property to fall into disrepair obviously visible from outside the property line. Examples of disrepair include, but are not limited to, failure of structural integrity, evidence of structural issues such as leaning/collapse, rotting or destroyed materials, or exposure of the interior to weather conditions.
- (c) **Danger to Public Health and Wellbeing:** It shall be unlawful for any person to permit rodents, destructive insects, diseased wildlife, or other public health conditions to exist uncorrected for more than 30 days after notification of same by the Building Official. Permitted uses set forth in this Ordinance shall be subject to compliance with the applicable performance standards contained in this Article.
- (d) **Neglect of grounds or yards:** It shall be unlawful for a residential lot within the Town limits to allow its yard or grounds to fall into neglect, thereby potentially creating fire hazards, habitat for rodents and insects or unsightly views from adjacent properties. Residential properties of two acres or less become non-compliant when the average height of grass or weeds grows to an average height of 18" above grade. Dead trees or limbs that overhang adjacent properties or public easements must be trimmed in order to protect public safety and adjacent property values.

#### **Exceptions for yards and grounds of larger properties:**

- (1) Properties of two acres or more that are dedicated to agricultural use and maintain an agricultural exemption from the Fayette County Appraisal District.
- (2) Properties of two acres or more upon which hay or other crops are grown and harvested.
- (3) Properties of two acres or more that have dedicated natural areas.
- (4) Properties of two acres or more which are largely forested.
- (5) Properties of two acres or more which are fenced and dedicated primarily to livestock

The standards set forth in this Article shall apply in the various Land Use districts as set forth herein.

## Sec. 1-41. Light and glare

- (a) All exterior lighting shall be shielded so that no light is emitted above the bottom of the light source or bulb (100% cut-off). Compliant fixtures shall not be mounted so high as to cast light or glare on adjacent residential property. Examples of compliant fixtures are the historic fixtures over two doors of the Round Top Courthouse, the “dark sky” porch down lights on a number of shops at the Henkel Square Market and the sign light on the front eave of the Round Top Real Estate building. A modern example of compliant 100% cut-off fixtures are the parking lot and exterior general safety lights at Henkel Square Market. Governmental or special use public buildings are not exempt from this section but may apply for a variance based on special circumstances or requirements. General information about “dark sky” standards and light pollution is available through the International Dark Sky Association (IDA)> The IDA’s Good Neighbor Practical Guide for residential lighting is available at <http://www.darksky.org/assets/documents/PG3-residential-lighting.pdf>
- (b) Decorative building lights may be illuminated in all districts, at all hours, from November 15 to January 15 by both residential and commercial properties.

(c) **Commercial Decorative Lighting:**

**Lighting Specifications:** All commercial decorative lighting must be clear, warm white or cool white bulbs. The maximum allowable decorative lights allowed are .5 watts per bulb when incandescent, 120 volt C7 socket in mini candelabra, or 5 MM LED or LED wide angle bulb less than .01 watts per bulb. Maximum frequency on a string is 6 inches for incandescent strings and 4 inches for LED. Less frequency of bulbs and lesser wattage and lumens per bulb are acceptable so only maximums are stated here.

**Illumination timeframes:**

- (1) Developments and non-profit entities within all districts may illuminate low wattage decorative building lights along ridges, eaves, and posts to attract business and create a festive atmosphere during the following periods:
  - a. Whenever a development or organization is open or holding an event
  - b. Four (4) weeks prior to the end date of the Fall and Spring Antique Festivals as posted on the Round Top Area Chamber of Commerce website.
  - c. Any week, Thursday through Sunday from dusk to midnight, controlled by automated timer
- (2) Single business entities in primarily residential neighborhoods may not display such lighting without prior written approval from all adjacent residential property owners except during Town Council designated Special events.
- (3) Single business entities not part of a development and not in primarily residential neighborhoods may also display commercial decorative lighting as noted above. However, residential property owners within 200 ft. of single commercial businesses in BH and R Districts that are not in primarily residential neighborhoods may file a formal complaint against such display with the Building Official. If the Building Official determines the residential property owner’s rights according to section 1.41 of the Land Use Ordinance has been infringed upon by such a display, commercial decorative lighting may be restricted or disallowed except during Town Council designated special events.

## Sec. 1-42. Natural Areas, landscaping and buffering

- (a) **Purpose.** Natural and planted landscaping and buffer yards shall be required to provide a separation between land uses of different categories to eliminate or minimize potential nuisances from litter, noise, glare, signs, unsightly buildings, and parking areas, to provide spacing to reduce adverse impacts from noise or odor, or danger from fire or explosion, and to enhance aesthetics and the visual image of the Town.
- (b) **Responsibility for buffer yards.** Buffer yards or green screening shall be required when:
- (1) the main use of a lot in Districts C or B/H is changed to a different category of use, and the new category of use is different than the category of the main use of an adjacent residential lot, or
  - (2) a lot is developed for a commercial use and such lot is adjacent to a lot, developed or undeveloped, that is within District R or adjacent to a predominantly residential area of the B/H district. The owner of the lot upon which the main use is changed, or upon which a use is developed as above provided, shall establish and maintain the buffer yard in accordance with this Ordinance.
- (c) **Landscaping, wooded areas, and buffer yards used to shield nonconforming architectural conditions.** In certain conditions, landscaping, buffer yards or existing wooded areas may be used to shield architectural conditions that are nonconforming from the view of adjacent properties. In this case, these wooded areas or landscape conditions shall be maintained by the land owner and may not be removed, or allowed to deteriorate in a manner to expose the nonconforming condition to view from any adjacent property unless such nonconforming condition is corrected.
- (d) **Trees, flood plains, green belts, and natural areas.** Existing green belts along watersheds, creeks and gullies shall be protected in a natural state. Under most circumstances, areas within the 100 year flood plain shall be used only for green belts, natural park land or for agricultural purposes. Residential construction may be allowed within the 100 year flood plain only if the finished floor of the building is built above the level of the 100 year flood plain and an acceptable foundation design from a registered engineer shows that such a structure could withstand the maximum water levels of such a flood without significant damage to the structure or to adjacent structures. No commercial construction shall be allowed within green belt areas or within the 100 year flood plain.

Regardless of district, all contiguous commercially-developed property within the limits of the Town of Round Top, shall establish, preserve/retain as greenspace no less than 25% of the total square footage of said property. Computation of greenspace may include required setbacks, but shall not include road right-of-way, designated parking areas, decks, or walking paths of gravel, crushed limestone or granite, wood, or other impervious cover. Applicants for construction permits are responsible for demonstrating to the Building Official that these requirements will be met.

- (e) **Cutting of Trees.** Cutting, removal or trimming of more than twenty-five percent (25%) of the limbs of any tree with more than a six-inch diameter shall require approval of the Building Official. Notwithstanding that diseased trees or storm damaged trees may be removed with written permission of the Building Official. On any property of less than two (2) acres, in order to remove any tree of six inches (6") in diameter or larger, a property owner must prove overwhelming practical reasons for such a cutting, and such cutting shall be allowed only if the tree or trees are replaced, at land owner's expense, at another location within the Town limits by trees with the equivalent sum of total diameter and comparable value as determined by accepted landscape appraisal formulas and a minimum of a five-gallon size specimen. In forested tracts of more than two (2) acres, replacement trees must be provided at a rate of 33.3% of the sum of total diameter and comparable value. In these areas, and in areas within the Town limits where construction is planned, clearing or cutting of mature trees should not be allowed except in the case where no acceptable building site can be found on the property that does not require cutting of significant trees or where removal of said trees can be proved to be critical to the use of the structure. In these exceptional cases, the land owner shall be required to plant new trees at the predetermined rates stated above to replace the ones removed to facilitate the construction. Notwithstanding these exceptions, natural screening between wooded adjacent properties should be maintained to protect the privacy of adjacent property owners.
- (f) **Run off, grey water and land owner's responsibility for erosion.** All runoff into creeks and gullies within the Town limits shall be managed by adjacent property owners to minimize erosion and environmental impact. No release of gray water, septic, chemical, or other pollutants should be allowed into the watershed. All runoff from parking areas and large paved areas shall be directed away from such features where possible to avoid excessive erosion and the release of automotive fluids into the watershed. Terracing and swales covered by grass or vegetation and collection areas, natural in appearance, rather than concrete embankments and culverts, shall be used where possible for this purpose. All developments of one acre or more that contain multiple buildings must submit a surface water run-off management plan when applying for a permit application for said development verifying that these requirements will be met. The Building Official has the right to require such a plan be provided by a licensed civil engineer.
- (g) **Allowances for walkways.** Allowances shall be made to encourage foot traffic within the Town limits. The Town of Round Top may require easements for this purpose along property lines. Written notice of the Town's intention to establish such walking paths, including the proposed path of the walkway, must be sent to all affected property owners thirty (30) days in advance of the establishment of easements. To this purpose, the establishment of such easements may be required a condition for the approval of any change of use or for approval of any other building permit application. However, no easements shall be established within fifty feet (50') of the front and side, and one hundred feet (100') from the rear of the main residence on any property in District R without the express written permission of the affected property owner.

### Sec. 1-43. Off-street parking and loading

- (a) **General Provisions.** Required parking shall be comprised of gravel or hard-surface, off-street parking spaces and shall have direct access to a public street or alley by a driveway not less than twelve feet (12') in width if a one-way driveway, and not less than twenty-four feet (24') in width if a two-way driveway.
- (b) **Materials.** In Districts R and B/H, the preferred materials shall be gravel, plant mix (gravel and ash), crushed granite, stone, brick, cobblestone, patterned concrete in approved patterns and other decorative masonry. In Districts C only, broomed concrete, chip rock or asphalt laid over a six-inch deep compacted base may be approved at the discretion of the Building Official. Also, in District R only, driveways on parcels of land over five acres, with driveways in excess of 200 ft., broomed concrete or asphalt laid over a six-inch deep compacted base may be approved at the discretion of the Building Official if, in the judgment of that Board, the use of these materials will not deteriorate the rural atmosphere of the community.
- (c) **Shielded parking areas and communal parking.** All parking areas within Districts C and R shall be substantially shielded from public view by the planting of trees, hedges of six feet (6") from grade, or other approved shielding. In District B/H, the Town of Round Top and the Building Official shall make every effort to accommodate the following intentions of this Ordinance: All approved parking areas shall, as much as reasonably possible, be located in areas shielded from the view of the main street, and from open public areas. Because of existing conditions and smaller lot sizes, the Town and the Building Official shall encourage the establishment of communal parking areas for this purpose.
- (d) **Calculating the parking requirement.** Off-street parking requirements shall be calculated based upon estimated parking required by the use of the structure. Therefore, a property that is to be used for a high traffic business shall be required to provide a greater area of off-street parking than a small business or residential property. The actual number of off-street parking places shall be determined by the Building Official using the table below, but the maximum calculation for off-street parking requirements area shall be as follows: One parking space may be required for every 100 square feet of gross floor area. When calculating the required number of off-street parking spaces, fractions of less than one-half ( $\frac{1}{2}$ ) shall be disregarded, and fractions of one half ( $\frac{1}{2}$ ) or more shall be counted as one (1) space. Where parking requirements are based on building floor area, the floor area calculations shall be based on the gross leasable floor area.

#### Table of required off-street parking:

- (1) **Dwellings** – Two per family
- (2) **Bed and Breakfast or other commercial accommodations** – One per sleeping room.
- (3) **Professional Office** – Three plus one per 400 sq. ft. over 1,000 sq. ft. of interior space.
- (4) **Stores, retail or service** -Two plus one per 600 sq. ft. over 1,000 sq. ft. of interior space.
- (5) **Restaurant** -One per three seats for diners on owner's property.
- (6) **Art Gallery, museum, library or community center** -Five plus one per 600 sq. ft. over 2000 square feet of interior space.
- (7) **Light manufacturing or distribution** -One per employee, plus a minimum of one truck space per 1,200 sq. ft. of warehouse space.



- (8) **Churches or performance halls** -One parking space for each three seats in the main auditorium.
  - (9) **Other** -Parking requirements as needed at the discretion of the Building Official.
- (e) **Dimensions.** Required parking spaces shall be provided in accordance with the following standards:
- (1) **Street parking:** Standard automobile parking spaces set perpendicular to the building (90 degrees) shall be a minimum of nine feet (9') wide by eighteen feet (18') long. Standard automobile parking spaces set parallel to the building shall be a minimum of eight feet (8') wide by eighteen feet (18') long. Perpendicular spaces shall be preferred, provided the right of way is of sufficient width to allow such parking and traffic.
  - (2) **Parking lots:** Standard automobile parking spaces shall be a minimum of nine feet (9') wide by eighteen feet (18') long.
  - (3) **Handicapped parking** shall be provided in accordance with the Americans With Disabilities Act.
  - (4) Council may require alteration of the above standards in order to accommodate special vehicles or size of vehicles.
- (f) **Site Orientation of off-street parking.** All commercial, off-street parking shall be oriented on the lot so that either the building to be served, adjacent landscaping, or a buffer yard shields the parking area from the view of the street. In general, parking should be oriented at the rear of all high volume commercial structures to diminish the visibility of said parking areas.
- (g) **Person(s) who come to visit a Town resident** can park a Recreational Vehicle on a resident's private property. This allowance applies only to visitors who are guests of the property owner, are not Portable Vendors, and are allowed to park at no cost. Such Recreational Vehicle cannot be parked on any street or public or commercial property, and must be parked on the private property in a manner that minimizes visibility from the street. The length of a stay cannot exceed seven (7) days and can occur only twice a year but must be separated by at least five (5) months. Any longer stay will require an approved permit from the Building Official, and must be for a specific period of time not to exceed one month. Such vehicles must be plugged into a power source and may not operate a generator. Such vehicles cannot be used as Portable Vendors or as habitations during a construction project, except as permitted herein. In no case may a Recreational Vehicle or other portable or temporary building be used as a habitation within the Town limits beyond the time limitations listed above, with the exception of the occupation by a property owner during the construction or remodeling of their home as specified in Section 1-55.

#### **Sec. 1-44. Manufactured Home Subdivisions.**

Performance standards for manufactured home subdivisions, in addition to the requirements contained herein, are located in the Manufactured Home Subdivision Standards Ordinance, adopted separately.

## Sec. 1-45. Architectural Standards.

### (a) Architectural Models:

(1) **District B/H models:** Within District B/H, existing models of a historical nature shall determine architectural standards. These models are the existing historic buildings and architectural themes that currently exist within the town. These include the following structures:

- a. The storefront buildings on the southeast side of the Town Square
- b. The old Schwarz store, the brewery buildings, the "Ima Hogg" house and other historic buildings in what is now known as "Bybee Square".
- c. The buildings of Henkel Square Market.
- d. The Bethlehem Lutheran Church.
- e. The Concord Baptist Church.
- f. The Bauer-Schuddemagen House on Hwy 237.
- g. The building now housing Los Patrones restaurant at 101 S. Washington.
- h. The historical buildings on the corner of Round Top Road and Hwy 237; including the old Cigar Factory, the Wantke workshop, the Schiege home and guest house, and the Pochman house.
- i. The log buildings and the frame structures on the block bound by Bauer Rummel Road, White Street, Wantke Street and Hwy 237 variously called the "Fort Block" and/or "Village Green".
- j. The Krause House, the Muske/currently Sellers House, the original facade of the Albers house and the Graf House, all on White Street.
- k. The Rummel House on the property of the Round Top Library and the old Hope Lutheran Church, now the Sterling and Marianne McCall Library Building.
- l. The Umland/Diers House on Mill Street, the Fricke/Cies house and the Schwarz/Quade house on FM 1457. The Bybee-Reed-Tillman house and the Oak Grove House on CR 111
- m. The Winkelmann/Travis/Johnson home at 610 Bauer Rummel Road,
- n. The historical buildings at the Winedale Historical Center.
- o. The Round Top General Store building.

These buildings shall serve as general architectural models for any new construction or modification of structures within District B/H. Refer to Section 1-61 for detailed regulations for the Business/Historic District.

(2) **District R Models:** Within District R, the same architectural models listed under District B/H will apply with the addition of the following structures at the Festival-Institute at Round Top:

- a. The Clayton House
- b. The Menke House
- c. The Edyth Bates Old Chapel
- d. The Concert Hall.

The construction of additional models at the Festival-Institute at Round Top may expand the historical architectural styles that may be used in District R. Victorian, Arts and Crafts, Gothic, Colonial architecture, hybrids of these styles, and the models established for District B/H may be utilized in the design of structures built in District R. Refer to Section 1-60 for detailed regulations for the Residential District.

(3) **District C Models:** Within District C, the same architectural models listed above for Districts B/H and District R will apply with these additional models:

- a. The Old Depot Antiques Main Building and Dance Hall (excluding the metal building in between)
- b. The Round Top State Bank building
- c. The original front facade of the Round Top Mercantile Store (excluding the metal building hardware addition to the right)
- d. The Junk Gypsy Store on Hwy 237 outside the town limits.

Masonry or block structures are also allowed as long as the front façade is either stone veneer or covered with stucco or plaster to simulate historic models. Therefore, structures may be built using a front facade of a historical style on the side of the structure that faces the public street, or other public area, but otherwise may be constructed of metal, masonry, block or other conventional commercial materials. Refer to Section 1-62 for detailed regulations for the Commercial District.

- (b) **Special Architectural Merit:** Within all districts, special exceptions to the architectural models established above may be made, if a proposed design has “Special Architectural Merit,” provides for architectural or historical conformity and design as good or better than the standards contained herein, and will enhance the beauty and quality of the Town of Round Top. This exception to the required architectural standards may only be made by the Building Official and by majority vote of Town Council.
- (c) **Adjacent Architecture:** The Building Official shall consider the style, nature and orientation of adjacent architecture when reviewing an application to maintain a consistent and attractive architectural context for the surrounding neighborhood.

## Sec. 1-46 – Lot size, building density and placement

### (a) Lot size and setback requirements:

- (1) **Business/Historic District:** The minimum lot size is one-quarter acre (10,890 square feet), unless the business is located in a high-density area or a development as specified below.

All buildings other than those located around the Town Square shall conform to the following setbacks:

Front yard—20 feet; Side yard—10 feet; Side yard abutting street—15 feet; Rear yard—25 feet.

Buildings around the Town Square shall conform to the following setbacks:

Front yard—5 feet; Side yard—5 feet; Rear yard—10 feet.

- (2) **Residential District:** The minimum lot size is two acre (87,120 square feet), unless the residence is located in a high-density area or a development as specified below.

All buildings on lots in the Residential district shall conform to the following setbacks:

Front yard—20 feet; Side yard—15 feet; Rear yard—25 feet.

- (3) **Commercial District:** Lot size shall be determined by the size of the structure or area proposed, plus area for setbacks, plus the amount of land required for on-site parking and any landscaped or buffer areas; but in no case shall a lot be smaller than one (1) acre (43,560 square feet), unless the business is located in a high-density area or a development as specified below.

All buildings shall conform to the following setbacks:

Front yard -20 feet; Side yard -10 feet; Side yard abutting street -15 feet; Rear yard -25 feet

- (b) **Subdivision of Tracts:** In all cases, any subdivision of existing lots or tracts within the Town limits must be reviewed and approved by the Town Council in strict compliance with the Town's Subdivision Ordinance and applicable state law. The application for subdivision approval must be submitted before any sale or transfer of ownership and be accompanied by the items required by the Town's Subdivision Ordinance. The application must be accompanied by a survey.
- (c) **Lot size requirements for churches or houses of worship:** A sufficient lot size shall be required for a church or house of worship such that adequate off-street parking may be provided to serve the use of the structure and to provide adequate screening for such parking, or other institutional activities of the organization, such that the peace or privacy of adjacent residential property owners is protected.

**(d) Properties Bisected by a change in District Boundaries**

In the case of a change in District Boundaries by the Town Council, property owners whose property will be bisected by a district boundary in such a change shall have the right to subdivide their property in such a way that each portion of said property is within a single district, notwithstanding that the size of any sub-divided tract shall not be smaller than ½ that district's minimum lot size requirement. Any lot in existence at the time the Land Use Ordinance was enacted is deemed compliant with the lot size requirement. Any smaller lot size in all districts can only be created by a variance issued by Town Council.

**(e) High Density Areas:**

In all cases, the designation of any existing lot or tract within the Town limits as a "high density area" must be reviewed and approved by both the Building Official and the Town Council. (See definition of high density area, Section 1-6)

The following lots adjacent to or near the Courthouse Square in the B/H District are designated as high-density and may have lot sizes of a minimum of 6,000 square feet and building setbacks of 5 ft. Applications for designation of additional High Density Areas must be approved by both the Building Official and the Town Council. The following lots within the Town limit are currently designated as "High Density Areas."

- (1) The lots on Main St, across from the Courthouse Square, from Washington to Live Oak (those currently containing Round Top Real Estate, Royers, Lizzie Lou, etc.)
- (2) The lots bounded by Washington, E. Mill, Von Rosenberg, and Austin (those blocks currently containing Bybee Square and Botts Title).
- (3) The lots on Washington across from the Square, from W. Mill to Nagel (those currently containing Round Top General Store, the leather shop in the Schatte Chapel building, D Little Gallery).
- (4) The triangular lot bounded by Washington, White and Nagel.

**(f) Developments:**

In all cases, the designation of any existing lot or tract within the Town limits as a "development" must be reviewed and approved by both the Building Official and the Town Council. (See definition of development, Section 1-6)

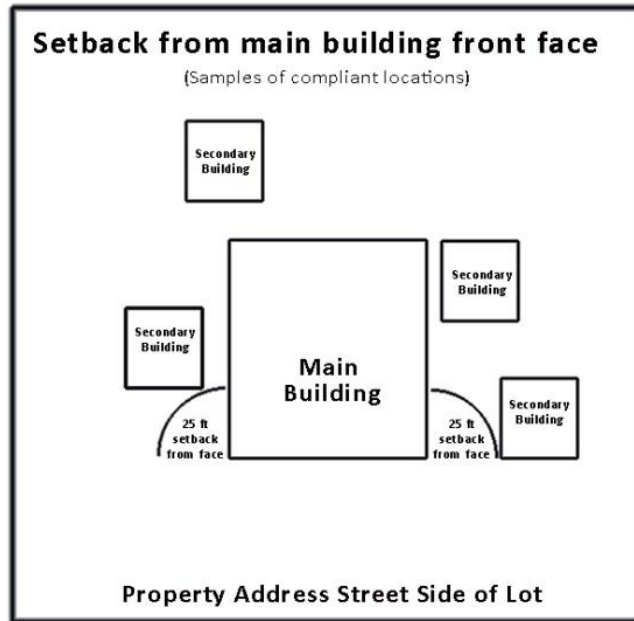
The owner of a lot of one acre or greater, when designated as a development, may place or construct multiple buildings on the lot. One major structure (of 500 or more square feet) is allowed per quarter acre of the lot. Requirements for on-site parking and building setbacks remain in force but a fixed quarter acre lot for each building is not required as long as the total number of major structures complies with the aforementioned formula. A lot must be designated as a development by the Building Official and the Town Council as a prerequisite to using this development lot size formula.

The following lots in the B/H district are currently designated as developments:

- (1) Henkel Square Market
- (2) Round Top Area Historical Society campus
- (3) The lots bounded by Washington, Wantke, White and the Bethlehem Lutheran Church property (currently containing Village Green and Round Top Inn)

**(g) Placement of secondary or utility buildings:**

All secondary residential or utility structures must be set on the property at least 25 feet away from and behind the front façade of the primary building, notwithstanding that this requirement does not apply to lots around the Town Square. The front façade of the primary building faces the street which is referenced in the physical street address of the structure. The figure below illustrates compliant placement examples.

**(h) Secondary Residential Buildings:**

In all Districts, any secondary residential building, such as a guest house or other such structure with a planned residential use, which exceeds a total of 450 square feet of interior air-conditioned space, or in which full kitchen facilities are installed, must meet the site and lot size requirements of a separate residence. In the R and C Districts, the application for an occupancy or building permit must include a scaled plan designating a two (2) acre site that would be attributed to the structure if the property was subdivided in the future. In the R and C Districts, where the lot size is under 4 acres, or where the lot does not permit the designation of 2 acres to the defined secondary residential building, an application for building permit for a defined secondary residential structure must be approved by the Building Official and the Town Council. If approved, subdividing the defined secondary residential structure still requires compliance with Section 1-35, Section 1-46(b),(h), and other applicable sections of the ordinance. Lots in the B/H district must include a scaled plan designating a ¼ acre site that would be attributed to the structure if the property was sub-divided in the future.

A plan for legal and separate access and utilities must also be provided to the secondary building. Barns, agricultural buildings, storage buildings, and other structures which have no planned residential use are excepted from this requirement. Exceptions to this rule may apply on tracts that are designated “High Density Areas” or in cases where lots below the minimum lot size is grandfathered due to its existence previous to the effective date of this Ordinance.



### Sec. 1-47. Permanent Signage.

All permanent signage is subject to review by the Building Official.

All permanent signage must conform with size requirements and the design shall be of professional quality. When a grandfathered existing sign is changed in any way except for repair or repainting to match existing, it must then comply with these regulations.

- (a) **Prohibited Signs:** The following types of signs shall not be erected within the Town limits of Round Top: Signs for businesses not located on your property of any size, portable signs, flashing or garishly lighted signs. Lights on signs in Districts R and B/H which are visible from a residence or residential area shall comply with Section 1-41 "Light and glare" of this ordinance. Sign lights shall be shielded so that no light is emitted above the bottom of the light source (100% cut-off). Signs shall be illuminated from the top downward or should be directed downward onto the sign itself and shall not cast significant illumination or glare into the night sky, adjacent residential property, or the public roadway.
- (b) **Business Signs:** Sign size shall be in direct proportion to the square footage of the face of the building where the sign will be located. The face will be defined as the vertical elevation in square footage which equals the height of the building multiplied by the width of the building. Roofs are not considered as part of the vertical elevation as they are not vertical.

For buildings facing a Town street, the cumulative sign area shall not exceed six percent (6%) of the face where the sign will be located. For the back and sides of such buildings, the sign area shall not exceed three percent (3%) of the face where the sign will be located. As an example, if the front of a building is thirty feet (30ft) wide by ten feet (10) tall, any sign or signs installed cannot exceed a maximum of eighteen (18) square feet total ( $30 \times 10 \times 0.06 = 18$  square feet).

In cases where the face is less than one hundred (100) square feet, the minimum size area allowed will be six (6) square feet.

- (1) **Signage for businesses with multiple entrances:** In cases where a business has two public entrances, either on two public streets or in a development with a public courtyard, each "front" of that building may be allowed a cumulative sign area up to 6% of the square footage of the façade on that side of the structure.
- (2) **Two Sided Yard Signs:** In the case where a business has a sign with two sides along a street or public courtyard (versus a wall mounted sign), a cumulative sign area for each face is allowed up to 6% of the square footage of the façade of the closest side with a public entrance.
- (3) **Open and Closed Signs:** Open and Closed signs smaller than 3 sq. ft. on a face do not require a sign permit. Larger open and closed signs, if required due to building location and visibility, must be permitted. They will be limited to a maximum of 6 square feet.



- (c) **Group signage for Developments:** Group signage may also be allowed to identify the businesses contained within a development of one acre or more that contains multiple businesses, notwithstanding that all requirements for signage listed above apply. In the review of group signage for a development, the Building Official will consider the size of the development, the number of businesses within the development and the amount of other signage within the development.
- (d) **Directional and Development Signs:** On developments of one acre or more that include multiple buildings or businesses, and on public property, directional yard signs are allowed to facilitate the identification of individual businesses, features of public interest or buildings. Directional signs will be standardized in terms of design, location and style – with only the primary name changing in each case – and are to contain content limited to the name of the building, business or feature – and a short descriptive tag line of no more than 30 characters. Additional requirements for a development sign are as follows:
- (1) Permits are only issued to the Developer. Individual businesses or tenants cannot apply for such permits.
  - (2) All directional signs must be hung on matching brackets and posts.
  - (3) All directional signs must be of the same size, style and design
  - (4) All directional signs must clearly be placed in a location related to the structure it identifies.
  - (5) All directional signs must be placed in similar relative locations to each building or business being identified.
- (e) **Murals, Decorative Art and special paint schemes:** Murals, decorative art and special paint schemes for buildings will require a permit and will be considered on an individual basis by the Building Official. An accurate, detailed, color drawing or photograph of the proposed mural, decorative art or paint scheme must be submitted with the application for review.

### Sec. 1-48. Temporary Signage.

Temporary signage such as banners, flags or wall hangings with commercial messages, etc. may be displayed by a single business or property owners during special events as designated by Town Council. Other temporary signage as outlined below will require a permit and review by the Building Official. Given the low cost of signage of this type, the permit fee may be waived at the Building Official discretion. The permit application must specify the start and end dates during which the temporary signage will be displayed and the dimensions of the proposed signage. In considering the temporary signage, the Building Official will consider the location and dimensions of the signage and the nature of the event.

- (a) **Banners:** All weather banners of any type may be used only to promote special civic and non-profit events designated by Town Council. They shall not be erected more than thirty (30) days before such an event is to begin and shall be removed no later than three (3) days after each event ends. Banners may also be used to announce the opening of a new business. The maximum period a new business banner may be displayed is sixty (60) calendar days.

Temporary signs may not be used to promote sales, special commercial events or to provide any other commercial messages except as outlined in Section 1-48 (b) below:

- (b) **Group Events:** Banners and other temporary commercial messages may be used by groups of citizens or businesses when permitted in advance through the Building Official. The exact appearance, dimensions, number and location of such temporary signs must be disclosed in the permit application. Such permits may be permitted in the following cases only:
- (1) When submitted by 5 or more private citizens, each being a property owner within the Town limits, to promote a group sale or event on their own properties.
  - (2) When submitted by the Round Top Chamber of Commerce representing five or more local businesses.
  - (3) When submitted by a Developer representing five or more merchants within the confines of their development.
  - (4) When submitted by a public or non-profit entity for the purpose of promoting an event that benefits the community whether a property owner or not (if not must be within close proximity of the Town).
  - (5) When submitted by the Town of Round Top in support of designated special events, group commercial activities, tourism or economic development, civic or non-profit activities occurring the community.

Temporary signage for a repetitive event (e.g., an annual quilt show) can be permitted for up to three years, as long as the signage used is the same. Minor changes to approved artwork may occur during this period, and must be resubmitted to the Building Official for approval.

- (c) **Institutional Banners in District C:** In District C, an individual business may submit a permit application for temporary sale banners and signs. Banners with promotional content related to brand or on-going product line – often called “institutional advertising” as opposed to “sale advertising” – may be authorized by action of the Building Official. The Building Official shall set standards such that the permissible guidelines for such banners are clear.

- (d) **Real Estate and Contractor Signs:** Signs on private property up to a maximum size of 6 sq ft on one face, promoting the sale or lease of a property, or promoting the builder of a project under construction, do not require a permit. Signs above that size do require special permits. Such signs must be placed on the property being sold, and not on public right-of-way. Such signs must be removed immediately after the property is taken off the market, or the project under construction is complete.
- (e) **Flags, or fabric signage with commercial messages:** Flags, fabric or other wallhangings, posters and other such displays that contain commercial, promotional or product information are considered “banners” in the Land Use Ordinance.
- (f) **Texas and United States Flags, political speech:** There is no regulation of state and federal flags on private property within the Town limits of Round Top. Nor is there any regulation of political speech on private property during periods of time leading up to a Town, County, State or Federal election. All political banners and signs should be removed within ten days after the applicable election results are reported.

## Sec. 1-49. Display of merchandise, art and furnishings

During the semi-annual Antique Fair Special Event, as defined by Town Council, the exterior display of merchandise, art and furnishings is allowable outside the perimeter of buildings and porches in town. Property owners are responsible for the timely removal of all tents, merchandise, art, and furnishings and the restoration of the property to a condition which is compliant with this Ordinance or to a previously grandfathered condition. Similarly, property owners who have allowed temporary vendors to occupy their property during the event are also responsible for timely removal and return to a compliant condition.

- (a) **Antique Fair Special Event timing and duration:** Unless amended by the Town Council, The Antique Fair Special Event ends on the first Saturday of April and October. Set-up of tents and venues and the display of merchandise, art and furnishings shall begin no earlier than 19 calendar days prior to the end date (set by Town Square Show-DYD (the Saturday of the first full weekend of April and October)). All merchandise, art, furnishings, tents, equipment, and trash must be removed by 5:00 pm the Tuesday following the end of the Antique fair. The Building Official shall post cease and desist orders for any remaining non-compliant properties on the following Friday (3 days later-a grace period). If the condition is not remediated by the next Thursday (another 6 days after the grace date), a per diem fine of up to \$500 will be assessed on the property owner until the property is compliant.
- (b) **Display of merchandise outside of Special Events:** Outside of Special Events as defined by Town Council, businesses in the Business/Historic and Commercial districts may apply for permits to permanently display merchandise, art, and furnishings outside the perimeter of their building/porch. The permit application must include pictures of the items to be displayed and a scaled drawing showing those items will be displayed. The Building Official will approve the permit request based on appropriateness and quality of displayed items consistent with the principles outlined in Section 1-2 Authority and Purpose.

Examples of the types of items which may be permitted include:

### (1) Business Historic District and Commercial District

- a. Merchandise for sale that is logically located outdoors (e.g., plants, garden items, outdoor artwork)
- b. Marketing icons that are associated with a business (e.g., an old bicycle)
- c. Fine and decorative artwork
- d. Outdoor décor and furnishings for customer seating
- e. Non-commercial objects of historic interest

- (2) **Commercial District:** On a case by case basis, the Building Official, with the approval of Town Council, may modify these requirements for businesses in the C District, notwithstanding that such items must be consistent with Section 1-2 of the Land Use Ordinance.

## ARTICLE V. SUPPLEMENTAL DISTRICT REGULATIONS

### Sec. 1-50. Applicability

The regulations set forth in this Article shall apply to all districts and permitted uses in the Town.

### Sec. 1-51. Visibility at intersections

On a corner lot, no structure, whether permanent or temporary, shall be erected or constructed, and no vegetation shall be planted and allowed to grow, in such a manner as to impede vision between a height of two feet (2') and eight feet (8') above the center line grades of the intersecting streets, in the triangular area bounded by the intersecting street lines and a line joining points along said street lines twenty feet (20') from the point of their intersection.

### Sec. 1-52. Fences

**Districts R & B/H.** Fences shall not be erected upon town, state or other public rights-of-way. The location of any new fence shall be verified by a licensed surveyor or by review of a survey by the Building Official. Fences may be constructed or erected within a required yard, other than a front yard, provided no such fence shall exceed four feet (4') in height. Fences in front yards and along the sides of the lot up to the front line of the building are allowed, provided that no fence in this area shall exceed four feet (4') in height. Arched entrances for foot traffic may be built up to ten feet (10') high and ten feet (10') wide. Entrances and gates for automobiles may be constructed up to ten feet (10') in height and up to twenty-five feet (25') wide.

- (a) Fences should follow, in materials and character, the architectural style of the main structure and/or the adjacent natural landscape
- (b) **Fence Materials:** Fences may also be constructed of native stone or brick columns with inserts of decorative iron work or wood, decorative iron work, natural vegetation, wood picket, twig, split rail or ranch plank, posts with wire frame panels, or any other historically based material or pattern approved by the Building Official or existing in historical models. Fences shall not be constructed of chain link, running brick, concrete block or other non-conforming material or method. Wood privacy fencing shall not be erected except in specific applications listed below.

#### **Open perimeter fences may be constructed of wood materials as follows:**

Treated yellow pine, native cedar, western red cedar, cypress or redwood planking with a minimum space of six inches (6") between planks.

Native cedar, oak, juniper or other native species or rough-hewn log, twig, split rail, rough timber or beam and cedar post with non-barbed wire.

- (c) **Livestock fencing:** Cedar post and plank, durable high-quality PVC ranch style or treated post and barbed wire fencing may be used on lots in excess of 1.5 acres, provided that these fences are set within the property line of any property, and provided that these fences have a rural or artistic architectural character, and provided that the use of these areas conform with guidelines for the legal occupancy of animals contained in these standards in Sec. 1-53. On lots of three acres or less, barbed wire fencing may not be used along the front or a street side of the property. On lots of two acres or less, in some situations, hog wire or other square mesh welded wire may be used as a backer for a fence of a compliant style, where no other good solutions for pet or livestock containment can be found.
- (d) **Closed wood (privacy) fencing may be allowed for the following uses:**
- (1) Enclosing a utility area no larger than ten feet square (10' x 10'), and used for storage of household or commercial waste.
  - (2) Enclosing utility equipment such as: propane tanks, HVAC condenser units, electrical service, water purification equipment, pool or spa equipment, or other similar uses as approved by the Building Official and Town Council.
  - (3) In cases where a commercial use property is adjacent to or abuts a residential use or district, closed plank fencing, not to exceed six feet (6') may be approved to protect the privacy of the residential land owner, but only in extraordinary circumstance, and only at the discretion of the Building Official. In this case, the width of the privacy fence shall not extend horizontally beyond the horizontal footprint of the main home on the property.

**District C.** Fences may be constructed or erected within a required yard, provided no such fence shall exceed eight feet (8') in height. Higher fences may be required in special cases where that additional height is required to shield equipment from public view. Styles and materials shall be the same as in District R. Privacy fencing may be used, but only to shield nonconforming work and storage areas from public view.

**Sec. 1-53. Livestock pens, kennels, etc**

No structure or pen housing pets or livestock, including exercise runways for more than three (3) mature dogs, or other large animals, shall be located within fifty feet (50') of a property line. Provided, however, dog houses for a maximum of three (3) mature dogs shall be permitted within any required side or rear yard in District R.

Pets and animals may be kept in all districts, provided that the habitation of said animals and pets does not produce noxious odors that can be detected from adjacent properties, or loud, offensive, and repetitive noises that interrupt the peace of adjacent property owners.

By permit only, additional wire containment shall be used along the rear side of an approved fence to contain pets and smaller livestock from harm. Such containment should be installed in such a way to make it as unobtrusive as possible. In some cases, the Building Official may require that smaller pet or livestock yards be used for this purpose rather than the primary fence line.

**Sec. 1-54. Accessory uses, Secondary utility buildings and structures, Recreational vehicle storage**

Accessory uses and secondary structures, used in a manner compliant with Section 1-5 of this Ordinance, are permitted in any Land Use district in connection with any main use lawfully existing within such district, provided that all accessory structures shall comply with applicable regulations for the district in which the structure is located. Accessory structures as permitted herein and which comply with applicable regulations for the district in which the structure is located must be designed to match or be compatible with the primary structure. In the R and B/H district, outbuildings, garages, workshops, garden sheds, barns and other secondary buildings must be designed to be compatible with the main residence or structure.

Such buildings may be used for the storage of Recreational Vehicles provided no part of the Recreational Vehicle is visible from adjacent property, alley or public street. Said Recreational Vehicle shall not be occupied by a person while in such storage.

**Sec. 1-55. Temporary uses during construction**

Temporary uses incidental to construction, but not otherwise lawful within a District, shall be authorized during periods of construction of buildings or structures otherwise permitted in such District. Examples include containers, dumpsters, portable sanitary facilities, and temporary RV's or travel trailers for the private use of the land owner during permitted construction projects. All such temporary structures must be removed within 30 days of the completion of the construction project. Temporary use of a Recreational Vehicle or travel trailer is permitted for the habitation of the land owner during the permitted construction or remodeling of a home only; notwithstanding that such living quarters may not be used to house workmen or other persons at any time. At completion of the project, any such Recreational Vehicle shall be housed in a storage building as described in Section 1-54.

**Sec. 1-56 Temporary uses during special events**

- (a) Temporary uses or businesses during special events within the Town, such as Fourth of July weekend, or Antique Week(s), shall be authorized pursuant to a temporary occupancy permit, subject to compliance with the district standards contained in this Ordinance. Parking on Town streets or easements by food or other vendors will not be permitted. Food vendors can park on private property, but must follow food vendor requirements defined in this ordinance.
- (b) Recreational Vehicles may be parked within the Town only during a period beginning 24 hours before a Town-designated Special Event, during said event, and for 24 hours following the end of such an event. Such permitted Recreational Vehicles shall only be located on private property by permission of the property owner, or at a single designated place in the Town - vacant land bounded by White Street on the east, Bauer Rummel Road on the north, Neuthart Street on the west, and by the Bethlehem Lutheran Church Property on the south.

All permitted Recreational Vehicles parked on the above described sites shall be located more than 25 feet from any adjoining property line, alley, or street in order to permit unrestricted access to the site by emergency vehicles.

- (c) An exception to the parking of Recreational Vehicles within the Town is listed in Section 1-43 (g). That exception permits Town residents to be visited by person(s) in a Recreational Vehicle as per stipulations in Section 1-43 (g).

**[Sec. 1-57 to 1-59. Reserved]**



**ARTICLE VI. LAND USE DISTRICT****Sec. 1-60. District R (Single-family Residential Dwelling District)**

District R is a low density single-family residential dwelling district, and is subject to regulations in order to prevent the encroachment of incompatible uses, preserve property values, and preserve the rural character of the Town. No building or land shall be used and no building or structure shall be erected, constructed, reconstructed, converted, enlarged, or structurally altered within District R, except in accordance with the provisions of this Section.

**(a) Permitted uses:**

1. Single-family residential purposes
2. Low noise, low traffic commercial activities of the property owner. Commercial uses are limited to "in home" or compliant secondary buildings built in a similar style to the main residence. Examples are:
  - a. Bed and breakfasts with three or less rooms
  - b. Vacation rentals
  - c. Small professional office
  - d. Arts studio
3. Governmental facilities
4. Churches or houses of worship

**(b) Architectural standards:**

See Section 1-45 (a) of the Land Use Ordinance for a complete list of the buildings in the Business/Historic District and the additional building which serve as models for the Residential District. Those buildings shall serve as general architectural models for any new construction or modification of structures within the Residential District.

**(c) Materials:**

Metal and vinyl windows may be used in district R but the frame must be colored (i.e., be some color other than mill finish or silver) and simulate a wood condition. White and bronze are preferred. Wood or cementitious trim around these windows must simulate conditions appropriate to the applicable historical style and must imply a wood window. Architectural grade composition shingles may be used in approved architectural styles which simulate wood shingle roofing.

- (d)** Additional items that apply to District R starting with section 1-61 (c) to the end of section of 1-61, but excluding Foundations.

### **Sec. 1-61. District B/H (Business/Historical District)**

This district contains all of the significant historical buildings within the Town limits. It includes the Town Square, the Bethlehem Lutheran Church, the Henkel Square museum village, and other structures listed in Section 1-45 (a) and as described on the Official Land Use District Map. All storefronts and other structures and grounds shall maintain a historical profile on all facades of the structure. Raised boardwalk porches, stone walkways and other typical details of existing historical architecture shall be encouraged.

#### **(a) Permitted uses:**

Any uses which, in the view of the Building Official and the Town Council, are designed to generate or serve the needs of the community, tourists and tourism, including:

- (1) single-family residential use,
- (2) bed and breakfast establishments,
- (3) cafes and restaurants,
- (4) arts and crafts shops,
- (5) antique shops,
- (6) professional offices,
- (7) artist studios, galleries and workshops,
- (8) public buildings,
- (9) similar uses deemed acceptable by the Building Official and Town Council.

#### **(b) Architectural Standards:**

All proposed construction or renovation must comply with the architectural standards adopted for this district by Council. Because of the importance of the buildings in this District, no alteration or major renovation may begin prior to approval of work by the Building Official and the Town Council, except for normal repair and maintenance.

See Section 1-45 (a) of the Land Use Ordinance for a complete list of the architectural models for the Business/Historic District. Those buildings shall serve as general architectural models for any new construction or modification of structures within District B/H.

#### **(c) Materials and other requirements:**

**Foundations:** Foundations may be constructed of concrete slab, masonry or pier and beam construction and must be raised from grade in order to simulate a pier and beam structure in the manner of the historical models. Exposed block masonry or concrete foundations shall be concealed by brushed stucco, plaster or native stone veneer applied to visible areas, or other approved condition, to simulate a pier and beam skirt condition.

**Exterior facades:** Exterior facades on all sides of new structures shall be constructed of materials typical to the existing historical models, or of new materials that accurately simulate the appearance of the historical models. The following materials and styles shall be used:

- (1) **Masonry:** Native sandstone, limestone, or other acceptable chopped or field stone, either structural or as veneer over wood frame or metal construction. Pattern to simulate existing models.
- (2) **Exterior Trim, Siding, and Cornice:** Redwood, cypress, western red cedar, cementitious siding or native cedar siding in either a board and batt pattern or in a 4"- 4.5" lap beveled siding. Milled wood sidings in patterns found on the architectural models may also be used. Cementitious sidings must have an embossed wood grain that simulates approved wood siding profiles, and must be blind nailed and/or all headed fasteners filled. Visible heads of "square nails" only are acceptable. Other materials that match historical profiles and appearance may be acceptable upon approval of the Building Official. Corrugated tin or other metal siding may be approved for detached garage, barn or utility sheds subject to material and color being approved by the Building Official and the Town Council.
- (3) **Doors and Windows:** Doors and windows should match or simulate those in the architectural models. Aluminum, metal or store front windows shall not be installed. Doors should maintain a rural and historical appearance. Transoms, side lites and other features typical to the doors and windows of the historical models shall be encouraged. Aluminum or vinyl clad wood windows and doors are acceptable but cladding color must be approved by permit.
- (4) **Porches and other exterior features:** Exterior porches should be treated pine, native cedar or other wood plank, or stone. Balustrades must be of the same architectural style as the main building and of a style that matches or is similar to listed architectural models. Outbuildings and other exterior features must match the style of the main structure or have the appearance of rural outbuildings. Composite decking that simulates natural wood stain and grain (Examples: Appropriate colors of Trex and MoistureShield) may be used in new construction within this District. No solid color composite decking may be used except white or faux wood-colored material and texture.

**Roofs:** Roof pitches should generally comply with Architectural models listed in 1-45 (a). Primary roofs that maintain a minimum of an 8/12 pitch are preferred. A pitch of up to 14/12 or as shallow as 3/12 may be required by the Building Official if such is required to maintain the architectural style of the structure being proposed. The following types of roof materials shall be used: Fire-retardant hand-split wood shake, metal roofs in a 5V-crimp. C channel galvalume, corrugated tin or standing seam. All metal roofs must have a galvanized tin, silver finish or light brass finish. Composition, aluminum or vinyl shingles may not be installed. Built-up flat roofs may not be installed or roofs less than a 3/12 pitch shall not be installed. Commercial grade metal roofs in a gray tin or silver finish may be approved for certain commercial structures, notwithstanding that eave and fascia conditions must be modified to match similar conditions on the model structures.

**Walks, roads and driveways:** Walkways may be constructed of native stone, brick, wood in the manner of a raised boardwalk, cobblestone, gravel, crushed limestone, crushed granite, patterned concrete in approved patterns or other approved masonry surface. Roads and driveways may be constructed of gravel, patterned concrete, masonry, brick, cobblestone, or other approved masonry materials. All roads must be designed to manage ground water and direct such overflow to appropriate run off. The entrances, exits, culverts and other features of parking areas for commercial structures may require masonry or stone trim and boundaries, at the discretion of the Building Official.

**Height of buildings:** No structure shall be built with a roof ridge line higher than fifty feet (50') from the original grade of the site, notwithstanding that chimneys, steeples, and other such features may extend beyond this height.

**Utility easements and placement of utility poles:** All utility easements shall be placed in a manner to minimize the visibility of utility poles and other utility features and equipment. The Building Official may require, at its discretion, the installation of underground utilities where overhead utility lines would interfere with significant views from adjacent properties. All electrical service drops from the utility supplier's transformer to the electrical service of a new structure, or a structure that undergoes significant alterations or additions, shall be installed underground.

**(d) Ordinary maintenance.** Nothing contained in this Section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property which does not involve a change in design, material, or outward appearance. Exterior paint color is included as ordinary maintenance. In-kind replacement or repair is included in this definition of ordinary maintenance. Provided, however, this Section shall not eliminate any requirement for a building permit. If the building official believes the work does not constitute ordinary maintenance under the terms of this section, he may refer the application to the historic preservation officer, or may issue a permit.

**(e) Demolition:** Structures in this District may not be demolished without prior approval of the Building Official and the Town Council.

**(f) Demolition by neglect.** No owner or person with an interest in real property designated as a landmark shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the landmark as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (1) deterioration of exterior walls or other vertical supports;
- (2) deterioration of roofs or other horizontal members;
- (3) deterioration of exterior chimneys;
- (4) deterioration or crumbling of exterior stucco or mortar; ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors;
- (5) the habitation of vermin, or other infestation or wildlife that present a threat to public health or the structural or architectural integrity of a structure of historic importance.

(6) or deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety;

## Sec. 1-62. District C (Commercial District)

**(a) Permitted Uses:** This district is designated for high volume commercial businesses, including:

- (1) restaurants
- (2) banking establishments
- (3) governmental uses
- (4) shops and retail establishments, including temporary uses during special events
- (5) service businesses
- (6) RV Parks (see requirements below)
- (7) Any other appropriate uses approved by the Town Council
- (8) Temporary uses during special events

### **Residential buildings in the Commercial District:**

New single family residential buildings may be constructed in District C, but must meet the architectural, lot size and setback requirements for the R District. If such tracts are subdivided by the Land Owner from a larger tract in District C, that land owner must comply with the green screen requirements of the Ordinance.

**(b) Architectural Standards:** All proposed construction or renovation must comply with the architectural standards adopted for this district by Council. See Section 1-45 (a) of the Land Use Ordinance for a complete list of the buildings in the Business/Historic District, the Residential District, and the additional building which serve as models for the Commercial District. Those buildings shall serve as general architectural models for any new construction or modification of structures within the Commercial District.

### **(c) Materials and other requirements:**

**Screening:** Metal siding or other materials may be used on non-public sides of structures built in district C with the provision that permanent screening, either decorative, trees or natural woodland, shall be used to screen such non-complying materials from public view. All sides of a structure that are exposed to the public, including parking areas, must be of the same architectural style as the front facade.

**Roofs:** Roofs may be installed at a lesser pitch, from flat up to a 3/12 pitch, and may utilize any standard roofing material, as long as these non-conforming roofing materials are not visible from the ground level of the building by a front façade parapet or other approved condition. Roofs over 3/12 in pitch must utilize the roofing materials specified for District B/H. Additional profiles of commercial grade metal roofs may be approved in District C for certain commercial structures, notwithstanding that eave and fascia conditions must match similar conditions on the model structures.

**Doors and windows:** Doors and windows in the front facade must maintain a historical architectural style. However, metal and other commercial style windows and doors may be utilized on all other sides of the building.

**Parking areas and building orientation:** Buildings shall be oriented on the lot in such a way that the bulk of the required off-street parking is shielded from the view of the street by either the main building, new screening and landscaping, or existing natural areas, notwithstanding that other criteria from these standards may take priority over this requirement.

**Orientation of buildings and parking areas:** Buildings, landscaping and buffer yards should be oriented to minimize visibility of parking areas from view.

**(d) Requirements for Recreation Vehicle Parks:**

To support tourism within the Town of Round Top, short term stay recreational vehicle parks are allowed in the C District only, notwithstanding that no mobile homes, portable vendor trailers, modular buildings or other non-compliant portable structures are allowed within the town limits except as provided for herein during special events. The model that has been established, effective January 2014, to demonstrate the requirements for a quality, well operated Recreational Vehicle Park is the Orchid Tree Park and Gallery at 453 N. Washington Street.

Prior to construction, the RV Park septic requirements must be calculated and connection to the Town's wastewater system approved by Town Council. The parking sites must be screened from view from the street by a building, established landscaping or fencing. Such establishments must require that all visitors comply with all aspects of the Land Use and Architectural Controls Ordinance and other ordinances regulating noise, nuisance, light and glare and other regulations. The Recreational Vehicles must be plugged into a power source and no operation of a generator is permitted while parked. The maximum stay for any guest is two weeks. Any additional length of stay will require a permit from the Building Official. A fee of \$4 per rental day is due the Town of Round Top for each RV space rental. RV space rental fees must be paid monthly to the Secretary of the Town and include the following information for each rental:

- (1) The length of stay of the RV
- (2) The # of the site where the RV was parked
- (3) The name and contact information of the renter

**Sec. 1-63. Manufactured Home Subdivision District (MH)** This District is established to assure that should someone wish to place a manufactured home within the Town limits, there will be a district in which this use is permitted, establishing appropriate conditions and standards that make such uses compatible with adjacent land uses in Town. Performance standards for manufactured home subdivisions, in addition to the requirements contained herein, are located in the Manufactured Home Subdivision Standards Ordinance, adopted separately.

### **Sec. 1-64. Prohibited Uses**

Except as otherwise permitted herein, the following uses are prohibited in all Land Use districts. multi-family dwelling units; sexually oriented businesses; heavy machinery or industrial uses; oil or natural gas drilling, heavy commercial or industrial storage or service facilities; chemical or environmentally hazardous materials processing or storage facilities; radio, television, microwave or other towers over fifty feet in height; uses which produce loud noise, garish or harsh lighting, noxious odors, or which present any other environmental hazards.

In all Land Use districts, in accordance with the Texas Health and Safety Code and the TCEQ rules and regulations, the burning disposal of domestic waste and the burning of waste plant growth, is prohibited. Domestic and plant growth waste is waste normally resulting from the function of life within a residence and include but are not limited to such things as: kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings.

Outdoor burning of untreated wooden material is allowed for recreation, ceremony, cooking, or warmth. Such burning is subject to the following requirements. The burning must not cause a nuisance or traffic hazard, and must be contained in a covered fire pit or fire ring, or a cooking grill, pit or box.

The maintenance, sale, purchase, transfer, gift, detonation or use of any form of fireworks is prohibited in the Town. This subsection shall not be held to prohibit exhibitions of fireworks given under the authority of the Town on July 4, or any public holiday or special event.

### **Sec. 1-65. Public Hearings**

A public hearing or hearings shall be held by the Town Council before adopting any ordinance amending a district regulation or district boundary established by this Ordinance.

(a) **Notice of public hearings.** Notice of all public hearings shall be given in accordance with this Section and applicable state law.

(1) **Content.** The public hearing notice shall set forth the time, date, and place of the hearing, a summary statement of the proposal under consideration, and identification of the Town Council as the body conducting the hearing.

(2) **Publication.** Notice of public hearings hereunder shall be given by publication in a paper of general circulation within the Town, at least thirty (30) days prior to the date of such hearing.

(3) **Personal notice to affected property owner.** In cases where the subject of the hearing is a change in Land Use classification, notice of such hearing shall also be sent to each owner, as indicated by the most recently approved Town tax roll, of real property within two hundred feet (200') of the property on which the change in classification is proposed. Such notice, which shall be given not less than thirty (30) days before the date of the public hearing, may be served by depositing same in the Town, properly addressed with postage paid, in the United States mail. The Town Council may not adopt a change in Land Use classification until the expiration of thirty (30) days following the giving of notice pursuant to this paragraph.

(b) **Record.** The Town Council shall cause a record to be made of each hearing which shall include, but not be limited to:



(1) the minutes of the hearing;

(2) written protests or documents submitted by citizens in favor of or against the proposed amendment, if any; and

(3) the application, exhibits and papers submitted to Town Council, and any written reports of Town staff.

(c) **Action by Town Council.** The Town Council may grant, grant with conditions, or deny an application for an amendment, or, as it deems appropriate, take no action, or refer the proposal to another body or committee for further review and recommendation.

**Sec. 1-66. Limitation on resubmission of petition**

In the event a proposed amendment is not approved by the Town Council, a similar request on the same property, or combination or portion thereof, shall not be reconsidered prior to the expiration of twelve (12) months from the date of the decision unless conditions pertaining to property considered in the original application and/or property in the area have, in the opinion of the Town Council, changed to such an extent as to justify consideration of a subsequent application prior to the expiration of such twelve-month period. A request for resubmission must be made prior to a request for amendment.

**[Sec. 1-67 -1-69. Reserved]**

**ARTICLE VII. BUILDING OFFICIAL****Sec. 1-70. Creation**

There is hereby created an Building Official.

**Sec. 1-71. Reserved****Sec. 1-72. Selection of Liaisons**

The Mayor shall recommend Liaisons to the Town Council for their approval. These Liaisons are available to the Building Official for discussion and guidance in enforcing the Ordinance.

**Sec. 1-73. Meetings**

Public meetings of the Building Official shall be held twice a month as the Building Official may determine. All public meetings of the Building Official shall be open to the public in accordance with the provisions, limitations and exceptions of applicable open meetings laws. Meetings may be canceled by Building Official if no permit applications or other business is before the Building Official.

**Sec. 1-74. Reports to Town Council**

Draft minutes taken by the Town Secretary from all Building Official Public Meetings will be submitted to Town Council within five working days of the meeting.

The Building Official shall report to the Town Council at each regularly scheduled Town Council Meeting. Both bodies shall cooperate to assure consistent enforcement and equal protection under the Land Use and Architectural Controls Ordinance (Ordinance #43)..

**Sec. 1-75. Rules and regulations**

The Town Secretary shall keep minutes of its proceedings, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Town Office and shall be a public record. The Building Official shall adopt from time to time such rules and regulations as he may deem necessary to carry into effect the provisions of this Ordinance, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

**Sec. 1-76. Authority of the Building Official**

The Building Official shall have the authority to review and act upon permit applications for new construction and renovation within the Town, and to evaluate such applications based upon the architectural standards approved by the Town Council. The Building Official shall further have the authority to recommend initial architectural standards for various districts to the Town Council, and to periodically review the architectural standards and recommend changes or amendments thereto to the Town Council.

The Building Official may issue fines to persons who, in his judgment, flagrantly or repeatedly fail to comply with the requirements of the Ordinance. These fines shall be based upon a pre-agreed schedule of fines approved by Town Council. Also refer to Section 1-90 for additional authority of the Building Official..

(a) **Variances.** The Building Official shall have the authority to grant variances from the technical requirements of this Ordinance and shall be reported to the Town Council, such as those relating to height, yard, and area regulations, if:

- (1) a variance is necessary to allow the reasonable use of a particular parcel of land that is restricted by attributes inherent in the land such as its area or shape and, when applying the standards of this Ordinance, it cannot otherwise be appropriately or reasonably used;
- (2) the granting of a variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located;
- (3) the literal enforcement of this Ordinance would create an undue hardship;
- (4) the need for the variance is not self-imposed by the applicant;
- (5) the hardship to be suffered through the literal enforcement of the ordinance would not be financial alone; and
- (6) the granting of the variance would not be injurious to the public health, safety, and welfare nor be contrary to the purpose and intent of this Ordinance.

The Building Official may establish and impose appropriate conditions to the granting of a variance to safeguard the character of the area and to protect adjacent property owners, which conditions shall be expressed in the written order of the Building Official relating thereto. Violation of any such condition shall be deemed a violation of this Ordinance.

The Building Official shall not be authorized to consider or grant a variance to allow a use not permitted in the district in which the applicable property is located, nor to change the Land Use district designation of any land.

All variances granted by the Building Official will be highlighted in the meeting minutes submitted for Town Council review.

## ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

### Sec. 1-80. Building Official

The Mayor shall appoint, with the concurrence of the Town Council, a Building Official whose duties and responsibilities shall include, but not be limited to, the following:

**(a)** Receive, review, and administratively process with the cooperation of the Town Secretary all applications for amendments to the Land Use code, including specific use permits, and variances and special exceptions, that may from time to time be submitted to the Town Secretary, within the published deadline, and in accordance with the Texas Local Government Code and this Ordinance;

**Discretion of Building Official** - The Building official may, at his or her discretion, issue permits or approvals for the following applications without the review of the Town Council.

- (1) Approve exterior paint colors
  - (2) Approve the trimming or removal of damaged or diseased trees
  - (3) Approve the installation of fences that expressly meet the specific standards of the Ordinance.
  - (4) Temporary Vendor Permits (booth fees)
  - (5) Issuing a Certificate of Occupancy where no significant exterior improvements are planned and where the use is specifically noted as acceptable in the Ordinance.
  - (6) Issuing a Building Permit for the installation of a new roof on a building where no other significant exterior improvements are planned, and the roofing material is specifically noted as acceptable in the Ordinance.
  - (7) Issuing a Building Permit for banners and temporary signage during designated special events in District B/H and District C.
  - (8) Approving a Building Permit for banners and temporary signage during Group Commercial Events. See Section 1-46.
  - (9) Approving a Building Permit for the removal of a tree over 6" in diameter or major landscaping element only in the case it is diseased or a threat to public safety. See Section 1-42 (e).
  - (10) Review and approval of locations and appearance of temporary waste facilities (portacans) and other temporary infrastructure for Special Events.
  - (11) Approval of minor modifications to previously permitted projects while under construction, notwithstanding that the Building Official does not have authority to overrule a decision on any significant use or architectural matter. In cases where that authority is in question, the Building Official must defer and schedule an additional review of the Town Council upon request of the permit holder.
- (b)** Serve as staff support to the Mayor and Town Council and the Board of Adjustment regarding development proposals and related Land Use matters;
- (c)** Appear on behalf of the Town at all public hearings under this Ordinance before the Town Council and the Board of Adjustment, and present facts and information as required by this Ordinance and as requested by each of said bodies;

- (d) Ensure that the Town Secretary establishes administrative procedures and maintains all records related to Land Use matters brought before the Town Council and the Board of Adjustment in files at the Town Office;
- (e) Assist the Town Secretary in maintaining the official Land Use district map and maintain copies of all maps and plans that provide documentation for planning and Land Use or that are otherwise required by this Ordinance;
- (f) Serve as the enforcement officer to ensure compliance with this Ordinance and standards adopted pursuant to it; and
- (g) Perform such other duties as are required or prescribed under this Ordinance.

In the absence of a duly appointed Building Official, the Board of Adjustment shall serve as the Building Official.

**Sec. 1-81. Reserved****Sec. 1-82. Offending Process**

In general terms the process for handling violations is:

- (a) the Building Official will attempt to have offending person correct the violation.
- (b) If the offending person does not respond to the Building Official's request, the Building Official may post a "Cease and Desist" order that halts all construction or improvements on the property until such Time as the Building Official shall issue a permit for such improvements.
- (c) If the offending person does not correct the situation, the Building Official may propose the issuance of a citation and appropriate fines.
- (d) Formal notice of such an impending fine shall be forwarded via electronic mail to the Mayor and Town Secretary during a 30 day waiting period.
- (e) The Mayor, with consultation with the Town Attorney and/or the Town Council, may alter or waive the amount of said citation and fine, or propose such changes to the Building Official as he or she considers appropriate.
- (f) At the next meeting of the Building Official, at his/her discretion, that Citation shall be sent to the offending party by certified mail to their last known mailing address.
- (g) The Citation will state the violation and date to appear in the Town's Municipal Court.
- (h) If such fines are not paid within 90 days of the date of the certified notice, the Town of Round Top shall empower the Town Attorney to file a lien on the property of the offending party and take further legal action to assure the non-compliant condition is corrected. Liens may be foreclosed or collected as permitted by state law.

At a minimum the Citation will state the violation and date to appear in the Town's Municipal Court. Citations will be presented to the offending person by the Town appointed individual. In the process of assessing violations, the Town, its officers and agents has the right to go onto the offending property to determine the extent of the possible violation. Assessments of the interior of any residential building shall require reasonable written notice to the owner thereof.

**Sec. 1-83 Court Costs**

Court costs will be added to the fine imposed on the defendants. These court costs are those standard costs imposed by the State.

**[Sec. 1-84 -1-89. Reserved]**

## ARTICLE IX. BOARD OF ADJUSTMENT

**Sec. 1-90. Creation** There is hereby created a Land Use Board of Adjustment. Such Board is established in accordance with the provisions of §211.008, Tex. Local Gov't Code. Such Board shall have and exercise those powers and duties as prescribed of §211.009 of such Code and this Ordinance.

### **Sec. 1-91. Membership and officers**

The Board shall consist of the Mayor and Aldermen of Round Top, also known as the Town Council. The Mayor shall act as the Chairman of the Board of Adjustment and the Mayor Pro Tem shall act as the Vice-Chairman of the Board of Adjustment unless otherwise determined by a majority of the Council. In cases where neither attend, but a quorum is present, members shall elect an acting Chair as the first order of business.

### **Sec. 1-92. Meetings**

Meetings of the Board shall be held at the call of the acting chairman and at such times as the Board may determine. All meetings of the Board shall be open to the public in accordance with the provisions, limitations and exceptions of applicable open meetings laws. Four (4) members of the Board shall be necessary to constitute a quorum.

### **Sec. 1-93. Rules and regulations**

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Town Secretary and shall be a public record. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance, and shall furnish a copy of the same to the Building Official, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

### **Sec. 1-94. Authority of the Board of Adjustment**

The Board of Adjustment shall have the authority to grant relief in the form of appeals to the provisions of this Ordinance, subject to the standards established herein.

(a) **Special exceptions.** The Board of Adjustment shall have the authority to grant special exceptions when required to do so under this Ordinance.

(b) **Administrative Review.** The Board of Adjustment shall have the authority to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Building Official, in the interpretation or enforcement of this Ordinance. Appeals may be taken to and before the Board by any person aggrieved, or by any officer, department, or bureau of the Town.

(c) **Variances.** Any variances granted by the Board of Adjustment must be evaluated based on the standards established in Section 1-76 (a)

(d) **Jurisdiction.** Nothing herein shall be construed as conferring any jurisdiction on the Land Use Board of Adjustment in matters pertaining to the designation or non-designation of properties as historic, issuance of permits for work thereof, or the demolition thereof.



### **Sec. 1-95. Decisions of the Board**

Only the Town Council can alter the Land Use Ordinance or the District Boundaries. In exercising its authority under this Ordinance, the Board may reverse or affirm, in whole or in part, or modify an order, requirement, decision, or determination of the Building Official, and for that purpose the Board shall have the same authority as the Building Official. The concurring vote of four (4) members shall be necessary to:

- (a) reverse an order, requirement, decision, or determination of the Building Official ; or
- (b) decide in favor of an applicant on a matter on which the Board is required to pass under this Ordinance;

### **Sec. 1-96. Petition for Variance, special exception, or appeal**

Any petition for variance, special exception, or appeal to a ruling by the Building Official shall be prepared in the prescribed form, to be furnished and filed by the Town Secretary and copied to the Building Official. To apply for a variance or special exception under the provisions of this Ordinance, the applicant must be an owner of the property to be affected by that variance.

Any person or group desiring to file such an appeal to the Board of Adjustment must submit that form accompanied by a nonrefundable fee of \$100.00, or in such amount as may be established from time to time by the Town Council.

Each application must include the following information:

- (a) The property owner's or property owners' name(s) and address(es).
- (b) A specific description of proposed amendment.
- (c) A statement of the need or justification for said amendment, including its consistency with the Land Use policies and purposes set forth in this Ordinance and/or its consistency with the Town's most current comprehensive planning document or documents.
- (d) In the event the proposed amendment is to change a district boundary:
  - (1) The legal description of the property affected and the boundaries of said property
  - (2) The signed consent of the property owner or owners whose property would be affected by the proposed amendment, including any adjacent property owners.
  - (3) The names and addresses of all property owners required to be notified in accordance with Chapter 211 of the Texas Local Government Code and this Ordinance

**Section 1-97. Application for amendment to Ordinance or the official Land Use District map**

Any property owner or property owners desiring to petition for an amendment to a regulation contained in this Ordinance or a district boundary shall be required to file an application in writing to the Building Official, accompanied by a nonrefundable fee of not less than \$100.00, or such amount as may be established by the Town Council to defray the cost of notification and processing the application.

The Building Official shall hear the request for amendment from the applicant at its next scheduled meeting and prepare a recommendation from that Board to the Town Council, acting as the Board of Adjustment, within 30 days. Only the Town Council has the authority to change or modify the requirements of the Land Use Ordinance or District boundaries.

The Town Council, acting as the Board of Adjustment, shall then schedule a hearing for that application within 60 days after receiving the recommendations of the Building Official.

**Sec. 1-98. Time Limits on Appeals**

Appeals shall be filed within thirty (30) days of the decision, determination, or interpretation which is the subject of the appeal. Failure to file as required herein shall constitute a waiver of any rights under this Ordinance to appeal any such decision, interpretation, or determination. Upon the filing of an application on an appeal, the Building Official shall transmit to the Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. Filing a notice of appeal shall stay any proceedings in furtherance of the action appealed.

**Sec. 1-99. Hearing process**

- (a) Notice of hearings.** The Board shall fix a reasonable time for required hearings on all matters referred to it and, at least ten (10) days prior to the date set for the hearing, shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred feet (200') of any point of the lot or portion thereof on which a variance is requested, as listed in the most current tax rolls of the Town.
- (b) Subpoena of witnesses.** The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- (c) Building Official present in hearing.** The Building Official shall represent him/her self in any case where a decision is appealed to the Board of Adjustment, or any application for amendment to regulations or the official Land Use District map is being considered by the Town Council, acting as the Board of Adjustment. That representative will be given the opportunity to represent the position of the Building Official during such hearing, notwithstanding that the Town Council, Acting as the Board of Adjustment shall make the final determination in any such matter, consistent with the authorities of the Board of Adjustment as outlined in Section 1-84.

- (d) Decision by board.** The Board of Adjustment shall decide all matters within a reasonable time. The Board may reverse or affirm, wholly or partly or modify the order, requirements, decisions, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer from whom the appeal is taken.
- (e) Successive applications.** No application for a variance, special exception or appeal which has been denied shall be again filed earlier than one (1) year from the date that said application was denied.

## **ARTICLE X. MISCELLANEOUS PROVISIONS**

### **Sec. 1-100. Inspections**

The Building Official, building inspector, or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

Whenever said official finds any construction work being done contrary to the provisions of this Ordinance, said official may order the work stopped by serving notice in writing (Cease and Desist Order) on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by such official to proceed with the work.

### **Sec. 1-101. Requirements for building permit**

**Plans and Drawings:** All applications for building permits for new structures or for major improvements to existing structures shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing:

- a. the actual shape and dimensions of the lot to be built upon;
- b. the exact sizes and locations on the lot of the buildings, roads, drives, parking areas, accessory buildings, waterways, major variations in grade and forested areas or major trees then existing;
- c. floor plans, elevations and other drawings to scale for all structures to be built on the tract such the Building Official may determine whether or not the structure for which the permit is requested is compliant with the Land Use Ordinance.
- d. the lines within which the proposed buildings and structure, roads, drives, parking areas, buffer yards, shall be erected or altered;
- e. the existing and intended use of each building or part of building;
- f. the number of families or dwelling units the building is designed to accommodate;
- g. specifications for all materials, components and conditions to be built or installed such that the Building Official shall be able to determine if such improvements comply with the Land Use Ordinance.
- h. Evidence of conformance with the Town's Subdivision Ordinance; and
- i. such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.

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### **Temporary or Partial Building Permit**

Under certain circumstances, the Building Official may issue a Temporary (six month) or Partial (approving only certain aspects of an application) Building Permit. This permit will be limited in scope, and qualified in writing by the Building Official. Applicant may proceed with only the items approved, and must resubmit an additional application for any other improvements that are planned, but do not fall within the scope of the Temporary or Partial Building Permit. The fee basis will be the same as a building permit.

## **Sec. 1-102 Temporary Occupancy Permit**

Temporary Occupancy / Vendor Permits or Booth Fees will be \$25.00 per retail merchandise vendor. Temporary Occupancy / Vendor Permits for Antique Show food vendors will be \$50.00 per vendor. These permits are issued for a nineteen (19) day maximum time period and good for one event at one location only.

**Retail Merchandise Vendors** - Scheduled retail merchandise vendors for the Antique Show must be registered by the submission of Temporary Occupancy Permit forms or Vendor Information Forms. It is the responsibility of the property owner or authorized agent to submit the forms to the Town within four (4) weeks before each event start date. The registration of retail vendors must be amended prior to and during each event by the property owner or authorized agent as vendors are added or cancelled. The permit fee for each retail merchandise vendor must be submitted by the property owner or authorized agent at the time of registration. Temporary Occupancy / Vendor Permits for events outside of the Antique Show scheduled dates must be authorized by the Town Council through the filing of an application with the Building Official.

**Food Vendors** – The Town will issue permits to food vendors only during the Antique Show, unless authorized by the Town Council through the filing of an application with the Building Official. For the Antique Show, a list of scheduled food vendors must be submitted by the property owner or authorized agent at the time the retail merchandise vendor forms are submitted to the Town. The list must be amended prior to and during the show as food vendors are added or cancelled. The Building Official will conduct inspections of food vendors for proper documentation prior to the designated start date of the show, or when notified that a food vendor has been added (Food Handlers Health Permit, Photo ID, Sales Tax Certificate, and proof of Liability Insurance). The Building Official will collect the permit fees for food vendors, and issue permits when all requirements are satisfied. Food vendors cannot start serving food until a permit has been issued by the Building Official (State Requirement).

If the required forms and fees are not submitted within four (4) weeks prior to the event, the Town will estimate the charge per estimated vendor plus a \$200.00 fine assessed to the property owner. If this fee and fine is not paid within 21 days thereafter, then an additional \$300.00 will be added to the fine, If still not paid within 14 days thereafter, an additional \$500.00 will be added to the fine. The Town has the option of appropriate legal action, and any issuance of citation must be approved by the Town Council. Pre-paid permit fees for cancelled retail merchandise vendors will be refunded by the Town to the property owner, or applied to added vendors of the property owner.

The Town will perform checks during the event to insure accuracy of reporting. If the actual number of vendors at the venue exceeds the number on the submitted forms, the property owner will be assessed the Temporary Occupancy / Vendor Permit fee for each additional vendor plus a \$250.00 fine. If this fee and fine is not paid within 30 days, then an additional \$500.00 will be added to the fine. The Town has the option of appropriate legal action, and any issuance of citation must be approved by the Town Council.

**Requirement of Acceptable Toilet Facilities** – Each venue must have permanent acceptable toilet facilities or portacans readily visible and accessible by customers. Portacans must be provided at the rate of 2 for each 10 vendors (or fraction thereof).

**Exclusions from the Temporary Vendor Permit Requirement** – The following cases are excluded from the Temporary Vendor Permit requirement. Such vendors must still register with the Town office or the Building Official in advance of their event, and must gain permits for temporary signage larger than six square feet, but are not required to make application for a temporary occupancy permit.

- (a) Short term (less than 24 hours) fund-raising events hosted by non-profit entities within the Town Limits on their own property.
- (b) Short term fund-raising booths by civic, academic or religious youth groups on private property (boy scouts, girl scouts, local school groups, local religious youth groups and other area youth groups) with the permission of the property owner.

**Sec. 1-103. Review of permit application**

Inspection of plans shall be done in a timely manner and a determination made as to compliance with applicable provisions of this Ordinance prior to the issuance of a building permit. One (1) copy of such plot plans shall be returned to the owner when such plans have been approved. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started. Property owner or contractor shall schedule an inspection of the staked area by the Building Official before construction is to begin.

**Sec. 1-104. Existing permits and private agreements**

This Ordinance is not intended to abrogate or annul any permits issued before the effective date of this Ordinance or any easement, covenant, or any other private agreement.

**Sec. 1-105. Preserving rights in pending litigation and violations under existing ordinances renumbered**

By adoption of this Ordinance or any amendment hereto no existing illegal use shall be deemed to have been legalized unless specifically such use falls within a district where the actual use is a conforming use. Otherwise such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time this Ordinance was adopted shall be discharged or affected by the adoption of this Ordinance; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted and causes presently pending proceeded with in all respects.

**Sec. 1-106. Certificates of occupancy**

- (a) **Requirement for Certificate of Occupancy.** Certificates of occupancy shall be required for any of the following:
- (1) Occupancy and use of a building hereafter erected or structurally altered;
  - (2) Change in use of an existing building to a use of a different classification;
  - (3) Occupancy and commercial use of a building which has been vacant for longer than 6 months;
  - (4) Occupancy and use of vacant land, except agricultural use;
  - (5) Change in the use of land to a use of a different classification; or
  - (6) Any change in the use of a building or property whose existing use is noncompliant with the Land Use Ordinance.
- (b) **Procedure for new or altered buildings.** Written application for a certificate of occupancy for a new building, or for an existing building which is to be altered, shall be made at the same time as the application for the building permit for such building. Said certificate shall be issued upon written request to the Building Official within fifteen (15) working days after erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Ordinance.

- (c) **Procedure for existing building or land.** Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, shall be made to the Building Official. If the proposed use is in conformity with all provisions of this Ordinance, or has a documented grandfather status for non-conforming conditions, the certificate of occupancy therefore shall be issued within fifteen (15) working days after the application for same has been made, or as soon thereafter as practicable.
- (d) **Procedure for developments.** The owner of a new or refurbished development, as part of their business plan, will request certificates of occupancy for all buildings in the development at the time of completion of the construction or refurbishment. The potential uses of the buildings in the development must be specified as part of the process and the fee for the certificate of occupancy will be paid for each building. Once issued, the certificates will be valid for all uses consistent with the defined potential uses, regardless of the length of time which passes before the building is occupied or regardless of the length of time the building might remained unoccupied due to a change in tenant. Any new buildings added to the development or any new uses not previously defined would require a new certificate of occupancy at the time the building is to be occupied.
- (e) **Contents.** Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the Building Official and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.
- (f) **Temporary certificate.** Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the Building Official for a period not to exceed six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the Town relating to the use or occupancy of the premises or any other matter covered by this Ordinance.



## Sec. 1-107. Fees

**Permits and other fees:** The Town Council has set the following fees for specific permits under the Land Use and Architectural Control Ordinance. All fees must be paid with the application before review by the Building Official or the Town Council.

- (a) **Building Permit:** \$40.00 up to \$40,000 in improvements based on turn-key bid by professional contract +1/10 of 1% of value of improvements over \$40,000. Fee will be calculated based upon full cost of improvements planned. An applicant must initiate substantive aspects of the construction of the improvements noted in the Building Permit Application within one year (1) of the date the Building Permit is issued, or a new application for a Building Permit must be submitted for those improvements.
- (b) **Temporary or Partial Building Permit:** Same cost as the Building Permit (see above).
- (c) **Installation of Permanent Signage** - \$40.00
- (d) **Installation of Temporary Signage (Banners, Special Events, etc.)** – No charge, however permit must specify the installation and removal dates.
- (e) **Temporary Occupancy Permit (Booth fee)** - \$25.00
- (f) **Temporary Occupancy Permit (Food Booth)** - \$50.00 Must be paid by vendor before opening with required support (Food Handlers Health Permit, Photo ID, Sales Tax Certificate, and proof of Liability Insurance).
- (g) **Request for Certificate of Occupancy (includes Change in Use approval)** - \$100.00
- (h) **Request for Change in Use for a property (without a Certificate of Occupancy)** - \$25.00
- (i) **Application for Variance, Special Application or Appeal of Building Official decision** -\$100.00
- (j) **Application for an Amendment to a Regulation or Change to District boundary** -\$100.00
- (k) **Other Fines.** Fines may be imposed by the Building Official for violation of this ordinance. Where the amount is not specifically stated in the ordinance, the amount and situation must be approved by the Majority of Council.

**Section 3.**

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount between the amount of \$25.00 and \$2,000.00. Each day of violation shall constitute a separate offense.

**Section 4.**

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Town Council of the Town of Round Top, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED ON FIRST READING this 6th day of February, 2001.

PASSED, APPROVED, AND ADOPTED ON SECOND READING this 6th day of March, 2001.

PASSED, APPROVED, AND ADOPTED ON FINAL READING this 3rd day of April, 2001.

And as amended on April 3, 2001, July 7, 2001, March 1, 2005, June 7, 2005, July 5, 2005, March 6, 2006, March 5, 2007, April 2, 2007, July 2, 2007, February 19, 2009, October 11, 2011, November 7, 2011, December 5, 2011, March 2, 2015, March 7, 2016, May 2, 2016, August 1, 2016, September 12, 2016, November 7, 2016, December 5, 2016, January 9, 2017, February 6, 2017, March 6, 2017, April 17, 2017, May 8, 2017

ATTEST:

Barnell Albers  
Mayor

Dwight Nittsche  
Secretary