

## SECTION 26

## BOARD OF ADJUSTMENT

- 26-1 The word "Board" when used in this section shall be construed to mean the Board of Adjustment and the Administration Official shall mean the Building Inspector of the city. (Ord. 110)
- 26-2 Organization and Procedure:
- (1) Establishment: A Board of Adjustment is hereby established in accordance with the provisions of Article 211.008, Local Government Code, regarding the zoning of cities and with the powers and duties as provided in said Code.
  - (2) Membership: Pursuant to Article 211.008(g) the members of the City Council shall have the authority to act as the Board of Adjustment until such time as the Council shall appoint a separate Board of Adjustment. If a separate board is so appointed the Board shall consist of five citizens, each to be appointed or re-appointed by the City Council for staggered terms of two years. Each member of the Board shall be removable for cause by City Council upon written charges and after a public hearing. Vacancies shall be filled by the City Council for the unexpired term of any member whose office becomes vacant. Each year after the appointment of new members to the board, the Board shall elect from among its regular members a Chairman and a Vice Chairman who will act in the absence of the Chairman. The City Council may appoint two (2) alternate members of the Board who shall serve in the absence of one or more regular members when requested to do so by the Mayor or Chairman. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members. (Ord. 110)
  - (3) Rules and Regulations: The Board shall adopt rules in accordance with this ordinance and keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. The minutes and records shall be filed in the boards office and are public records and all meetings shall be open to the public. (Ord. 110)
  - (4) Meeting: Meetings of the Board shall be held at the call of the Chairman and at such other times as determined by the Board. All meetings shall be open to the public. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. (Ord. 110)

- (5) Each case before the Board must be heard by at least four members. (Ord. 110)

26-3

#### AUTHORITY OF BOARD

The Board Of Adjustment has the following authority:

- (1) To hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance. In exercising the authority under this subsection, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. (Ord. 110)
- (2) To hear and decide special exceptions to the terms this zoning ordinance when this ordinance requires the board to do so. In this regard the Board may grant only special exceptions that are authorized to be granted by the terms of this ordinance. (Ord. 110)
- (3) To authorize in specific cases a variance from the terms of this zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. (Ord. 110)
- (4) To hear and decide other matters authorized by an ordinance of the City. (Ord. 110)
- (5) To subpoena witnesses, administer oaths, and may require the production of documents. (Ord. 110)

26-4

The concurring vote of four members of the board is necessary to:

- (1) Reverse an order, requirement, decision, or determination of an administrative official. (Ord. 110)
- (2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance. (Ord. 110)
- (3) Authorize a variance from the terms of the zoning ordinance. (Ord. 110)

26-5

## Appeal to Board

- (1) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:
  - a. a person aggrieved by the decision; or
  - b. any officer, department, board, or bureau of the municipality affected by the decision. (Ord. 110)
- (2) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed. (Ord. 110)
- (3) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown. (Ord. 110)
- (4) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time. (Ord. 110)

SECTION 27

PLANNING AND ZONING COMMISSION

27-1 There is hereby created and established a Planning and Zoning Commission for the city consisting of not more than 7 regular members appointed by the governing body of the city. In addition to the regular members, two alternate members of the Planning and Zoning Commission may be appointed to serve in the absence of one or more regular members when requested to do so by the Mayor or Chairman of the Planning and Zoning Commission. (Ord. 110)

27-2 Each regular member of the Planning and Zoning Commission shall be appointed by the governing body of the City. Each regular and alternate member shall be a resident citizen of the city and shall forfeit his office should he cease to reside in the city during his term of office. After the effective date of this ordinance, regular members and alternate members, heretofore appointed under the preceding zoning ordinance, shall continue to serve as the Planning and Zoning Commission for the remainder of their terms. Vacancies of regular and alternate membership on the Planning and Zoning Commission shall be filled for the unexpired terms of office, by the governing body of the city. Alternate members may be considered for vacancies of regular membership on the Planning and Zoning Commission. (Ord. 110)

Regular and alternate members of the Planning and Zoning Commission may be removed from office for cause by the governing body of the city upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any regular or alternate member whose term becomes vacant.

27-3 A majority of the Planning and Zoning Commission shall constitute a quorum to do business. (Ord. 110)

27-4 All meetings of the Planning and Zoning Commission shall be public and the board shall keep minutes of the proceedings showing the vote of each member upon each question coming before the board. The minutes of the board shall be public record. The Planning and Zoning Commission shall select one of its regular members to be the Chairman and one of its regular members to be Vice Chairman to act in the absence of the Chairman. Unless otherwise determined by the Planning and Zoning Commission. Meetings of the Planning and Zoning Commission may be held as often as necessary to conduct the business of the board at the call of the Chair and at such other times as the board may determine. (Ord. 110)

27-5 The Planning and Zoning Commission of the city shall have the following powers:

- (1) To conduct, after notice as required by law, hearings required by this ordinance and the laws of this state; to recommend to the governing body of the city the

boundaries of the various districts and appropriate regulations to be enforced therein; to recommend to the governing body of the city the approval or denial of zoning changes sought under this ordinance or initiated by the commission on its own motion or the governing body under its own motion. (Ord. 110)

- (2) To hear, recommend, or determine any matter relating to zoning, planning, or subdivision control, as may be specified or required under this ordinance, other ordinances of the city, or the laws of the State of Texas.
- (3) To exercise such duties and powers as may be now or hereafter conferred by this ordinance, other ordinances of the city, or the laws of the State of Texas. (Ord. 110)
- (4) Except in the case of a joint public hearing the governing body of the city shall not hold a public hearing or take action on a zoning change or change to boundaries of the zoning districts or the regulations of the zoning districts until it receives the final report of the Planning and Zoning Commission. However, any public hearing required to be held by the Planning and Zoning Commission or the Governing Body of the City by this ordinance or the laws of this state, may be held jointly by the Governing Body and the Planning and Zoning Commission. The governing body shall not, however, take any action at such joint hearing until it has received the final report of the Planning and Zoning Commission. (Ord. 110)
- (5) Notice of Public Hearings (See Section 28) (Ord. 110)

## SECTION 28

### CHANGES AND AMENDMENTS

#### 28-1 AMENDMENTS MADE BY ORDINANCE

The City Council may by ordinance amend, supplement, or change the boundaries of the use districts; the use designation of any property; or the regulations, standards, or requirements, of this ordinance. Any such proposed change shall be first submitted to the Planning and Zoning Commission for public hearing and its recommendation and report. (Ord. 110)

#### 28-2 PETITIONS FOR AMENDMENTS

Any person, corporation, or group of persons having a proprietary interest in any property, may petition the City Council for a zoning change or amendment to the provisions of this ordinance. The Planning and Zoning Commission may, on its own motion, institute proposals for changes and amendments. All petitions for a zoning change shall bear the signature of the owners of the property that is the subject of the request. (Ord. 110)

#### 28-3 PUBLIC HEARINGS

The zoning process is conducted as a public hearing that should be opened and closed. Within the public hearing there is **public input** portion of the hearing which should be opened and closed. (Ord. 110)

##### (1) PUBLIC HEARING BEFORE THE PLANNING AND ZONING COMMISSION

After public notice has been given pursuant to Section 28-4,(1) a public hearing shall be held by the Planning and Zoning Commission on any proposed change in zoning classification as well as any proposed amendment to the zoning regulations of any zoning district. (Ord. 110)

The Planning and Zoning Commission shall first make a preliminary report and then hold its public hearings on that report before submitting a final report to the City Council (Ord. 110)

When the zoning change request is by petition, the preliminary report shall be the request as stated in the notice of public hearing. When the Planning and Zoning Commission makes a study and initiates a change or amendment on its own motion, or at the request of the City Council, the preliminary report shall

be that stated in the notice of public hearing. Upon completion of the public hearing the Planning and Zoning Commission shall submit its final report and recommendation to the City Council (Ord. 110)

When all **public input** has been received the **public input** portion of the hearing shall be closed. Thereafter, the Commission shall consider the matter and make its recommendation to the City Council in the form of a final report. After the public input portion of the public hearing has been closed the public may not thereafter be recognized for the purpose of adding additional argument or input, however, the Commission may ask questions of any person and receive additional information in response to questions. After public input has been closed and the Commission has no further questions, a motion should be made to close the public hearing. Thereafter the Commission may deliberate and vote on its final report to the City Council which shall be in the form of a recommendation. (Ord. 110)

(2) **PUBLIC HEARING BEFORE THE CITY COUNCIL**

The City Council, except in the case of a joint public hearing, may not hold its public hearing until it receives a final report from the Planning and Zoning Commission and even in the case of a joint public hearing may not take action on the matter until it receives the final report of the Planning and Zoning Commission. (Ord. 110)

After proper notice by publication pursuant to Section 28-4(2), the Council opens the public hearing and usually calls upon staff to summarize the proposed zoning change or amendment. This is usually followed by the applicant's presentation. The Council then opens the **public input** portion of the public hearing. When all **public input** has been received the **public input** portion of the hearing shall be closed. After the public input portion of the public hearing has been closed the public may not thereafter be recognized for the purpose of adding additional argument or input, however, the Council may ask questions of any person and receive additional information in response to questions. When the Council has no further questions, a motion should be made to close the public hearing. Thereafter the Council may deliberate and take appropriate action. (Ord. 110)

The City Council usually acts on a zoning change or amendment by following a two step process.

**The first step** is to take action on the matter by either (i) denial of the zoning change or amendment; (ii) approval of a zoning change or amendment; or (iii) approval of a zoning change different from that

requested, that is more restrictive or at least as restrictive, as that stated in the public notice. Only a majority vote of the council present and voting is required for this first step. (Ord. 110)

The second step is the adoption of an ordinance granting or making the change where appropriate. This second step, adoption of the ordinance, usually requires only a majority vote of those present and voting, however, under certain circumstances a 3/4 vote of all the members of the City Council is required to approve the zoning change or amendment, (See section 24-5). (Ord. 110)

### (3) THE JOINT PUBLIC HEARING

The Planning and Zoning Commission are hereby authorized to hold Joint Public hearings. If a joint public hearing is called the Planning and Zoning Commission and the City Council shall hear all matters jointly. When all **public input** has been received the **public input** portion of the hearing shall be closed. Thereafter, the Commission shall consider the matter and make its recommendation to the City Council in the form of a final report. After receiving the final report the City council shall consider the matter and take any appropriate action. Although the **public input** portion of the hearing is closed the **public hearing** continues until the public hearing is closed by the City Council. The City Council may not continue with the public hearing or take action on the matter until it receives the final report of the Planning and Zoning Commission. (Ord. 110)

If the Commission makes its report/recommendation at the same meeting the Council may then proceed, keeping in mind that the **public input** portion of the hearing has been closed. If either the Commission or the Council fails to conclude the matter at the first meeting the public hearing portion of the meeting shall be recessed and continued to a certain date and time that shall be announced to all those attending the meeting. (Ord. 110)

## 28-4 NOTICE OF PUBLIC HEARINGS

### (1) NOTICE OF PUBLIC HEARING BEFORE THE PLANNING AND ZONING COMMISSION

Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit, properly addressed with postage paid, in the United States mail. If the

property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given by publication published in the official newspaper at least 15 days before the date of the hearing. (Ord. 110)

(2) NOTICE OF PUBLIC HEARING BEFORE THE CITY COUNCIL

Notice of the public hearing to be held by the City Council, before adopting any proposed amendment, supplement or change, shall be published once in the official newspaper of the City at least Fifteen (15) days before the date of the hearing. (Ord. 110)

(3) NOTICE OF PUBLIC HEARING FOR JOINT PUBLIC HEARING

Where the public hearing is to be a Joint Public hearing before the Planning and Zoning Commission and the City Council, the joint notice shall be mailed in time to give each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed, 10 days notice, and the joint notice shall be published at least 15 days before the date of the hearing in the official newspaper of the City. (Ord. 110)

28-5

THREE-FOURTHS VOTE OF CITY COUNCIL (When Required)

If such proposed amendment, supplement, or change has been denied by the Planning and Zoning Commission, or if a written protest against such proposed amendment, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty (20) percent or more, either of the area of the lots or land included in such proposed change, or those immediately adjacent to and extending two hundred (200) feet therefrom, such amendment shall not become effective except by a three-fourths (3/4) vote of all the members of the City Council, to wit:

3/4 of 5 (full council consisting of members eligible to vote) = 3+ or 4 required votes. (Ord. 110)

3/4 of 4 (one vacancy on the 5 member council, not a mere absence) = 3 required votes. (Ord. 110)

## SECTION 29

### APPLICATION FOR ZONING CHANGE AND FILING FEES

29-1 Any person, firm or corporation requesting a change of zoning from one district classification to another district classification shall make an application in writing to the Planning and Zoning Commission, and shall submit the following information with such request:

- (1) A clearly typed legal description of the land on which a zoning change is requested, together with the local street address, if any. (Ord. 110)
- (2) Name and address of the owner or owners of the property, the name and address of the person making the application. If the application is made by anyone other than the owner or owners, the application must contain a statement that the applicant is authorized to act for the owner pursuant to an attached statement in writing signed by the owner or owners of the property authorizing the applicant to make such application on their behalf (Ord. 110)
- (3) The specific district use requested and the specific district use under which the property is regulated at the time of making the application. (Ord. 110)
- (4) A scale drawing showing the property and any proposed public or private streets and alleys; building sites or building lots; any areas proposed for dedication or reserved as parks, parkways, playgrounds, utility and garbage easements, school sites, street widening, street changes; the points of ingress and egress from existing public streets; an accurate survey of the boundary of tract and topography with a contour interval of not less than five ( 5 ) feet, or spot grades where the relief is limited. (Ord. 110)
- (5) Where multiple types of land use are proposed, a land use plan delineating the specific areas to be devoted to various uses shall be required. (Ord. 110)
- (6) Where Building Complexes are proposed, a site plan showing the location of each building and the minimum distance between buildings, and between buildings and the property line, street line and/or alley line shall be submitted. For buildings more than one 1 story in height, except single-family and two-family residences, elevations and/or perspective drawings may be required in order that the relationship of the buildings to adjacent property, open spaces and to other features of the development plan may be determined. Such

drawings need only indicate the height, number of floors and exposures for access, light and air. (Ord. 110)

- (7) A plan indicating the arrangement and provision of off-street parking and off-street loading where required. Such a plan may be presented as a ratio of off-street parking and off-street loading area to building area when accompanied by a typical example indicating the feasibility of the arrangement proposed and when the areas where the example would be applied are shown on the drawing of the entire site. Any special traffic regulation facilities proposed or required to assure the safe function of the circulation plan shall also be shown. (Ord. 110)
- (8) A designation of the maximum building coverage of the site shall be indicated upon the site plan.
- (9) Screening and landscaping plan shall be required where such treatment is essential to the proper arrangement of the development in relation to adjacent property. Such plan shall when required include screening walls, ornamental planting, playgrounds, wooded areas to be retained, lawns and gardens if such are determined as necessary by the City Council. (Ord. 110)
- (10) Any other information concerning the property as may be required by the Planning and Zoning Commission or the City Council. (Ord. 110)

29-2

Upon the filing of an application for a change in zoning with the Planning and Zoning Commission, the applicant shall pay to the city the basic filing fee established by the Town Council in an amount to cover all of the Town's costs including the cost of publication and mailing of notices and any outside engineering costs. An additional filing fee may be required if the applicant requests or causes a hearing to be rescheduled thereby causing additional costs for publication or otherwise. (Ord. 110)

## SECTION 30

### SPECIAL DEFINITIONS

Unless noted, all below definitions were adopted pursuant to (Ord. 110)

- 30-1 Certain words in this Ordinance not heretofore defined are defined as follows: Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "building" includes the word "structure"; the word "lot" includes the words "plot" or "tract"; the word "shall" is mandatory and not discretionary. (Ord. 110)

Accessory Building or Use: One which: (a) is subordinate to and serves a principal use; and (b) is subordinate in area, extent, or purpose to the principal building or principal use served; and (c) contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and (d) is located on the same building lot as the principal use served. "Accessory" when used in the text shall have the same meaning as accessory use. An accessory building may be a part of the principal building. Servants' quarters, as defined, are an accessory building or use.

Alley: A public right-of-way which affords a secondary means of access to abutting property.

Alterations: Any change, addition, or modification in construction, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Auto Laundry: A building, or portion thereof containing facilities for washing automobiles using automated methods including chain conveyor, blower, steam cleaning device, or other mechanical devices. A self-service type car wash is an auto laundry.

Automobile Repair, Major: Major repair, rebuilding, or reconditioning of engines or transmissions for motor vehicles; wrecker service with vehicle storage; collision services including body, frame or fender straightening or repair; customizing; overall painting or paint shop; those uses listed under "Automobile Repair, Minor"; and other similar uses.

Automobile Repair, Minor: Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; mufflers; automobile washing, steam cleaning, and polishing; performing state inspections and making minor repairs necessary to pass said inspection; servicing of air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile Repair, Major" or any other similar use.

Awning: A roof-like cover of a temporary nature that projects from the wall of a building.

Apartment: A dwelling unit in an apartment building occupied as a place of residence.

Apartment Building: An "apartment building" is a building or any portion thereof, which contains three or more dwelling units, located in the same building lot. An apartment building is a multi-family dwelling.

Basement: A story wholly or partly (at least 50 per cent) measured from floor to ceiling, below the level of the ground on the street side of the building. A basement or cellar is not counted when measuring the height of a building.

Bakery: A place for preparing, baking and selling all products on the premises where prepared.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, highways, streams, or corporate boundary lines. There may be more than one numbered block as shown on a plat falling within a single block as herein defined.

Block Face: A word used as a term of measurement. It shall mean the distance along a side of a street between the nearest two streets which intersect said street on the said side.

Board: Shall mean the Board of Adjustment established in Section 26 of this Ordinance.

Build: To erect, convert, enlarge, reconstruct, or alter a building or structure.

Buildable Width: Of a building site is the width of the building site left to be built upon after the required side yards are provided.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

Building, Detached: A building surrounded by yards or open space on the same building lot.

Building Height: See Height

Building Line: The rear line of a required front yard which is generally parallel to the street line forming the front lot line.

Building Lot: A single tract of land located within a single block which, (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may be subsequently subdivided into two or more "building lots", and a number of "building lots" may be cumulated into one "building lot", subject to the provisions of this Ordinance and the Subdivision Ordinance.

Building, Mixed: A building used partly for residential use and partly for community facility and/or commercial use. A mixed building is a commercial use.

Building Official: The administrative official charged with responsibility for issuing permits and enforcing the Zoning Ordinance and Building Code.

Building, Principal: A building in which the principal use of the lot, on which it is located, is conducted. All residential uses, except bona fide servants quarters, are principal uses.

Building, Residential: A building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers.

Carport: A structure open on a minimum of three (3) sides designed or used to shelter the owner's vehicle(s), not to exceed twenty-four (24) feet on its longest dimension.

Cellar: See Basement

Certificate of Occupancy or Compliance: An official certificate issued by the City through the enforcing official which indicates conformance with or approved conditional waiver from the Zoning Regulations and authorizes legal use of the premises for which it is issued.

City: Shall mean the City of Lowry Crossing, Texas

City Council: The governing body of the City of Lowry Crossing, Texas

Reserved For Future Use.

Clinic: The office of one or more medical doctors, dentists, optometrists, or similar members of the medical professions who may or may not have associated in the practice of their professions.

Cleaning: A custom cleaning shop not exceeding five thousand (5,000) square feet of floor area.

Clustering: A land development concept whereby the buildings on a site are grouped closely together but not attached to allow for communal open space and economies in development. Clustering permits variation in lot size, shape and orientation without an increase in the overall density of the development.

Community Club any club, (other than a private club), service club, sorority, fraternity, lodge or other private organization or club where alcoholic beverages are not served pursuant to a private club permit issued by the State of Texas.

Concrete Block: Any of the molded load-bearing or non-load-bearing concrete units normally 8"x 8"x 16".

Convalescent Home: Any structure used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.

College or University: An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university, but excluding trade and commercial schools.

Convenience Store: A small, drive-up type store which usually sells groceries.

Court: An open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard, or other permanent open space.

Coverage: The percent of a lot or tract covered by the first floor or the largest floor of a building or structure whichever is larger, including all covered porches, patios, garages, accessory buildings, etc. Unsupported roof overhangs and other allowed architectural projections shall be excluded from coverage computation.

Curb line: A line created by following the edge of the street or curb.

Cumulative Zoning: The successive addition of uses allowed in more restrictive zoning districts to lesser restrictive zoning districts.

Custom Personal Service: A tailor, shoe repair, barber, beauty shop, health studio or travel consultant.

Day Nursery or Day Care Center: An establishment where four (4) or more children are left for care or training during the day or portion thereof.

Density: The relationship of the total number of dwelling units to the area of the total site area commonly expressed as "dwelling units per acre."

Depth of Lot: The mean horizontal distance between the front and rear lot lines. See illustration # 12.

Development, or the Develop: The construction of a new building or any structure on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To "develop" is to create a development.

District: A zoning district which is a part of the City wherein regulation of this Ordinance is uniform.

Dwelling, One-Family: A dwelling having accommodations for and occupied by not more than one family, or by one family and not more than four (4) boarders and lodgers.

Dwelling, Two-Family: A dwelling having separate accommodations for and occupied by not more than two families, or by two families and not more than four (4) boarders and lodgers. (Two boarders or lodgers to each unit).

Dwelling, Multiple-Family: Any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or residence of three or more families.

Dwelling Unit: A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters of a family and including facilities for food preparation and sleeping.

Family: Consists of one or more persons, each related to the other by blood, marriage, or adoption; or a group of not more than four persons (excluding servants) who are living together in a dwelling unit.

Farm: An area of five (5) acres or more which is used for growing of usual farm products, vegetables, fruits, trees and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Floor Area: The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, carports, or garages.

Floor Area Ratio (FAR): An indicated ratio between the number of square feet of total floor area in the main building(s) on a lot and the total square footage of land in the lot; it is the number resulting from dividing the main building floor area by the lot area. (See Appendix Illustration No. 15)

Garage, Private: An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is necessary.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for storing motor driven vehicles.

Gasoline Station or Filling Station: Any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. If the dispensing, sale or offering for sale is incidental to a public garage, the premises shall be classified as a public garage.

Gross Acreage: The total size of the property including floodplains, easements, and other non-buildable areas located on the property.

Health Service: A charitable or government operated facility offering to the public medical examinations, diagnosis and limited treatment not for profit.

Heavy Load Vehicle: A self-propelled vehicle having a load capacity greater than one and one-half (1½) tons, such as large recreation vehicles, tractor-trailers, buses, and other similar vehicles; the term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

Height: The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs or, (3) to the mean height level between eaves and ridge for hip and gable roofs and; in any event, excluding chimneys, cooling towers, elevator bulk heads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet in height. If the street grade has not been officially established, the average front yard grade shall be used for a base level.

Home Occupation: A business, occupation, or profession conducted within a residential dwelling unit by the resident thereof, and which shall have the following characteristics:

1. The activity shall employ only members of the immediate family of the resident of the dwelling unit;
2. There shall be no external evidence of the occupation detectable at any lot line, said evidence to include advertising signs or displays, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, storage of materials or equipment, or traffic or parking of vehicles in a manner evidencing the conduct of a business;
3. Said home occupation shall not have a separate entrance for the business and shall not include any visits by the general public. Any business, occupation or profession conducted within a dwelling unit and which does not meet the aforesaid characteristics shall be construed to be a commercial activity and shall therefore be cause for the City to order a cease to all such activity within said dwelling unit.

Hospital: A legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.

Hotel: An establishment offering lodging to the transient public for compensation. A hotel is distinguished from a motel in that access to the majority of the guest rooms is through a common entrance and lobby. A hotel is a non-residential use.

Household Appliance Service and Repair: An enclosed facility for repair of household and home equipment, including appliances, lawnmowers, power tools, radios, TV and similar items.

Junk or Salvage Yard: A lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an automobile wrecking yard and automobile parts yard. A "junk yard" does not include such uses conducted entirely within an enclosed building.

Landscaping Contractors Yard: A lot upon which landscaping items such as trees, plants and shrubs may be stored for future sale.

Loading Space: A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having minimum dimensions of twelve (12) by sixty (60) feet for industrial and warehouse uses and twelve (12) by thirty (30) feet for commercial, retail and institutional uses with a vertical clearance of at least fourteen (14) feet, together with access and maneuvering areas provided on the same building lot as the principal use for which the loading space is intended.

Lot Area: The area of a horizontal plane intercepted by the vertical projections of the front, side, and rear lot lines of a building lot. (See Appendix Illustration No. 12)

Lot Area per Dwelling Unit: The lot area required for each dwelling unit located on a building lot.

Lot, Corner: A building lot situated at the intersection of two streets, the interior angle of such intersection not to exceed 135 degrees.

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a building lot measured at the respective mid-points of the front lot line and rear lot line within the lot boundary. (See Appendix Illustration No. 12)

Lot Line: A boundary of a building lot.

Lot Line, Front: That boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as a front lot line providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line. (See Appendix Illustration No. 11)

Lot Line, Side: That boundary of a building lot which is not a front lot line or a rear lot line.

Lot Line, Rear: That boundary of a building lot which is most distant from and is, or is most nearly, parallel to the front lot line.

Lot of Record: An area of land designated as a lot on a plat of a subdivision recorded, pursuant to statutes of the State of Texas, with the County Clerk or an area of land held in single ownership described by metes and bounds upon a deed recorded of registered with the County Clerk.

Lot, Reverse Corner: A corner lot, rear lot line of the street which abuts the side lot line of the lot to its rear.

Lot, Through: A "double frontage" lot is a building lot not a corner lot, both the front and rear lot lines which adjoin street lines. On a "through lot" both street lines shall be deemed front lot line.

Lot Width: The minimum distance between the side lot lines of a building lot measured along a straight line at the rear of the required front yard and parallel to the street line or a line tangent thereto. (See Appendix Illustration No. 11)

Manufactured Home: A term sometimes used to describe a HUD-code manufactured home of a Federal Manufactured Home. See Section 18-11 for definitions of HUD-code manufactured home and Federal Manufactured Home. A manufactured home shall not be construed to be a mobile home.

Masonry: Brick, stone, concrete or other similar materials but excluding stucco and "concrete blocks". The masonry requirement shall be computed for the area from the foundation to the top plate of the first floor and from plate to plate for each floor above the first.

Mobile Home: See Section 81-10 for definition

Mobile Home Park: Any premises on which two or more mobile homes are parked or situated and used for living or sleeping purposes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more mobile homes whether such vehicles stand on wheels or on rigid supports. A trailer park is a mobile home park.

Modular Home: A name sometimes used for describing a Manufactured Home. See Section 18-11. A modular home is a residential use. A mobile home shall not be construed to be a modular home.

Motel, Motor Hotel, or Tourist Court: An establishment offering to the transient public the use of guest rooms or sleeping accommodations for compensation. Such an establishment consists of a group of attached or detached guest rooms or sleeping accommodations the majority of which have private and direct access from parking areas not through common entrance and lobby. The establishment

furnishes customary hotel services and many contain a restaurant, club, lounge, banquet hall and/or meeting rooms. A motel is a non-residential use.

Motorcycle: A usually two-wheeled self-propelled vehicle having one or two saddles or seats, and may have a side car attached. For purposes of this ordinance, motor bikes, motor scooters, mopeds, and similar vehicles are classified as motorcycles.

Motor Freight Terminal: A building or area in which freight brought by motor truck is assembled and/or stored for shipping in interstate and intrastate commerce by motor truck. A motor freight terminal is a truck terminal.

Net Acreage: The total buildable area of a lot. Net acreage shall not include floodplain area, public rights-of-way, or other areas where buildings can not be located.

Nonconforming Use: Any building or land lawfully occupied by a use at the time of the adoption of this Ordinance or amendments thereto, not permitted by the use regulations, lot requirements or other regulations of this Ordinance of the district in which it is attained.

Noxious Matter: A material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being or comfort of humans.

Occupancy: The use or intended use of the land or buildings by proprietors or tenants.

Open Space: That part of a building lot, including courts or yards, which:

1. Is open and unobstructed from its lowest level to the sky, and
2. Is accessible to all residents upon a building lot, and
3. Is not part of the roof of that portion of the building containing dwelling units.

Open Storage: The storage of any equipment, machines, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use which is visible from any point on the building lot line when viewed from ground level to six feet above ground level.

Parking Space: An enclosed or unenclosed all-weather surfaced area not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street or alley permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use.

Patio Home: A single family detached dwelling unit on an individually platted lot. The structure is situated on or near one side lot line to facilitate use of the remaining side yard on the opposite side of the building.

Planning Director: The administrative official responsible for the administration of this ordinance during the platting and/or rezoning process.

Planning and Zoning Commission: The agency appointed by the City Council as an advisory body to it and which is authorized to recommend changes in the zoning and review of subdivision plats.

Plat: A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Lowry Crossing subject to review by the Planning and Zoning Commission and approval by the City. Reference to a Plat in the Ordinance means an official Plat of Record which has been reviewed by the Planning and Zoning Commission and approved by the City and filed in the plat records of Collin County.

Premises: Land together with any buildings or structures occupying it.

Private Club: a club where alcoholic beverages belonging to members of the club are stored, possessed, mixed on the club premises and served for on-premises consumption to members of the club, their families and guests pursuant to a private club permit issued by the State of Texas.

Public Park: Any publicly owned park, playground, beach, parkway, greenbelt, or roadway within the jurisdiction and control of the City.

Recreation Area: A privately owned park, playground, or open space maintained by a community club, property-owners association, or similar organization.

Residential Structure: Any single-family, multi-family, or apartment building, condominium project, town home, zero lot line home as defined by the Federal Department of Housing and Urban Development.

**Dallas Furniture Market**  
**June 29 - July 2, 1996**



*SECTION 30, Special Definitions*

te facility for the care of children or the  
suffering bodily disorders. Such homes  
or the treatment of disease or injury.

ch offer all types of consumer goods for  
n the open, outside a building, of new or  
lding materials, used appliances, furniture

p of a public or religious agency having a  
lic elementary or secondary schools, but  
rcial schools.

**Screening Device:** A "screening device" shall consist of a barrier of stone, brick, uniformly colored wood, or other permanent material of equal character, density, and acceptable design, at least six (6) feet in height.

**Servant's Quarters:** An accessory building or portion of a main residential building located on the same lot as the principal residential building, occupied only by such persons and their families as are employed full time by the occupants of the principal residence.

**Story:** That part of a building between the surface of a floor and the ceiling immediately above. A standard story is eleven feet six inches (11'6").

**Street:** A public right-of-way which affords a primary means of access to abutting property. A driveway or alley which serves only to give secondary vehicular access to a building lot or to an accessory parking or loading facility, or to allow vehicles to take or discharge passengers at the entrance to a building shall not be considered a street.

**Street, Private:** A street which has no publicly dedicated right-of-way.

**Street Line:** A "street line" is the right-of-way of a street.

**Stucco:** A continuous plaster or mortar exterior veneer, finished by hand troweling over wire lath.

**Tennis or Swim Club:** A private recreational club with restricted membership, usually of less area than a Country Club, but including a club house and swimming pool, tennis courts and similar recreational facilities, none of which are available to the general public.

Top Plate Line: That point at which the ceiling plane of the upper most story intersects the vertical wall plane.

Townhouse: attached single family dwelling units on individually platted lots.

Toxic Materials: Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

Use: The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of such activity with respect to the standards of this Ordinance.

Use, Principal: The main use of land or buildings as distinguished from a subordinate or accessory use.

Video Amusement: Arcade and other commercial indoor coin operated amusement facility.

Visual Screen: A wall, not of living plant material, permanently affixed to the ground in which the area of all openings and cracks in each square foot of wall is of sufficient height so that the objects being screened are not visible from any point on the lot line when viewed from any height between ground level and six (6) feet above ground level. No wall shall exceed eight (8) feet in height.

Yard: An open space on the same building lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. 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 building site and the lot line 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 building is located. (See Appendix Illustration No. 13)

Yard, Front: A yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than steps, planter box, unenclosed porches, and driveways. (See Appendix Illustration No. 13)

Yard, Rear: A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies, unenclosed porches, or driveways.

**Yard, Side:** An open unoccupied space on the same lot with the building, situated between the building and the side property line of the lot, and extending through to the street or the front property line. (See Appendix Illustration No. 13)

**Zoning District Map:** The map or maps incorporated into this ordinance as a part thereof by reference thereto.

**SECTION 31**

**PRESERVING RIGHTS**

**31-1 PRESERVATION OF RIGHTS IN PENDING LITIGATION AND  
PRESERVATION OF VIOLATIONS UNDER EXISTING ORDINANCES**

By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use 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 the existing zoning ordinance was repealed and this Zoning Ordinance adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed. (Ord. 110)

**31-2 PRESERVATION OF RIGHTS OF PROPERTY OPERATING UNDER  
AN EXISTING SPECIAL USE ZONING DISTRICT CLASSIFICATION**

The Special Use Zoning District Classification of any property lawfully in existence at the time of the adoption of this ordinance shall be brought forward as a conforming Special Use, subject to the same conditions and regulations that were imposed at the time of the grant of the special use classification pursuant to the zoning ordinance in effect at the time of the adoption of this ordinance. (Ord. 110)

**SECTION 32**

**REPEALING CLAUSE**

**32-1** Except as herein provided City of Lowry Crossing Ordinance No. 26b is specifically repealed. All other ordinances, or parts of ordinances, in conflict with this ordinance are hereby repealed. (Ord. 110)

**SECTION 33**

**PENALTY FOR VIOLATIONS**

- 33-1 Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a penalty of fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day such offense continues shall constitute a new and separate offense. (Ord. 110)

**SECTION 34**

**VALIDITY**

- 34-1 If any section, paragraph, subdivision, clause, phrase or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional. (Ord. 110)

**SECTION 35**

**EFFECTIVE DATE**

- 35-1 This ordinance shall take effect immediately from and after publication of its caption, as the law in such cases provides. (Ord. 110)

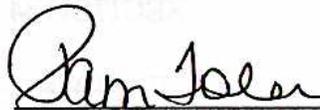
**DULY PASSED AND ACCEPTED** by the City Council of the City of Lowry Crossing, Texas, the 3rd day of August, 1999.

APPROVED:



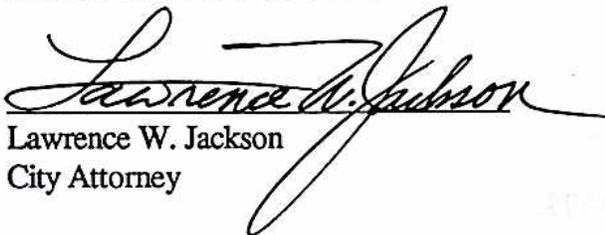
\_\_\_\_\_  
Tom Dillard, Mayor  
City of Lowry Crossing, Texas

ATTEST:



\_\_\_\_\_  
Pam Toler, City Secretary  
City of Lowry Crossing, Texas

APPROVED AS TO FORM:



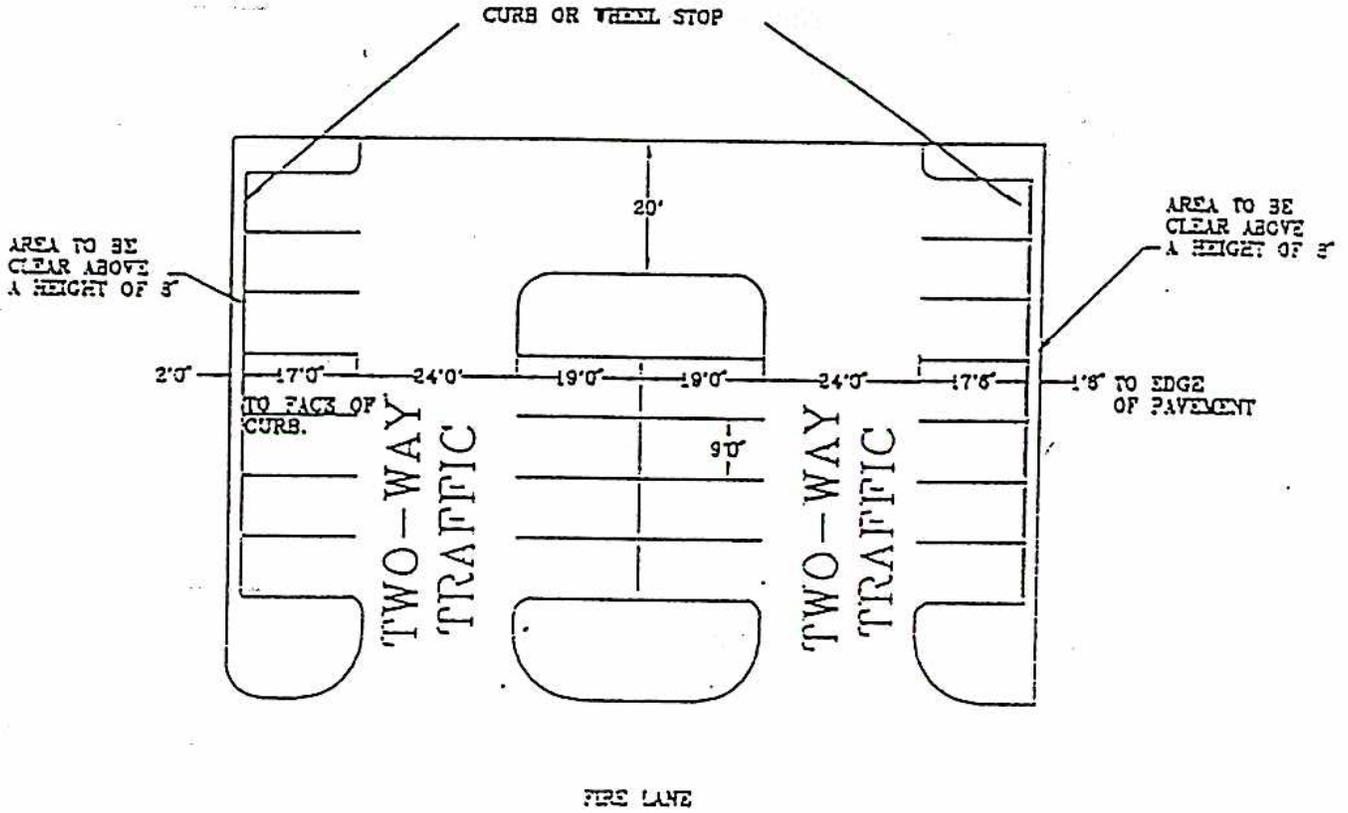
\_\_\_\_\_  
Lawrence W. Jackson  
City Attorney

APPENDIX

ILLUSTRATIONS

Numbers 1 through 15

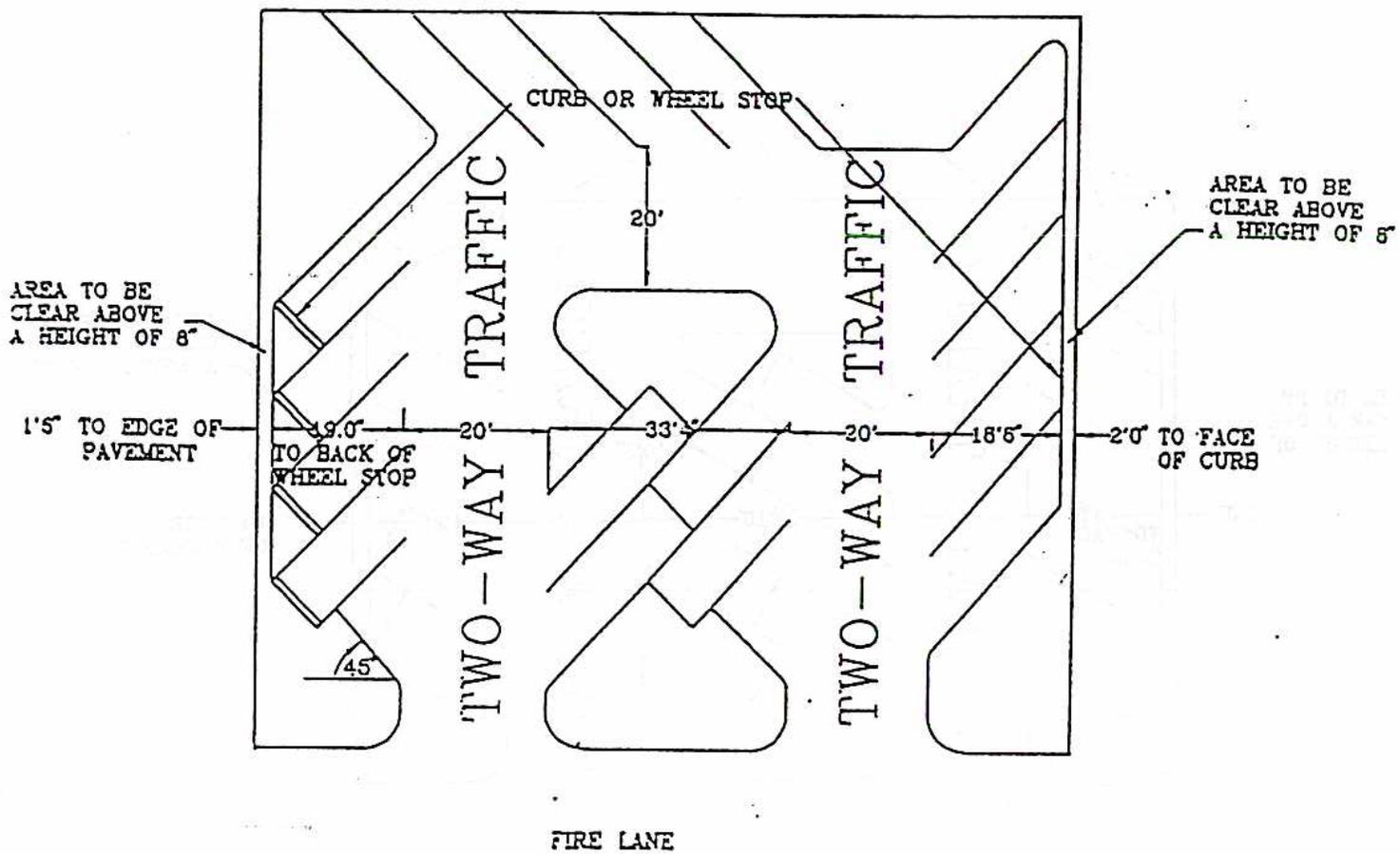




90 DEGREE LAYOUT  
W/ TWO-WAY TRAFFIC

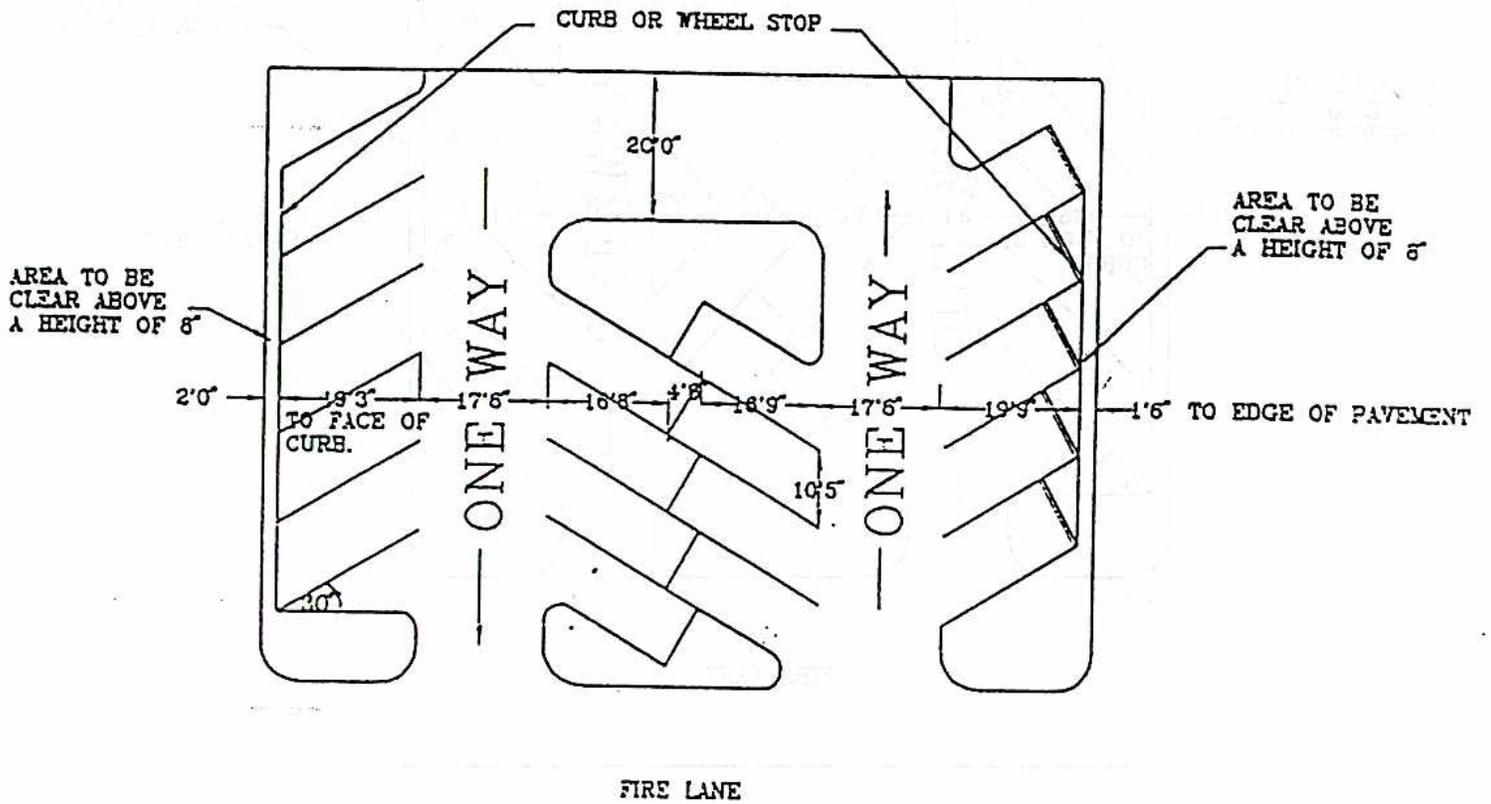
Note: Fire lanes, when required, must be at least 24' wide





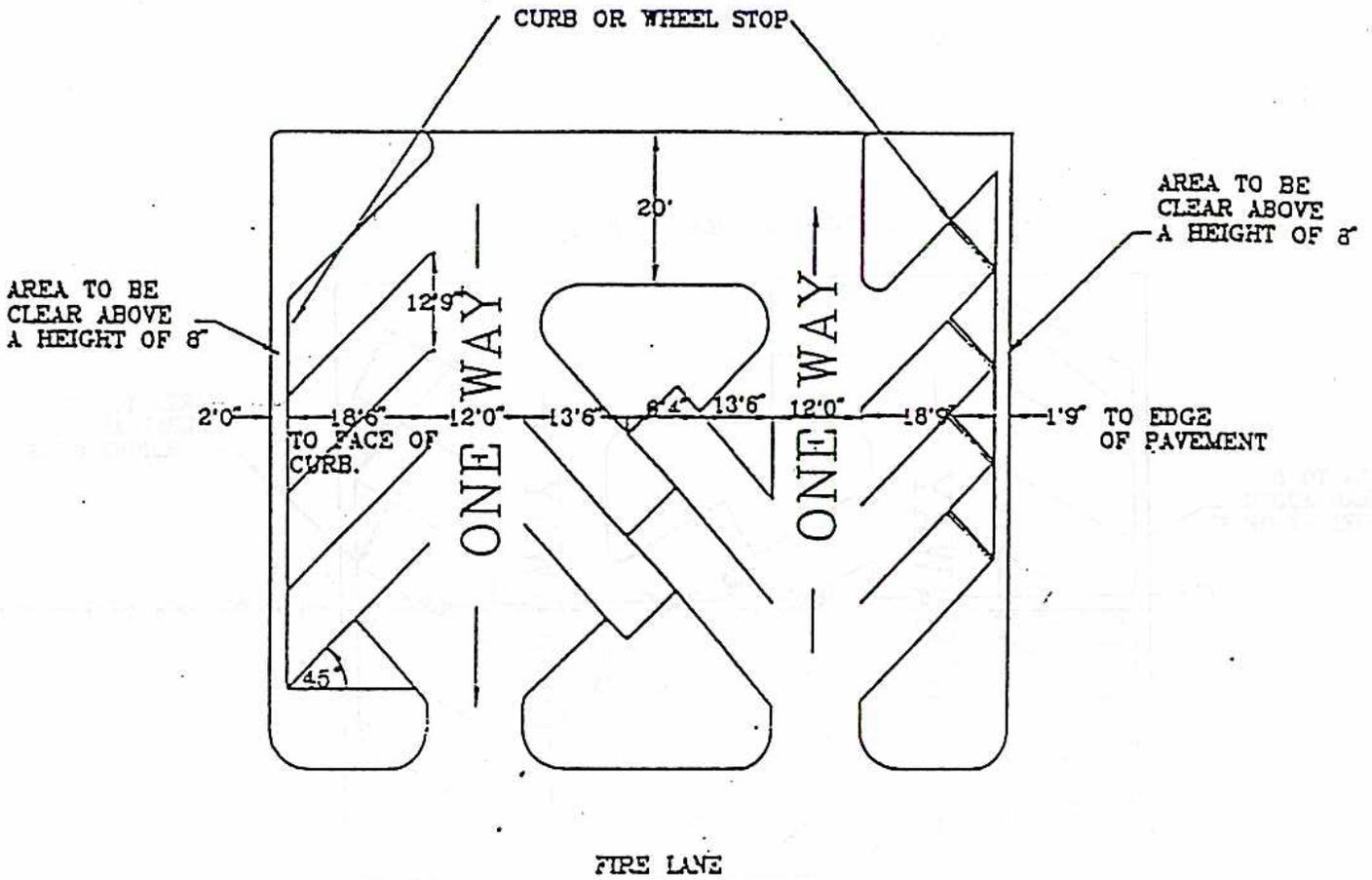
### 45 DEGREE LAYOUT W/ TWO-WAY TRAFFIC

Note: Fire lanes, when required, must be at least 24' wide



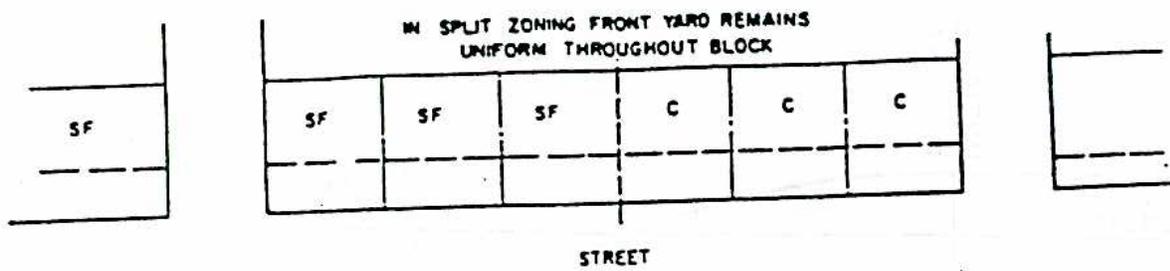
60 DEGREE LAYOUT W/  
ONE-WAY TRAFFIC

Note: Fire lanes, when required, must be at least 24' wide

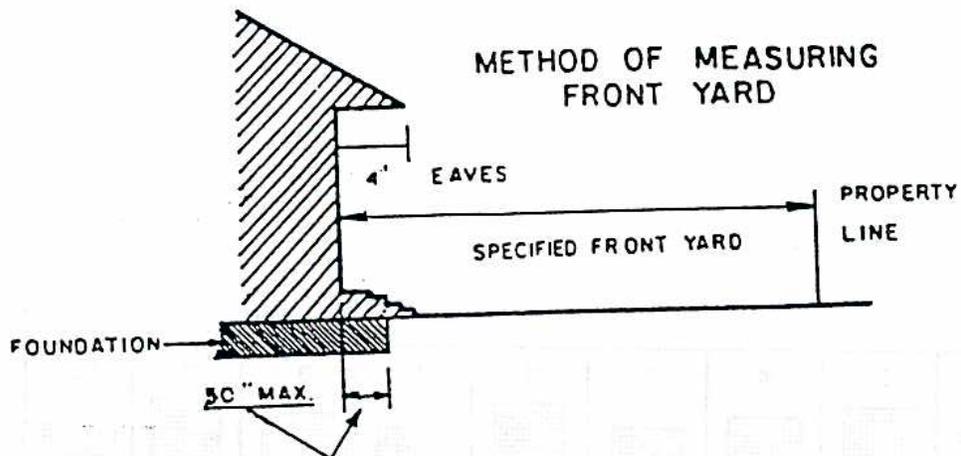
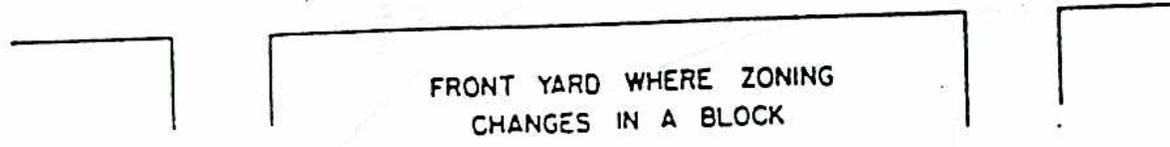


45 DEGREE LAYOUT W/  
ONE-WAY TRAFFIC

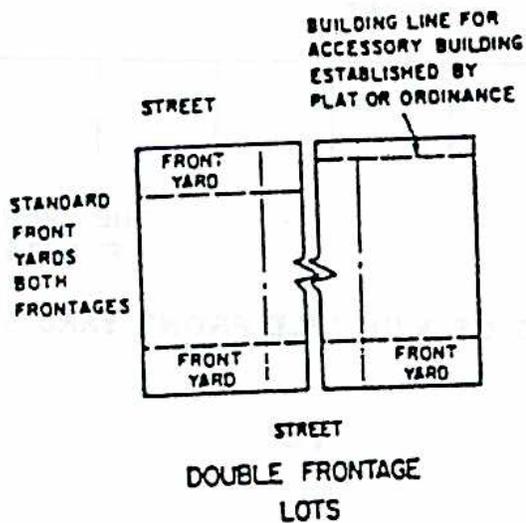
Note: Fire lanes, when required, must be at least 24' wide



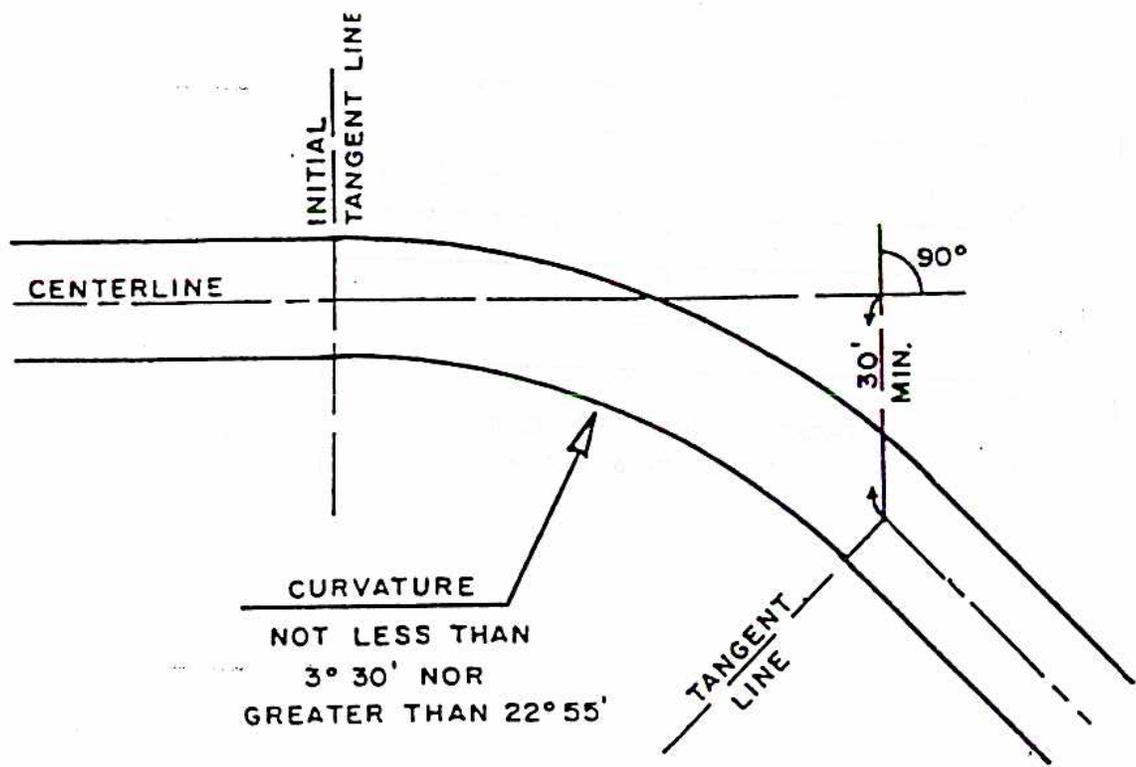
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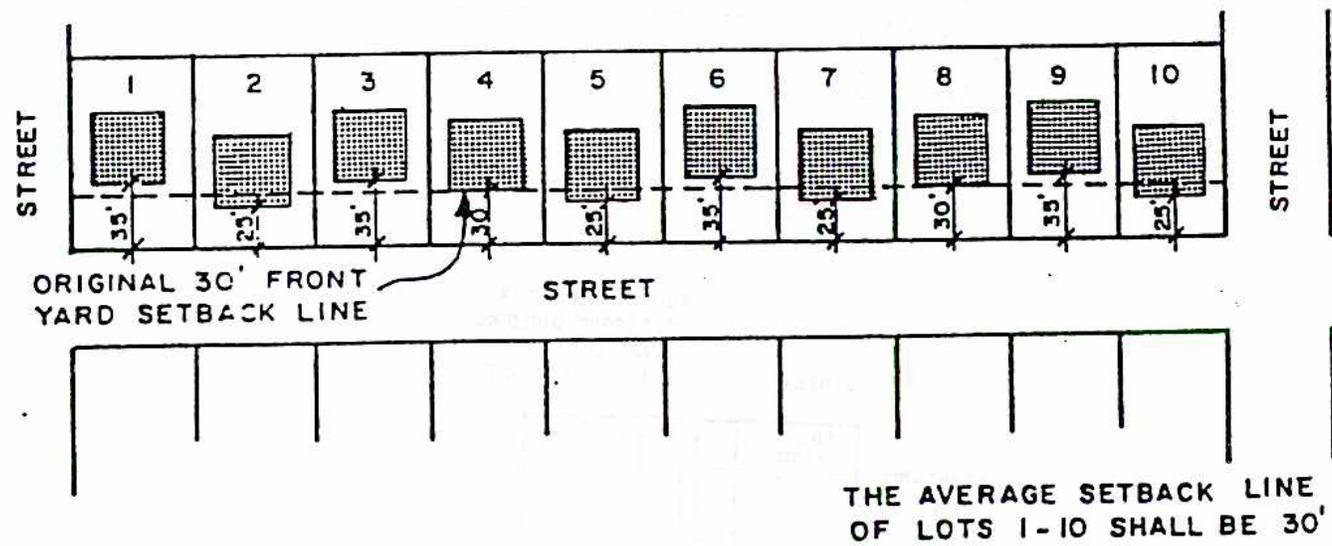
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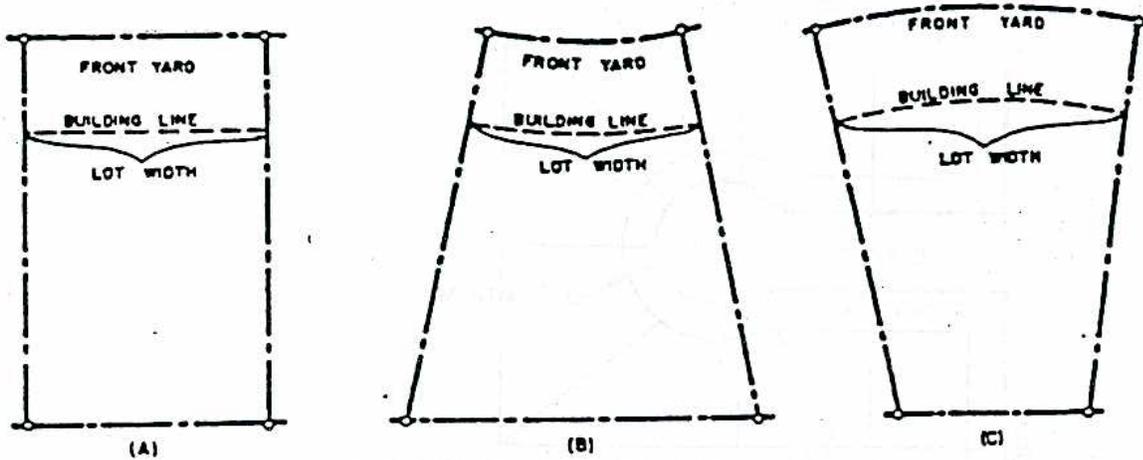


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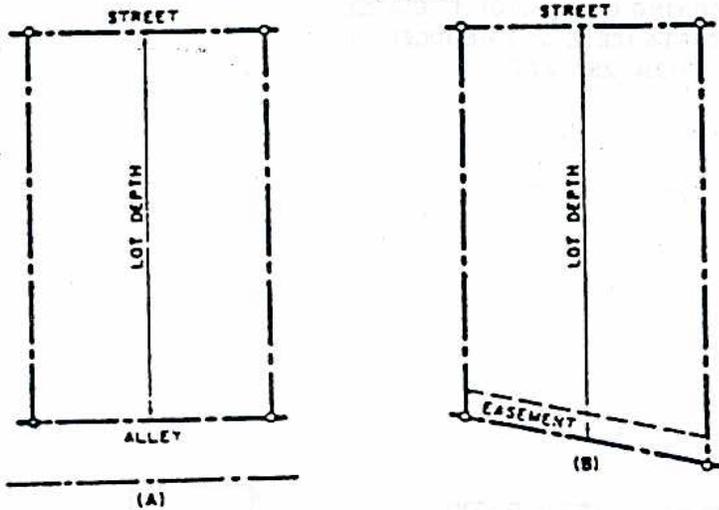


**CALCULATIONS OF MULTIPLE FRONT YARD SETBACKS**

# 11 LOT WIDTH



# 12 LOT AREA & DEPTH

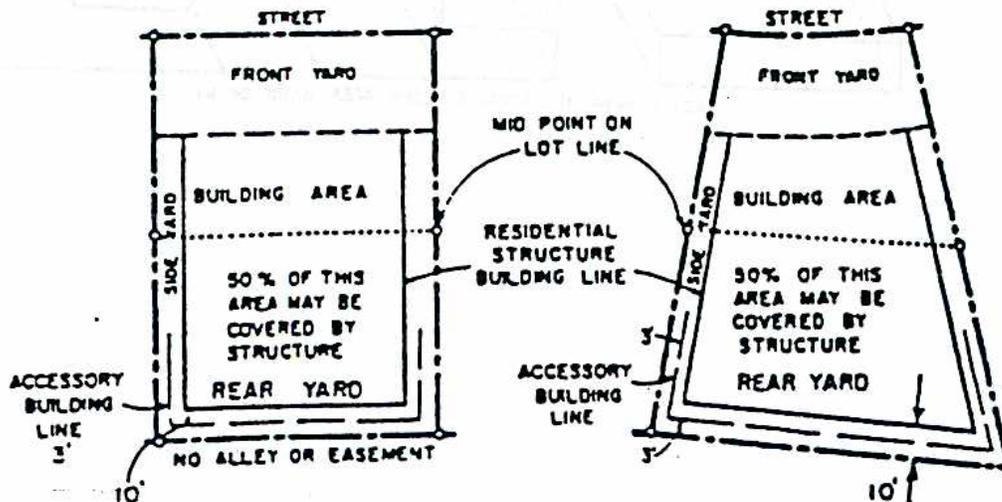


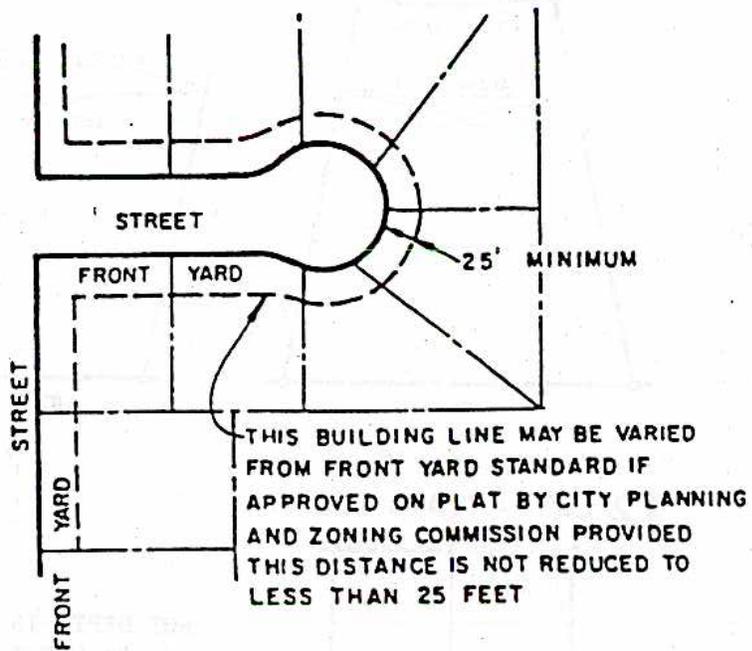
LOT DEPTH IS A FUNCTION OF LOT WIDTH AND LOT AREA REQUIREMENTS

LOT AREA IS CALCULATED EXCLUDING ALLEYS AND STREETS

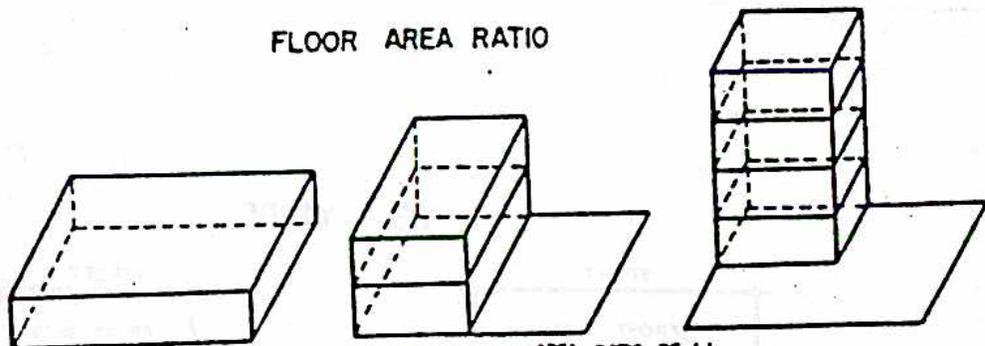
LOT AREA MAY INCLUDE EASEMENTS ON LOT

# 13 YARDS





FLOOR AREA RATIO



EACH DRAWING ILLUSTRATES FLOOR AREA RATIO OF 6:1