TOWN OF ROUND TOP, TEXAS

ORDINANCE NO. 2023-49

ZONING REGULATIONS

AN ORDINANCE OF THE TOWN OF ROUND TOP, TEXAS, AMENDING ZONING REGULATIONS ADOPTED BY TOWN OF ROUND TOP ORDINANCE No. 2021-31 AND AMENDED BY ORDINANCE NO., 2023-46; 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 ZONING (LAND USE) DISTRICTS; PROVIDING REGULATIONS FOR NONCONFORMING USES; PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, INTERPRETATION, AND AMENDMENT OF THIS ORDINANCE; ESTABLISHING AN ARCHITECTURAL REVIEW BOARD AND A BOARD OF ADJUSTMENT AND PRESCRIBING THEIR POWERS AND DUTIES; PROVIDING DEFINITIONS; PROVIDING A PENALTY IN AN AMOUNT BETWEEN $25.00 AND $2,000.00 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE No. 2023-46 IN ITS ENTIRETY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

*****

WHEREAS, the Mayor of the Town of Round Top, Texas, directed that all proper notices of public hearings be issued, as required by laws of the State of Texas for the purpose of considering a Zoning Regulation Ordinance; and

WHEREAS, the town accordingly caused to be issued and published the notices required by the laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the Town of Round Top, Texas as required by law prior to the time set for such hearings; and

WHEREAS, the Town Council of said town, pursuant to such notices, held its public hearings and heard all persons wishing to be heard both for and against the Zoning Regulation; and

WHEREAS, the Town Council is of the opinion and finds that such an ordinance would promote the public health, safety, morals and general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the Town of Round Top, and as well, the owners and occupants thereof, and the town generally;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ROUND TOP, TEXAS THAT:

Section 1. Findings of fact. The foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. Enactment. The laws of the Town of Round Top shall hereby read in accordance with Exhibit A, which is attached hereto and incorporated into this ordinance for all intents and purposes.

Section 3. Repealer. Ordinance No. 2023-46 is repealed in its entirety. All other ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters regulated, herein.

Section 4. Continuation of office. All appointments made to the Board of Adjustment and the Architectural Review Board under Ordinance No. 2023-46 shall continue as if they had been appointed under this ordinance. Rules of Procedure adopted by the Architectural Review Board shall continue to be in force until such time as they are amended. Officers of the Architectural Review Board shall continue to hold those offices until such time as they are reelected or replaced in accordance with the ordinance or rules of procedure.

Section 5. Severability. Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 6. Publication. The Town Clerk is hereby directed to record and publish the attached rules, regulations, and policies in and among the records of the Town, as may be required by law.

Section 7. Effective date. This Ordinance shall be effective immediately upon passage and publication as provided for by law.

Section 8. Proper notice & meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED THIS 10TH DAY OF JULY 2023.

TOWN OF ROUND TOP: TOWN SEAL

Hon. Mark Massey, Mayor

ATTEST:

Sylvie Armstrong, Town Clerk

M/2		Yeas	Nays	N/V	Absent
	M. Massey	☐	☐	☑	☐
M	A. Bone	☑	☐	☐	☐
2	L. Conine	☑	☐	☐	☐
	O. Massey	☑	☐	☐	☐
	J. Vincent	☑	☐	☐	☐
	J. Burger	☑	☐	☐	☐

Passed / Failed

Sylvie Armstrong, Town Clerk July 10, 2023 Date

EXHIBIT A

ZONING ORDINANCE

TOWN OF ROUND TOP, TEXAS

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ZONING ORDINANCE

TOWN OF ROUND TOP, 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 Zoning 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, 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, greenery, fences, etc. within the town.

Sec. 1-4. NEWLY ANNEXED AREAS.

(a) Zoning 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 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. ZONING POLICIES.

(a) Purpose. The zoning 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 zoning regulations.

(b) Zoning goals - town wide

(1) Provide for the orderly growth, development and redevelopment by adopting a zoning 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 zoning 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 zoning.

(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.

(1) Within the town limits, three distinct geographic areas exist. These geographic areas are:

a. R – Single-family residential subdivisions traversed by quiet, local streets, and which are relatively well-insulated from commercial encroachment;

b. B/H – The central part of town around the Town Square, which contains the majority of significant historical buildings in the town; and

c. C – The land lying adjacent to Highway 237 with higher volume commercial businesses, and temporary vendors who conduct business in town during designated events.

(2) Within the town limits a geographic area overlay of R exists for HUD-Code Manufactured Home Subdivision, zoned MH/R.

(d) Objectives. Objectives sought to be implemented through adoption of zoning regulations applicable to the specific geographic areas of the town are as follows:

(1) Single-family Residential District (R). This district contains zoning 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 one or more purely residential zoning districts that limit uses to single-family residential purposes and low noise, low traffic commercial activities of the property owner. Commercial uses are limited to home occupations and bed and breakfast bedroom rentals.

b. Imposing performance standards and requiring substantial buffer yards, screening, and landscaping for uses adjacent to and surrounding the residential district.

(2) Business/Historical District (B/H). This district contains the majority of the significant historical buildings within the town limits. It includes the Town Square, the Bethlehem Lutheran Church, the Henkel Square Market, Bybee Square (Hotel Lulu), the Round Top Inn, Rolland (Rummel) Square and other structures that exist within District B/H as shown on the zoning map. The uses and character of this district shall be implemented by:

a. Tracts of less than one-quarter (0.25) acre: Providing standards 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-half acre) mixed use development that is deemed to be beneficial to the community by the town council.

b. Tracts of one-quarter (0.25) acre or more: Providing standards 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 by the town council. 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) HUD-Code Manufactured Home Subdivisions (MH/R). This district is designated for HUD-Code Manufactured housing. "HUD-Code Manufactured Home" and "Mobile Home" shall have the same meanings assigned to those terms by State law. Mobile homes are not allowed within the town's limits.

Sec. 1-6. DEFINITIONS AND INTERPRETATION.

(a) Interpretation, conflict. This ordinance shall be construed liberally to affect 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 begiven 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. Accessory structures may 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, accessory structures may also include warehouses, covered storage areas, antique dealer pavilions, gas station pavilions, ATMs or drive-thru banking pavilions.

(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) "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.

(6) "Bed and Breakfast bedroom rental" shall mean a home occupation whose primary purpose is the lodging of temporary guests in a home-like environment for less than thirty (30) consecutive days. See "*home occupation*."

(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 height" shall mean the vertical distance from grade to the highest finished roof surface or ridge line.

(12) "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.

(13) "Building, main" shall mean the building in which the main or principal use of the lot on which it is located is conducted.

(14) "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.

(15) "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.

(16) "Business" shall mean any temporary or continuous activity of commercial enterprise conducted for compensation or profit.

(17) "Council" shall mean the governing body of the Town of Round Top, Texas.

(18) "Designated Event" shall mean community events established by resolution of the town council. Such resolution(s) shall set out the starting and ending dates and times of each event.

(19) "Development" shall mean newly constructed or erected buildings or structures situated on one-quarter (0.25) 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. Developments may only be located in the Business/Historical or Commercial Districts. Given the potential impact of a development on the community, all proposed developments must first be reviewed by the Architectural Review Board prior to the final required approval by the town council.

(20) "Dwelling" shall mean a building or portion thereof designed and used exclusively for residential occupancy, including single-family dwellings, motels, bed and breakfasts or boarding houses.

(20.1) "Event" shall mean an activity approved by the town council that encourages tourism, hotel occupancy, assists a charity, benefits the arts, or otherwise enhances community spirit.

(21) "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.

(21.1) "Fencing, privacy" shall mean a structure of rails, planks, stakes, or similar material erected as an enclosure, barrier, or boundary. Privacy fences are those permitted with no opening

large enough to pass a three and one-half inch (3.5") sphere and of which thirty percent (30%) or less of their surface area open for free passage of light and air and designed to conceal from view the activities conducted behind them. Examples of such fences include but are not limited to stockade, board-on-board, and board and batten.

(22) "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.

(23) "Food vendor" shall mean a vendor that sells prepared or non-prepackaged food, confections or drinks for public consumption on or off premise.

(24) "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.

(25) "Greenspace" is defined as areas of grass, trees, hedges, gullies, streams or other landscape, either planted or natural.

(26) "High-density area" is defined as a subset of the Business/Historical 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.

(26.1) "Home occupation" shall mean any occupation or profession carried on by the owner and occupant of a dwelling which is clearly incidental and secondary to the use of the structure for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings without the employment of more than two additional persons on the property, without the use of a sign to advertise the occupation, without structural alterations in the building or any of its rooms, without offering any commodity for sale on the premises and which does not involve open storage. No mechanical equipment shall be used nor activity conducted which creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot on which the occupation is conducted. The operation of a restaurant, bar, convalescent facility, or cabinet, carpentry, metal, or auto repair shop is not a home occupation.

(27) "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.

(28) [Reserved]

(29) "Lot" shall mean a lot, tract, or parcel of land: 1) that existed prior to the date of adoption of the applicable subdivision regulations of the town; 2) a lot which has been validly designated on a subdivision plat duly filed with the appropriate County Clerk and that is held in separate ownership; or 3) a tract or parcel of land described by metes and bounds upon a deed duly recorded or registered with that County Clerk and otherwise exempt from the platting requirements of the subdivision regulations of the town.

(30) "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.

(31) "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.

(32) "HUD-Code 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 HUD-Code Manufactured Home Subdivision, zoned MH in accordance with the town's ordinances.

(33) "Mobile Home" shall (A) mean a structure: (i) constructed before June 15, 1976; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and (B) includes the plumbing, heating, air conditioning, and electrical systems of the home. Mobile homes are not permitted to be located within the town limits.

(34) "Natural areas" shall mean creeks, waterways, and their adjacent banks; and unimproved forested areas within the 100-year flood plain.

(35) "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.

(36) "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.

(37) "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.

(38) "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.

(39) "Owner" shall mean, as to particular property, any person, agent, firm, association, corporation or other legal entity having a legal or equitable interest therein.

(40) "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.

(41) "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.

(42) "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.

(43) "Rural Atmosphere" shall mean the use of these regulations to preserve, to standards adopted for the town.

(44) "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 seven (7') in height, or a vegetative hedge at least seven (7') 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.

(45) "Short Term Rental" shall mean any rental of less than thirty (30) consecutive days including bed and breakfast bedroom rental.

(46) "Special Event" shall mean any event approved by the town council that is not a "Designated Event".

(47) "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.

(48) "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 elements. Driveways, roads, cattleguards, sidewalks, walkways, or parking spaces, constructed at grade or over drainage ditches or culverts without handrails are not structures.

(49) "Town" shall mean the Town of Round Top, Texas.

(50) "Use" shall mean the purpose or activity for which land, or the buildings or structures thereon, are occupied, maintained, or committed.

(51) "Use, main" shall mean the principal use of land or buildings as distinguished from a subordinate or accessory use.

(52) "Utility yard" shall mean an area which contains 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.

(53) [Reserved]

(54) "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, inclusive 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 zoning district in which such lot is located.

(55) "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. When a private roadway provides primary access, the front is the area that adjoins the roadway, excluding the road right-of-way. For a corner lot, the front is the 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.

(56) "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.

(57) "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.

ARTICLE II. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Sec. 2-1. 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/Historical District)

District C (Commercial District)

District MH/R (Manufactured Home Subdivision)

Sec. 2-2. ZONING 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 Zoning 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. 2-3. IDENTIFICATION OF ZONING DISTRICT MAP.

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

Sec. 2-4. CHANGES IN ZONING DISTRICT MAP.

If, in accordance with the provisions of this ordinance and the applicable provisions of state law, changes are made in district boundaries or other matters portrayed on the official zoning 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 zoning district map as follows: "On (date), by Ordinance No. (number), the following changes were made in the Official Zoning District Map: (brief description of nature of changes)," which entry shall be signed by the Mayor and attested by the town clerk.

Sec. 2-5. LOCATION OF ZONING DISTRICT MAP.

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

Sec. 2-6. INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning 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 or other legally constituted property 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 zoning 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 zoning district map, or in any other circumstances not covered by Subsections (a) through (f) above, the town council shall interpret the district boundaries.

(h) Any tract annexed by the Town of Round Top in the future will automatically become subject to this Zoning Ordinance immediately upon the effective date of the annexation.

(i) Extraterritorial Jurisdiction. The Town of Round Top has a statutory extraterritorial jurisdiction (ETJ) of one-half mile outside and contiguous to 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, public infrastructure and other issues in its ETJ.

ARTICLE III. ZONING DISTRICT

Sec. 3-1. 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 or occupied, 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) Commercial or non-residential uses are limited to home occupations and bed and breakfast bedroom rentals.

A. Lodging registration with the town and the collection and remittance of hotel occupancy tax is required.

B. Without regard to the number of buildings no more than two bedrooms on a property shall be used for bed and breakfast bedroom rental.

(3) Governmental facilities;

(4) Churches or houses of worship; and,

(5) Library.

(b) Architectural standards: See Section 8-3(a) of the Zoning Ordinance for a complete list of the buildings in the Business/Historical District and the additional buildings 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: Window frames in District R 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.

(d) Additional provisions that apply to District R: Subsection 3-2(c) (excluding Foundations).

(e) Occupancy limits for bed and breakfast bedroom rentals:

(1) In this section "adult" means a person 18 years of age or older.

(2) In this section "bedroom" means an area of a dwelling intended to be used for sleeping purposes.

(3) It shall be unlawful for an owner or person to rent, allow, provide, or advertise for more than two (2) adults per bedroom when using the premises as a bed and breakfast bedroom rental.

(4) Not more than two (2) adults may occupy a bed and breakfast bedroom rental for sleeping.

(5) A residential property owner or lodging guest may not use or allow another to use a bed and breakfast bedroom rental property for an outdoor assembly of more than four adults per rented bedroom or fifty-six adults, whichever is less, between 7:00 a.m. and 10:00 p.m.

(6) A residential property owner or lodging guest may not use or allow another to use a bed and breakfast bedroom rental property for an assembly between 10:00 p.m. and 7:00 a.m.

(5) For purposes of this section, an assembly includes a reunion, meeting, workshop, class, seminar, wedding, bachelor or bachelorette party, concert, auction, sponsored event, or any similar group activity other than sleeping.

(f) Requirements in this section apply only when property in Residential District R is being used for bed and breakfast bedroom rental, and apply to the entire property.

Sec. 3-2. DISTRICT B/H (BUSINESS/HISTORICAL DISTRICT).

This district contains the majority of the significant historical buildings within the town limits. It includes the Town Square, the Bethlehem Lutheran Church, the Henkel Square, and other structures listed in Section 8-3(a) and as described on the Official Zoning 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 town council, are designed to generate or serve the needs of the community, tourists and tourism, including:

(1) uses permitted in District R,

(2) commercial dwellings with no more than fifteen (15) guest rooms including hotels, motels, boarding houses, short term rental cottages, and 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) museums,

(10) similar uses deemed acceptable by the town council, and

(11) temporary uses during designated events.

(b) Architectural Standards: All proposed construction or renovation must comply with the architectural standards adopted for this district by town 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 Architectural Review Board, except for maintenance or repairs. See Section 8-3(a) of the Zoning Ordinance for a complete list of the architectural models for the Business/Historical District. Those buildings shall serve as general architectural models for any new construction or modification of structures within District B/H.

(c) [Reserved]

(d) Foundations: Foundations may 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 material, to simulate a pier and beam skirt material. Additionally, foundations may be slab-on-grade.

(e) Exterior facades: Exterior facades on all sides of new structures shall be constructed to accurately simulate the appearance of the historical models:

(1) Masonry: Native sandstone, limestone, or other chopped or field stone, either structural or as veneer over wood frame or metal construction is preferred. Patterned 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 preferred. Milled wood sidings in patterns found on the architectural models may also be used. Cementitious sidings should have an embossed wood grain that simulates wood siding profiles and should be blind nailed and/or all headed fasteners filled. Visible heads of "square nails" are acceptable. Other materials that match historical profiles and appearance are preferred. Corrugated tin or other metal siding may be used for detached garage, barn or utility sheds subject to color being bare metal, silver, galvanized tin, white or other as approved by the town council.

(3) Doors and Windows: Doors and windows should match or simulate those in the architectural models. Doors should maintain a rural and historical appearance. Transoms, sidelights and other features typical to the doors and windows of the historical models are encouraged. Aluminum or vinyl clad wood windows and doors are acceptable but cladding colors other than white, brown, bronze, or black must be approved by the town council.

(4) Porches and other exterior features: 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.

(5) Roofs: Roof pitches should generally comply with Architectural models listed in Section 8-6(a). Primary roofs that maintain a minimum of an 8/12 pitch are preferred. All metal roofs should have a galvanized tin, silver finish, brown finish, ~~or~~ light brass finish or other as approved by the town council.

(6) Commercial grade metal roofs in a gray tin or silver finish are preferred for use on commercial structures, notwithstanding that eave and fascia conditions must be modified to match similar conditions on the model structures.

(7) Walks, roads and driveways: Walkways may be constructed of native stone, brick, or 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.

(8) Height of buildings: No structure shall be built with a building height 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.

(9) Utility easements and placement of utility poles: All utility easements shall be located in a manner to minimize the visibility of utility poles and other utility features and equipment. 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 3-2 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, 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.

(e) Demolition: Structures in this District may not be demolished without prior recommendation of the Architectural Review Board and approval of the town council.

(f) Demolition by neglect. No owner or person with an interest in real property designated as a historic landmark by a State of Texas or Nationally recognized Historical Organization, 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 Historical Society 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; or

(6) 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. 3-3. DISTRICT C (COMMERCIAL DISTRICT).

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

(1) uses permitted in District B/H;

(2) banking establishments;

(3) [Reserved] ;

(4) shops and retail establishments, including temporary uses during designated events;

(4.1) commercial dwellings with no more than fifteen (15) guest rooms including hotels, motels, boarding houses, short term rental cottages, and bed and breakfast establishments;

(5) service businesses;

(6) RV Parks (see requirements herein below);

(7) [Reserved] ;

(8) any other appropriate uses approved by the town council; and

(9) temporary uses during designated events.

(a.1) 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 District R. If such tracts are sub-divided by the landowner from a larger tract in District C, that landowner 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 8-3(a) of the Zoning Ordinance for a complete list of the buildings in the Business/Historical District, the Residential District, and the additional buildings 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) Other requirements:

(1) Style: 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.

(2) 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 roofing materials are not visible from the ground level of the building by a front façade parapet or other condition as approved by the town council. Additional profiles of commercial roofs may be used in District C for commercial structures, notwithstanding that eave and fascia conditions must match similar conditions on the model structures.

(3) Doors and windows: Doors and windows in the front facade must maintain a historical architectural style.

(4) 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.

(5) 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 Recreational Vehicle Parks: To support tourism within the Town of Round Top, short term stay recreational vehicle parks are allowed in District C only, notwithstanding that no mobile homes, portable vendor trailers, or other non-compliant portable structures are allowed within the town limits except as provided for herein.

Sec. 3-4. HUD-CODE MANUFACTURED HOME SUBDIVISION DISTRICT (MH/R)

This District is established to assure that should someone wish to place a HUD-Code 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.

District MH/R is an overlay of District R and District MH/R permits all of the uses of District R subject to the same regulations in order to prevent the encroachment of incompatible uses, preserve property values, and preserve the rural character of the town.

HUD-code manufactured homes are permitted within District MH/R for use as single-family residential purposes only. Performance standards for HUD-code manufactured home subdivisions, in addition to the requirements contained herein, are located in the HUD-Code Manufactured Home Subdivision Standards Ordinance, adopted separately.

Sec. 3-5. PUBLIC HEARING.

A public hearing or hearings shall be held by the town council before adopting any ordinance amending a district regulation, district boundary or zoning classification established by this ordinance.

(a) Notice of public hearings. Notice of 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 before the fifteenth (15th) day before the date of such hearing.

(3) Personal notice to affected property owner. In cases where the subject of the hearing is a change in a district boundary or zoning 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 a district boundary or zoning classification is proposed. Such notice shall be given before the tenth (10th) day 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 a district boundary or zoning classification until the expiration of thirty (30) days following the giving of notice pursuant to this Section 3-5(a).

(b) Record. The town council shall cause a record to be made of each public hearing required by this Section 3-5(a), which shall Include, but not be limited to:

(1) the minutes of the hearing;

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

(3) The application, exhibits and documents 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. 3-6. 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 an amendment.

Sec. 3-7. PROHIBITED USES.

Except as otherwise expressly permitted in this ordinance, the following uses are prohibited in all zoning districts: heavy machinery or industrial uses; heavy commercial or industrial storage or service facilities; chemical or environmentally hazardous materials processing or storage facilities; and uses which produce loud noise or noxious odors, or which present any other environmental hazards.

ARTICLE IV. COMPLIANCE WITH REGULATIONS

Sec. 4-1. 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) [Reserved]

(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 8-1 Off-street parking and loading)). No off-street parking shall 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-half acre, that will include multiple 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 8-4.

(g) No primary dwelling nor 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.

Sec. 4-2. 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.

(c) A building or structure that is authorized to continue nonconforming use under Sec. 4-2(a) and is nonconforming with setback or yard requirements of this ordinance, may be moved on the same lot if such movement brings that building or structure into compliance with setback or yard requirements. A building or structure moved under this provision shall not be extended or expanded or otherwise structurally altered.

(d) Authority to continue nonconforming bed and breakfast room occupancy in Residential District R. The use of a sleeping room that had sleeping accommodations for four (4) or more adults on December 1, 2022, although not conforming to the provisions of section 3-1(e) limiting occupancy to two (2) adults, may continue to rent, allow, provide, and advertise those specific rooms for no more than four (4) adults for sleeping.

Sec. 4-3. 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 zoning 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 zoning 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 zoning district in which it is located at the time of annexation into the town.

Sec. 4-4. 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 including structural repairs and structural alterations shall be permitted if they do not have the effect of extending or enlarging the nonconforming characteristics thereof.

Examples:

(1) re-painting any structure with same color;

(2) replacing a roof; and

(3) 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 new construction is conforming in terms of 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. 4-5. 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.

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 Zoning 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 Board of Adjustment.

Sec. 4-6. PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES.

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. 4-7. ENFORCEMENT; PENALTY; REMEDIES.

(a) A person commits an offense if the person violates any provision of this ordinance. An offense under this ordinance shall be deemed a misdemeanor and, upon conviction, shall be punishable by fine in an amount between $25.00 and $2,000.00. Each day of violation shall constitute a separate offense.

(b) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this ordinance, the Town may bring appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

ARTICLE V. SPECIFIC USE PERMITS

SEC. 5-1 TEMPORARY SPECIFIC USES ALLOWED BY PERMIT

(a) Authorized temporary specific uses allowed for designated events and special events:

(1) Use of the yard space otherwise required to be unoccupied and unobstructed on property located in Business/Historical and Commercial Zoning Districts for the sale of merchandise and food or solicitation of donations, including the temporary erection of tables, booths, tents, covers, and like temporary displays and shelters, and the placement of portable toilets, trailers, and vehicles, and subject to the limitations in Section 5-1.

(2) A temporary specific use permit is valid only for the period of the designated event or special event as established by the town council. It is prohibited for the property for which the permit is issued to be occupied by the vendor before the event start date and time. Additionally, it is

prohibited for the property for which the permit is issued to be occupied by the vendor after the event end date and time. Occupation of the property as used herein shall include the placement of vehicles, supplies, equipment, merchandise, furniture, tents, covers, or other obstructions in the yard space. Violations of this section are subject to the penalty in Section 4-7.

(3) A temporary specific use permit does not authorize:

(i) The use of a street right-of-way.

(ii) The use of space designated a fire lane.

(iii) The use of off-street parking space required by Section 8-1.

(iv) The blocking or impeding of any building access, entrance, exit, or emergency exit in any manner, including unoccupied or vacant building.

(b) Designated Events – The building official, or other authorized representative of the town, shall issue a Temporary Use Permit to retail merchandise vendors, food vendors, and charitable or civic organizations that are in compliance with the requirements of this ordinance. The permit shall be limited to the dates and times of designated event.

(c) Special Events – The building official, or other authorized representative of the town, shall issue a Temporary Use Permit to retail merchandise vendors, food vendors, and charitable or civic organizations that are within the geographic location(s) defined by the town council and in compliance with the requirements of this ordinance. The permit shall be limited to the dates and times of the special event.

(d) Retail Merchandise Vendor Permit - Retail merchandise vendors that meet the requirements of this ordinance can obtain a Temporary Use Permit to temporarily erect tables, booths, tents, covers, and like temporary displays and shelters; and place a trailer or vehicle on private property if used to display and sell merchandise or provide sleeping accommodations for the vendor. Vehicles used exclusively for towing, transporting, or storage are not permitted.

(e) Food Vendor Permit - Food vendors that meet the requirements of this ordinance can obtain a Temporary Use Permit to temporarily erect tables, booths, tents, covers, and like temporary displays and shelters; and place a trailer or vehicle on private property if used to display and sell food or provide sleeping accommodations for the vendor. Vehicles used exclusively for towing, transporting, or storage are not permitted. A food vendor permit holder does not require a separate retail merchandise vendor permit to sell non-food merchandise.

(f) [Reserved]

(g) Application for Temporary Use Permit – It is the responsibility of the property owner, or property owner's authorized agent, to submit a complete application for Temporary Use Permit to the town prior to a vendor occupying the property. Application shall be submitted on a form provided, or approved, by the town. An application shall not be considered complete or submitted unless accompanied by the correct application fee and a copy of a valid Texas Sales Tax Permit (except in the case of organizations exempt from collecting sales tax by the Texas Comptroller of Public Accounts. A food vendor application shall not be considered complete or submitted unless additionally accompanied by a valid food handler certificate.

(h) Liability Insurance Required – Each property owner that applies for a Temporary Use Permit shall have liability insurance for injury or loss that may harm the public. Such insurance shall be in force for the duration of the permit.

(i) Toilet Facilities Required – Each property owner that applies for a Temporary Use Permit shall have permanent acceptable and functioning toilet facilities and/or temporary portable toilets readily visible and accessible to customers on the property. There shall be a minimum of two toilets for each ten (10) vendors or fraction thereof while any temporary vendor on the property is selling to the public.

SEC. 5-2 TEMPORARY SPECIFIC USE PERMIT FEES

(a) Application fee – The application fee for a temporary use permit is fifty dollars ($50.00) per vendor, per event, unless established otherwise by resolution of the town council.

(b) Charitable or civic organization exception to temporary use permit fee – No fee is required for special event short term (less than 36 hour) fund-raising events by civic, academic, religious, or youth groups. This exception does not apply to designated events or special events that exceed 36 hours.

(c) Non-refundable – Temporary use permit fees are non-refundable once a permit is issued.

ARTICLE VI. ARCHITECTURAL REVIEW BOARD

Sec. 6-1. CREATION.

There is hereby created an Architectural Review Board.

Sec. 6-2. MEMBERSHIP.

The Board shall consist of three (3) members, each to be appointed by the Mayor and confirmed by the town council. Members of the Review Board shall be property owners or residents of the town. Two (2) members of the initial Review Board shall be appointed for one (1) year, and the remaining member of the initial Review Board shall be appointed for two (2) years. Thereafter, all members shall be appointed for terms of two (2) years. Vacancies shall be filled by the same procedures for original appointment and shall be for the unexpired term of the position vacated.

Members of the Board serve at the pleasure of the town council and may be removed by council with or without cause.

The Architectural Review Board shall have three (3) Alternate members appointed by the Mayor and confirmed by the town council. These members shall be empowered to vote on issues before the Architectural Review Board only in cases where their attendance is required by the absence of a member. These members shall be appointed for a term of two (2) years. Vacancy shall be filled by the same procedures for original appointment and shall be for the unexpired term of the position.

Sec. 6-3. SELECTION OF OFFICERS.

At the first meeting after the appointment of members of the Board for a new term, the members shall elect one of their members as the chairman and one of their members as the vice-chairman. In the absence of the chairman, the vice chairman shall act as chairman and shall have all powers of the

chairman. The members of the Board may select an additional person to preside over meetings in the absence of the chairman and the vice-chairman.

Sec. 6-4. MEETINGS.

Meetings of the Board shall be held at the call of the 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. A majority of members of the Board shall be necessary to constitute a quorum.

Sec. 6-5. RULES OF PROCEDURE.

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 clerk and shall be a public record. The Board shall adopt from time to time such procedural rules as it may deem necessary to carry out its functions under the provisions of this ordinance and shall furnish a copy of the same to the Building Official, all of which rules shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

Sec. 6-6. AUTHORITY OF THE ARCHITECTURAL REVIEW BOARD.

The Architectural Review Board shall have the authority to review and act upon permit applications for:

(a) New construction and renovation within the town, and to evaluate such applications for compliance with the architectural standards approved by the town council. This does not include additions to an existing conforming structure, where the addition matches the architectural style of the existing structure.

(b) The Architectural Review Board 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.

(c) Permanent signage in accordance with guidelines and standards established by council.

The Architectural Review Board may provide a non-binding opinion about any other permit applications determined by the Building Official to require consultation with the Architectural Review Board.

ARTICLE VII. BOARD OF ADJUSTMENT

Sec. 7-1. CREATION.

There is hereby created a 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. 7-2. 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.

Council may appoint two (2) alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor. Each to be appointed by the mayor and confirmed by the town council. Members of the Board of Adjustment shall be residents and qualified voters of the town who have previously served as mayor or alderman of the Town of Round Top for a minimum of one year. Alternate members of the Board of Adjustment shall be appointed for staggered two-year (2) terms beginning on November 15. The first alternate board member appointed shall have a term ending on the next November 15 of an even numbered year. The second alternate board member shall have a term ending on the next November 15 of an odd numbered year. Vacancies shall be filled by the same procedures for original appointment and shall be for the unexpired term of the position vacated.

Sec. 7-3. MEETINGS.

Meetings of the Board shall be held at the call of the 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. Seventy-five percent (75%) of the members of the Board shall be necessary to constitute a quorum.

Sec. 7-4. 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 clerk 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. 7-5. 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) 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.

(b) Variances. The Board of Adjustment shall have the authority to authorize in specific cases a variance from the terms of this ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done.

(c) Jurisdiction. Nothing herein shall be construed as conferring any jurisdiction on the 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. 7-6. DECISIONS OF THE BOARD.

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 seventy-five percent (75%) of the 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; or

(c) authorize a variance from the terms of this ordinance.

Sec. 7-7. PETITION FOR VARIANCE OR APPEAL TO THE RULING OF THE BUILDING OFFICIAL.

Any petition for variance or an appeal to a ruling by the Building Official shall be prepared in the prescribed form, to be furnished and filed by the town clerk and copied to the Building Official and Board of Adjustment (town council). To apply for a variance or appeal 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 (town council) 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 applicant must include the following information:

(a) The property owner's or property owners' name(s) and address(es).

(b) A specific description of proposed petition.

(c) A statement of the need or justification for said request, including its consistency with the zoning policies and purposes set forth in this ordinance and/or its consistency with the town's most current comprehensive planning document or documents.

The Board of Adjustment (town council) shall then schedule a hearing for that application within twenty (20) days after receiving the application from the town clerk. Only the town council has the authority to change or modify the requirements of the Zoning Ordinance.

Sec. 7-8. PETITION FOR AMENDMENT TO THE REGULATIONS OF THE ZONING ORDINANCE, ZONING CLASSIFICATION, OR THE BOUNDARIES OF THE OFFICIAL ZONING DISTRICT MAP.

Any petition to apply for an amendment to the regulations of the Zoning Ordinance, Zoning Classification, or the boundaries of the Official Zoning District Map shall be prepared in the prescribed form, to be furnished and filed by the town clerk and copied to the Building Official and town council.

To apply for an amendment to the regulations or boundaries, the applicant must be an owner, or the owner's representative, of the property to be affected by that amendment.

Any person or group desiring to file such an appeal to the town council 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 zoning 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 or zoning classification, the application must also include:

(1) The legal description of the property affected and the boundaries of said property, and the present zoning classification and existing uses of the property proposed to be reclassified.

(2) [Reserved]

(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.

The town council shall then schedule a hearing for that application within fifteen (15) days after receiving the application from the town clerk. Only the town council has the authority to change or modify the requirements of the Zoning Ordinance or District Boundaries.

Sec. 7-9. TIME LIMITS ON APPEALS AND HEARING PROCESS.

Appeals must be filed within twenty (20) 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. 7-10. BOARD OF ADJUSTMENT 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/herself in any case where a decision is appealed to the Board of Adjustment, and 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 7-5.

(d) Decision by Board. The Board shall conduct a hearing not less than five (5) days, nor more than twenty (20) days after, the receipt of an appeal. The Board shall render a final decision on the appeal at a subsequent meeting held not less than five (5) days, nor more than thirty (30) days after the hearing, and in no case more than sixty (60) days after receipt of the appeal. 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 or appeal which has been denied shall be again filed earlier than one (1) year from the date that said application was denied.

ARTICLE VIII. PERFORMANCE

Sec. 8-1. OFF-STREET PARKING AND LOADING.

(a) General Provisions. Required parking shall be comprised of gravel or hard-surface, off-street and on 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, MH/R, and B/H, the preferred materials shall be gravel, plant mix (gravel and ash), crushed granite, stone, brick, cobblestone, patterned concrete in patterns approved by the town council or other decorative masonry as approved by the town council. In Districts C only, broomed concrete, chip rock or asphalt laid over a six-inch deep compacted base may be used. Also, in District R and MH/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 used.

(c) Shielded parking areas and communal parking. All parking areas shall, as much as reasonably possible, be located in areas shielded from the view of the primary street, and from open public areas. Because of existing conditions and smaller lot sizes, the town encourages the establishment of communal parking areas for this purpose.

(d) Calculating the parking requirement. Must be met using off street parking. 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 parking than a small business or residential property. The actual number of parking places shall be determined by the Building Official using the table below, but the maximum calculation for 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 parking spaces, fractions of less than one-half (½) shall be disregarded,

and fractions of one half (½) 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.

Parking Requirements:

(1) Dwellings – Two per single-family dwelling.

(2) Bed and Breakfast or commercial dwellings – Two plus one and one-quarter (1.25) per bedroom.

(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 the property.

(6) Museum, library or community center – Five plus one per 600 sq. ft. over 2,000 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, assembly or performance halls – One parking space for each three seats in the main auditorium.

(9) Other – Parking requirements as determined by the Building Official in accordance with this subsection 8-1(d).

(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*, and any amendment thereto.

(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. Commercial property owners should orient off street parking 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 resident or property owner, are not

Portable Vendors, and are allowed to park at no cost. Such Recreational Vehicle cannot be parked on any 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 town council and must be for a specific period of time not to exceed one (1) 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 9-5.

Sec. 8-2. HUD-CODE MANUFACTURED HOME SUBDIVISIONS.

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

Sec. 8-3. 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 (201 E. Austin Street) and other historic buildings in what was known as "Bybee Square."

c. The buildings of Henkel Square Market.

d. The Bethlehem Lutheran Church at 412 S. White Street.

f. The Bauer-Schuddemagen House at 301 S. Washington Street.

g. The building (restaurant) at 101 S. Washington Street.

h. The historical buildings on the corner of Bauer Rummel Road (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", currently known as Rolland Square (formerly Rummel Square).

j. The Krause House, the Muske/currently Sellers House (102 S. White Street), the original facade of the Albers house (212 N. White Street) and the Graf House (208 N. 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 at 206 W. Mill Street.

l. The Umland/Diers House at 302 E. Mill Street, the Fricke/Cies/Berg house at 404 N. Live Oak Street, 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 at 3738 FM 2714.

o. The Round Top General Store building at 104 Washington Street.

These buildings shall serve as general architectural models for any new construction or modification of structures within District B/H. Refer to Section 3-2 for detailed regulations for the Business/Historical 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, 248 Jaster Road:

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 3-1 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) at 550 N. Washington Street.

b. The Round Top State Bank building at 301 N. Washington Street.

c. The original front facade of the Round Top Mercantile Store (excluding the metal building hardware addition to the right) at 438 N. Washington Street.

d. The Junk Gypsy Store at 1215 State Highway 237.

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. Refer to Section 3-3 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 approval of the town council.

(c) Adjacent Architecture: The Architectural Review Board 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. 8-4. LOT SIZE, BUILDING DENSITY, SETBACKS AND PLACEMENT.

(a) Lot size and setback requirements:

(1) Business/Historical 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 — 15 feet; Side yard abutting street — 15 feet; Rear yard — 15 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 (2) acres (87,120 square feet), unless the residence is located in a high-density area.

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 — 15 feet; Side yard abutting street —15 feet; Side yard abutting Residential District — 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 county and 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 legal survey.

(c) 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 Zoning 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.

(d) 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 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 feet. Applications for designation of additional High Density Areas must be approved by 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.

(2) The lots bounded by Washington, E. Mill, Von Rosenberg, and Austin.

(3) The lots on Washington across from the Square, from W. Mill to Nagel.

(4) The triangular lot bounded by Washington, White and Nagel.

(5) The property known as 101 White Street and 123 W. Mill Street.

(e) 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 the town council. (See definition of development, Section 1-6.) Developments can only be located in the Business/Historical or Commercial Districts.

The owner of a lot of one-quarter (0.25) 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 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.

(f) Placement of accessory or utility buildings: All residential accessory or utility structures must be set on the property at least twenty-five (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.

(g) Secondary Residential Buildings. One secondary residential building is permitted subject to these limitations:

(1) Lots of four (4) acres or more. In all Districts, any secondary residential building, such as a guest house or other such structure with a planned residential use, must meet the site and lot size requirements of a separate residence.

(2) Lots of less than four (4) acres. In the R and MH/R District, where the lot size is under four (4) acres, or where the lot does not permit the designation of two (2) acres to the defined secondary residential building, A secondary residential building will be allowed if all other spacing, setback, footprint and greenspace requirements for the lot are met.

(3) If approved, subdividing the defined secondary residential structure still requires compliance with Section 4-5, Section 8-4(b), and other applicable sections of this 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.

(4) A plan for legal and separate access and utilities must also be provided to the secondary building.

(5) 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.

ARTICLE IX. SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 9-1. APPLICABILITY.

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

Sec. 9-2. 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. 9-3. REQUIRED GREENSPACE.

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 if two acres (2ac.) or less; and, no less than 50% of the total acreage if of property greater than two acres (2ac.). 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.

Sec. 9-4. FENCES.

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 six feet (6') 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 shall be compatible with, in materials and character, the architectural style of the main structure and/or the adjacent natural landscape.

(b) All fencing shall be constructed of permitted materials, erected, and maintained as required by ordinance. Privacy fencing shall not be erected except in specific applications listed in this ordinance.

(c) Livestock fencing:

(1) 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.

(2) Livestock fencing shall be constructed of permitted materials, erected, and maintained as required by ordinance.

(d) Closed privacy fencing is allowed for the following uses:

(1) Enclosing a utility area, no larger than one hundred feet square (10' x 10') and used for storage of household or commercial waste. A utility area fence enclosure no larger than 300 feet square approved by the town council.

(2) Enclosing utility equipment such as: propane tanks, HVAC condenser units, electrical service, water purification equipment, pool or spa equipment, or other similar uses.

(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 used in the required side and rear yard to protect the privacy of the residential landowner.

(e) 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 as required by ordinance. Privacy fencing may be used, but only to shield nonconforming work and storage areas from public view.

Sec. 9-5. ACCESSORY USES, UTILITY BUILDINGS AND STRUCTURES, RECREATIONAL VEHICLE STORAGE.

Accessory uses and accessory structures, used in a manner compliant with Section 1-5 of this ordinance, are permitted in any zoning 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, MH/R, and B/H district, outbuildings, garages, workshops, garden sheds, barns and other accessory structures 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. 9-6. 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 RVs or travel trailers for the private use of the landowner during permitted construction projects. All such temporary structures must be removed within thirty (30) days of the completion of the permitted construction project. Temporary use of a Recreational Vehicle or travel trailer is permitted for the habitation of the landowner during the permitted construction or remodeling of a home only; not withstanding that such living quarters may not be used to house workmen or other persons at any time. Upon completion of the project, any such Recreational Vehicle shall be housed in a storage building.

Sec. 9-7. DESIGNATION OF LOCAL RESPONSIBLE PARTY REQUIRED FOR BED AND BREAKFAST.

In District R, the owner of a premise used as a bed and breakfast bedroom rental must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public.

(a) The owner shall maintain a designation of a local responsible party in writing filed with the town clerk.
(b) The person designated may be the owner or another individual.
(c) The person designated must be available to be reached in person on the premises or by telephone at all times while bedroom rental occupants are on the premises of a bed and breakfast bedroom rental. If called, the person designated the local responsible party must be able to and shall be present at the premises within one (1) hour of call from the mayor, or his designee.
(d) If the designated person is not the owner, the designation filed with the town clerk shall include a statement that the local responsible party is authorized to make decisions regarding the premises and its occupants.
(e) A local responsible party may be required to, and shall not refuse to, accept notice or service of citation for any violations on the premises. Acceptance of service shall not act to release owner of any liability under this ordinance.