

ORDINANCE NO. 001-2024

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ORDINANCE NO. 001-2024

AN ORDINANCE OF THE TOWN OF BUFFALO GAP TEXAS REPEALING AND REPLACING ORDINANCE NO. 011-2023; ADOPTING A COMPREHENSIVE ZONING PLAN AND ZONING MAP DIVIDING THE TOWN INTO ZONING DISTRICTS; ESTABLISHING ZONING REGULATIONS; RECOGNIZING NONCONFORMING USES AND PROVIDING RULES FOR THE REGULATION THEREOF; ALLOWING NONCONVENTIONAL STRUCTURES IN THE RESIDENTIAL ZONING DISTRICT WITH A SPECIFIC USE PERMIT; PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE; PROVIDING A SAVINGS CLAUSE.

WHEREAS, the Town of Buffalo Gap (the "Town") is a Type A general-law municipality operating pursuant to the laws of the State of Texas;

WHEREAS, the Town may adopt zoning regulations to promote the health, safety, morals or general welfare and to protect and preserve places of historical, cultural, or architectural importance and significance pursuant to Chapter 211 of the Texas Local Government Code;

WHEREAS, the Town Council of the Town of Buffalo Gap (the "Town Council") adopted a comprehensive zoning ordinance in 2007 (the "Zoning Ordinance");

WHEREAS, the Town Planning and Zoning Commission (the "Commission") proposed to amend the Zoning Ordinance to require persons wishing to build or place certain nonconventional structures on property in the Residential Zoning District be required to obtain a specific use permit;

WHEREAS, Town staff has considered the request and found that the request is in compliance with the Town's Comprehensive Plan;

WHEREAS, the Commission, in compliance with the laws of the State of Texas and the Town's Zoning Ordinance, gave requisite notice by publication and after holding a public hearing on April 4, 2024 and affording a full and fair hearing to all interested persons, has recommended to the Town Council that the Zoning Ordinance be amended to allow certain nonconventional structures in the Residential (R) Zoning District only with a specific use permit; and

WHEREAS, the Town Council held a properly noticed public hearing on April 11, 2024 and, after affording a full and fair hearing to all interested persons and considering the Commission's recommendation, finds that the Zoning Ordinance should be amended to allow certain nonconventional structures in the Residential (R) Zoning District only with a specific use permit and that such change is appropriate, consistent with the Comprehensive Plan, and not detrimental to the public welfare, safety, or health.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BUFFALO GAP, TEXAS, THAT A COMPREHENSIVE ZONING ORDINANCE AND MAP ARE HEREBY PASSED AND APPROVED WHICH SHALL PROVIDE AS FOLLOWS:

SECTION I TITLE

This ordinance shall be known and may be cited as "The Town of Buffalo Gap Comprehensive Zoning Ordinance", and will replace all other previously approved zoning ordinances.

SECTION II PURPOSE

Zoning regulations and Zones and/or Districts are herein established in accordance with a Comprehensive Plan for the purpose of promoting health, safety, morals and general welfare of the citizens of the Town. They are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land, and to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been established with reasonable consideration for the character of each zone and/or district and its particular suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

SECTION III GENERAL PROVISIONS

1. Except as hereinafter provided, no building shall be erected, reconstructed, or structurally altered, nor shall any building or land be used for any purpose other than as permitted in the same Zone in which such building or land is located.
2. Flood Plain Restrictions: No structure shall be erected in any portion of any zone designated, by FEMA, to be in a flood plain, until and unless such structure has been approved by the Town Council after engineering studies have been made and it is ascertained that such building or structure is not subject to damage by flooding and would not constitute an encroachment, hazard, or obstacle to the movement of flood waters and that such construction would not endanger the value and safety of other property or public health and welfare.
3. If any "use" is for any purpose omitted from the list of those specified as permissible in each of the various Zones hereinafter designated, or if ambiguity arises concerning proper classification of a particular use within the meaning and intent of this Ordinance, or if ambiguity exists, it shall be the duty of the Zoning Commission to ascertain all pertinent facts and by written report set forth its findings and the reasons therefore, and present the same to the Town Council, and if approved by the Town Council such interpretation shall thereafter govern;

the provisions hereof shall not limit or interfere with the public utility lines or installations of electrical, telephone, cable, and data transmission lines when such lines are legally within their rights of way or easements as approved by the Town Council.

SECTION IV DEFINITIONS

All words and phrases contained herein shall be given their ordinary construction as applied to the particular subject matter dealt with.

The words "City" and/or "Town" have the same meaning and may be interchanged. The words "City Council" and "Board of Aldermen" have the same meaning and may be interchanged.

SECTION V NON-CONFORMING USES AND STRUCTURES

1. Uses in Existence at Time of Adoption of Ordinance

A non-conforming status shall exist when a use or structure which does not conform to the regulations prescribed in the zone in which such use or structure is located was in existence and lawfully operating prior to the adoption of the Zoning Ordinance.

2. Expansion of Non-Conforming Use Prohibited

No non-conforming use or structure may be expanded or increased beyond the lot or tract upon which such non-conforming use is located as of January 11, 2007, except to provide off-street loading or off-street parking space upon approval of the Town Council.

3. Repairs/Normal Maintenance on Non-conforming Uses Permitted

Repairs and normal maintenance may be made to a non-conforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

4. Change of Non-conforming to Conforming Use.

Any non-conforming use may be changed to a conforming use and once such change is made; the use shall not thereafter be changed back to a non-conforming use.

5. Abandonment/Discontinuation of Non-Conforming Use.

Whenever a non-conforming use is abandoned, all non-conforming rights shall cease and the use of the premises shall thenceforth be in conformity with this ordinance. Abandonment shall involve the intent of the user or owner to discontinue a non-conforming operation and the actual act of discontinuance. Discontinuance of a business or the vacancy of a building or premises occupied by a non-conforming use for a period

of six (6) months shall be construed as conclusive proof of intent to abandon the non-conforming use. Any non-conforming use not involving a permanent type of structure which is moved from the premises shall be considered to have been abandoned.

6. Accidental Destruction of Non-conforming Use.

If a non-conforming structure or a structure occupied by a non-conforming use is destroyed by fire, act of God or other cause, it may not be rebuilt except to the provisions of this ordinance. In the case of a partial destruction of a non-conforming use not exceeding sixty percent (60%) of its reasonable value, reconstruction may be permitted after a hearing and favorable action by the Town Council, but the size and function of the non-conforming use shall not be expanded.

7. Replacement of Non-conforming HUD-code Manufactured Home.

Notwithstanding any of the provisions of this section, a non-conforming HUD-Code manufactured home may be exchanged or replaced by another HUD-Code manufactured home.

SECTION VI **ZONES ESTABLISHED**

In order to classify and regulate the use of land and buildings five classes of Zones are hereby established to be known as follows:

C	COMMERCIAL ZONE
I	INDUSTRIAL ZONE
RMH	RESIDENTIAL MANUFACTURED HOUSING, HUD CODE
PD	PLANNED DEVELOPMENT DISTRICT
R	RESIDENTIAL ZONE

1. Changes in boundaries of zones or districts

Changes in the boundaries of the zones or districts shall be made by ordinance.

2. Where a street or alley is officially vacated or abandoned, the area comprising such vacated street or alley shall acquire the classification of the property to which they revert.

SECTION VII **DESCRIPTION OF ZONES AND DISTRICT**

Zone C shall only include:

The area bounded by a line commencing at the center of FM 89 where said FM Highway enters the Town limits of Buffalo Gap, Texas, on the North end, and extending 300 feet out on each side of the right of way of said highway as it meanders through the Town of Buffalo Gap, to the Western-most border of said Town; and

The area bounded by a line 300 ft on either side of the right of way of Highway FM 613 where it intersects with FM Highway 89, and thence continuing in a southerly direction to the point of the town limits where FM highway 613 exits on the south side of said Town; and

The area bounded by a line 300 ft. on either side of the right of way of Main Street where it intersects with Live Oak Street, and thence continuing east to where it intersects with Maxwell Street, and thence east on Maxwell Street to the point of the town limits where Maxwell Street exits on the east side of said Town; and

The following tracts approved on June 8, 2023:

BEING 0.32 acres of land out of BLK 38, Original Townsite of Buffalo Gap, Taylor County, TX, and being more particularly described as follows:

Beginning at an iron pin on the NBL of Pecan Street and the SBL of BLK 38, whence the SE corner of said BLK 38 bears East 240.0' and from the same point of beginning an iron pin on the WBL of Mulberry Street ad the SBL of Pecan Street bears South 59.5' and West 120.8';
THENCE N 89°40'0" W139' to an iron pin on the NBL of Pecan;
THENCE N 0°49-1/2'0" E 100.0' generally along a fence to an iron pin;
THENCE S 89°40'0" E 139.0' to an iron pin in concrete;
THENCE S 0°49-1/2'0" W100.0' to the place of beginning and containing 0.32 acres of land.

BEING a tract out of BLK 38, Original Town of Buffalo Gap, Taylor County, TX, described as follows:

BEGINNING at a point on the North boundary line of Pecan Street and the South boundary line of said BLK 38, whence the Southeast corner of said BLK 38 bears East 140';
THENCE W100' to a n iron pin;
THENCE N200' to an iron pin;
THENCE E100' to an iron pin;
THENCE S200' to an iron pin and the place of beginning.

Being a tract of land out of an original tract recorded on Vol. 2317, Pg.379 of the Official Public Records of Taylor County as being a tract out of BLK 38, Original Town of Buffalo Gap, Taylor County, TX, and this tract being more particularly described as follows:

Beginning at ½" metal rebar found for the Southeast corner of said tract recorded in Vol. 2317, Pg. 379, being on the NBL of Pecan Street and the SBL of said BLK 38 for the Southeast corner of this tract;
THENCE West with the South line of said original tract 15.0' to a ½" metal rebar set for a corner of this tract;
THENCE N 00°12' 4" W117.91' to a ½" metal rebar set for a corner of this tract.
THENCE N 89°53'25" W 84.48' to a ½" metal rebar set on the West line of said original tract for a corner of this tract;

THENCE N 00°03'07" E 82.00' to a sucker rod in concrete found on the Northwest corner of said original tract and for the northwest corner of this tract;
THENCE East 99.84' to a point for the Northeast corner of this tract and said original tract from which a sucker rod found for reference West 0.64';
THENCE S 00°00'23" W with the East line of said original tract (used for bearing basis) 200.07' to the point of beginning and containing 0.2280 acres, more or less.

Lots 25 and 27, subdivision of S.E. Simmons, F. Brookreson, and S.C. Simmons of BLK 39, of Buffalo Gap, Taylor County, TX, as per instrument recorded in deed records, Vol. 6, Pg. 407, Taylor County, TX, and being the same property conveyed indeed recorded in Vol. 983, Pg. 120, deed records, Taylor County, TX.

BEING a tract of land out of original tract recorded in Vol. 2317, Pg. 379 of the official public records of Taylor County as being tract out of BLK 38, original Town of Buffalo Gap, Taylor County, TX, and this tract being more particularly described as follows:

BEGINNING at a ½" metal rebar found for the SE corner of said tract recorded in Vol. 2317, Pg. 379, being on the N boundary line of Pecan St and the S boundary line of said BLK 38 for the SE corner of this tract;

THENCE W with the S line of said original tract 15.0' to a ½" metal rebar set for a corner of this tract;

THENCE N 00°12'4" W 117.91' to a ½" metal rebar set for a corner of this tract;

THENCE N 89°53'25" W 84.48' to a ½" metal rebar set on the W line of said original tract for a corner of this tract;

THENCE N 00°03'07" E 82.00' to a sucker rod in concrete found for the northwest corner of said original tract and for the NW corner of this tract;

THENCE E 99.84' to a point for the NE corner of this tract and said original tract from which a sucker rod found for the reference W 0.64';

THENCE S 00°00'23" W with the east line of said original tract (used for bearing basis 200.07') to the point of beginning and containing 0.2280 acres, more or less.

BEING the S 50' of the N 150' of the W 140' of the E 300' of BLK 39, of the Town of Buffalo Gap, Taylor County, TX.

BEING one lot of BLK 39 of the Town of Buffalo Gap, Taylor County, TX, said lot being 50' wide by 140' deep, the said lot being N 50' of the W 140' of the E 300' of said BLK 39.

BEING the lot 50' wide and 140' deep, said lot being S 50' of the N 100' of the W 140' of the E 300' of BLK 39 of the Town of Buffalo Gap, Taylor County, TX.

Being a part of BLK 38 in the Town of Buffalo Gap, Taylor County, TX, according to the map of record in Vol. "A", Pg. 450, of the Deed Records of Taylor County, TX, and described as follows by metes and bounds:

BEGINNING at the Southeast corner of said BLK 38;

THENCE West with the SBL of said BLK 38, a distance of 140' to a point;

THENCE N, parallel with the EBL of said BLK 38, a distance of 200' to a point;

THENCE E, parallel to the NBL of said BLK 38, a distance of 140' to a point in the EBL of said BLK 38;

THENCE S with the EBL of said BLK 38; a distance of 200' to the place of beginning.

The S 150' of the W 140' of the E 300' of BLK 39, ORIGINAL TOWN OF BUFFALO GAP, Taylor County, TX, as shown by plat records in Vol. A Pg. 450, Deed Records, Taylor County, TX.

BEING 1.64 acres of land out of the West end of BLK 39, Original Town of Buffalo Gap, Taylor County Tx, and being more particularly described as follows:

BEGINNING at an iron pin on the SBL of said BLK 39 and the WBL of Mulberry St; whence the SE corner of said BLK 39 bears East 360.0' and from the same point of beginning the NE corner of BLK 45 bears South 60.0';

THENCE West along the NBL of Oak St at 220.0' pass an iron pin on the top of high bank of Elm Creek and continuing on a distance in all of 254.5 to a point;

THENCE N 09 degrees 13-1/2' E 154.1' to a point 44.8' West of an iron pin;

THENCE N 02 degrees 59' W 148.0' to a point on the SBL of Pecan St;

THENCE East at 97.4' pass an iron pin on the top of high bank of Elm Creek and continuing on a distance in all of 237.5' to an iron pin on the WBL of Mulberry St;

THENCE South at 147.7' pass an iron pin and continuing on a distance in all of 299.8' to the place of beginning and containing 1.64 acres of land.

BEING 0.18 acres of land being the North ½ of Oak that extends from the WBL of Mulberry St to the top of low bank of Elm Creek on WBL of BLK 39, Original townsite of Buffalo Gap, Taylor County, TX, and being more particularly described as follows:

BEGINNING at an iron pin on the SBL of said BLK 39 and the WBL of Mulberry St; whence the SE corner of said BLK 39 bears East 360.0' and from the same point of beginning the NE corner of BLK 45 bears South 60.0';

THENCE South 30.0' to the centerline of Oak St;

THENCE West 254.5' along the Centerline of Oak St generally along an old fence to a point on the top of low bank of Elm Creek on the WBL of BLK 39';

THENCE North 30.0' to a point on the top of low bank of Elm Creek on the NBL of Oak St;

THENCE East at 34.5' pass an iron pin on the top of high bank and continuing on a distance in all of 254.5' to the place of beginning and containing 0.18 acres of land.

BEING a tract of land afore described in Vol. 1373, Pg. 277, Deed Records, Taylor County, TX. Lots No. 29, 31, 33, and 35, Subdivision of S.E. Simmons, F. Bookerson and S.C. Simmons Subdivision of BLK 39, Town of Buffalo Gap, Taylor County, TX, as shown by Plat of record in Vol. 6, Pg. 407, Deed Records, Taylor County, TX.

BEGINNING at the SE corner of said BLK 39, the SE corner of this tract;

THENCE N along the EBL of BLK 39 a distance of 200', the NE corner of this tract;

THENCE W 140' to a point on the EBL of an alley, the NW corner of this tract and the NW corner of Lot 29;

THENCE S a distance of 200' to a point on the SBL of said BLK 39, the SW corner of this tract and the SW corner of Lot 35;
THENCE E a distance of 140' to the place of beginning.

ZONE I shall be limited to an area containing 19.4872 acres, and:

Approved 09/08/2022- BEGINNING at a set ½" rebar at the NW corner of lot 16, Blk 6, of the EBL of Litel St also known as FM HWY 613 and being the NW corner of this tract; Thence East 237ft along the SBL of Main St and the NBL of Blk 6 to a set ½" rebar on the NBL of said lot 1 for the NE corner of this tract; Thence S 0°09' 41" W 100.5 ft to an existing 3' pipe post within said lot 5 for the most northerly SE corner of this tract; Thence S 42° 09' 7" W 56.1 ft to an existing 3 ft pipe post within said lot 6 for the most southerly SE corner of this tract; Thence N 88° 21'04 "W 199.2 ft to a set ½" rebar on EBL of said Litel St; Thence N 136.3 ft along the EBL of said Litel St to the place of beginning and containing 0.74 acres of land and

Approved 09/08/2022 - BEGINNING at found 3/8" rebar at the SW corner of said Lot 11; Thence N 01°13'03" E, along the west line of said Lot 11 and the west line of said Lot 9, a distance of 90.00 ft to a set ½" capped rebar stamped "JPH LAND SURVEYING" at the SW corner of the parcel of land described in the deed to Taylor County, Texas recorded in Volume 298, pg. 269 of the deed records of Taylor County, Texas; Thence S 88° 46'57" E, along the south line of said parcel of land described in the deed to Taylor County, Texas, a distance of 140.32 ft to a set capped rebar stamped "JPH LAND SURVEYING" on the east line of said Lot 9, from said set ½" capped rebar, a found ½" rebar bears NORTH 01°13'03"E, a distance of 208.98; Thence S 01°13'03" W, along the east line of said lots 9 and 11, a distance of 90.00 ft to a set ½" capped rebar stamped "JPH LAND SURVEYING", at the southeast corner of said Lot 11; Thence N 88°46'57" W, along the south line of said Lot 11, a distance of 140.32 feet to the point of the beginning, containing 12,629 sq ft or 0.290 acre and

Approved 05-10-2018-BEGINNING at a found ½" rebar rod for the NE corner of this described tract, located on the west right-of-way line FM HWY 1235 at the NE corner of said 19.279-acre tract, and at the SE corner of a 1.0 acre tract described in a deed recorded in Instrument No. 2007-19607 of said Official Public Records; Thence S00°44'34"W along said west right-of way line of said FM HWY 1235 a distance of 32.6' to a found concrete right-of-way monument at the point of intersection of said west right-of-way line of said FM HWY 1235 and the west right-of-way line of FM HWY 89 for the beginning of a curve to the left at HWY 89 station 583+34.72; THENCE with said west right-of-way line said FM HWY 89 and said curve to the left having a radius of 1492.7 feet, an arc distance of 200.0' with a long chord bearing S00°39'36"W 199.8', to a found concrete right-of-way monument at the end of said curve at FM HWY 89 station 585+27.22; THENCES00°22'01"E with said west right-of-way line of said FM HWY 89 at 698.1' pass a found ½" rebar continuing a total distance of 728.1' to a found 3/8" rebar rod for th SE corner of this described tract, and the SE corner of said 0.021 acre tract, and being at the

intersection of said west right-of-way line and the north right-of-way line of North 3rd Street;

THENCE N89°48'54"W along said north right-of-way line of North 3rd Street, at 30.0' pass a found ½" rebar rod for the SW corner of said 0.021 acre tract and being the most southerly SE corner of said 19.279 acre tract, and continuing a total distance of 300.0' to the SW corner of this described tract;

THENCE along a line which is parallel to and 300.0' west of said right-of-way line of FM HWY 89, the following calls:

N00°22'01"W 725.7' to a point for the beginning of a curve to the right having a radius of 1792.7', subtended by a long chord bearing N03°21'21"E 222.0' and an Arc length of 222.2"

Along said curve to the right said arc length of 222.2' to a point;

THENCE N00°44'34"E along a line which is parallel to and 300.0' west of said west right-of-way line of FM HWY 1235, a distance of 10.4' to a point in the north line of said 19.279 acre tract, for the NW corner of this described tract

THENCE N89°42'58"E 300.0' along said north line of said 19.279 acre tract to said POINT OF BEGINNING and containing 6.608 acres of land.

Approved 04-14-2016- Lots 23 and 24 of the South part of Block 26, Heller Addition to the City of Buffalo Gap, Taylor County, Texas, as shown by Plat of the Lyon and Eby Addition to the City of Buffalo Gap, Taylor County, Texas, said Plat being recorded in Volume One, Page 94, Plat Records, Taylor County, Texas.

BEGINNING at the NW corner of Block No. 9 Lyon and Eby's Addition to the Town of Buffalo Gap, Texas;

THENCE S. 680 ft to the NW corner of Block No. 11 of said addition;

THENCE E. with the S. line of Jackson Street as shown by the plat of said addition 709 feet to the West fence of the Moody tract;

THENCE N. with the W fence of the Moody tract 680 feet;

THENCE W. with the N. line of Blocks 15 and 9 of said Addition 709 feet to the place of the beginning. Said above described tract being all of Blocks 9, 10, a5, and 16, Lyon and Eby's Addition to the Town of Buffalo Gap, Texas, together with the streets and alleys contiguous thereto, and being out of the A. M. Boyd Survey No. 112 in Taylor County, Texas, and

Perini Ranch Steakhouse and Surrounding Territory annexed by Ordinance # 001-2009, on March 26, 2009, beginning at a point on the NW ROW of F.M. Hwy. 89, for the SE corner of said 113 acre tract same being on the west boundary line of the J. T. McComas Survey No. 8 same being the called for City limits line, from which a concrete ROW marker bears N 26° 23' W 82.95 feet and the recognized SE corner of said Vaughn Survey is called to bear S 15° E 2116.7 feet by said 113 acre deed;

THENCE S 26° 23'W 692.14 feet to a concrete ROW marker for the beginning of a curve to the right;

THENCE along said curve to the right having a Central Angle of 17° 26' 41", a radius of 1384.10 feet, a length of 421.41 feet on a Chord bearing of S 35° 04' 24" W 419.79 feet to a concrete ROW marker for the end of said curve;

THENCE S 43° 51' W 335.46 feet to a point of Hwy. ROW for the South corner of this tract;

THENCE N 55° 18' W at 545.65 feet pass a 3/8" iron rod 8 feet East of a fence continuing in all 740.21 feet to a point near power line;

THENCE N 34° 42' E at 335.90 feet past the West corner of a 10.00 acre tract recorded in Vol. 2660, Pg. 294, Official Public Records, Taylor County, Texas, at 1048.20 feet pass the North corner of said 10.00 acre tract continuing in all 1304.50 feet to a point by said power line for the Westerly North corner of this tract;

THENCE S 55° 18' E 388.50 feet more or less along a line of "T"-Posts to a 1/2" iron rod and cap set for a corner;

THENCE N 34° 42' E 401.43 feet to a 1/2" iron rod and cap set on the recognized East line of said Vaughn Survey No. 61 as re-established using the remains of old fence posts of the East line of said 113 acre tract;

THENCE S 14° 01' 15" E 409.41 feet called S 15 E by 113 acre deed to POINT OF BEGINNING and containing 25.11 acre of land more or less and

Property annexed by Ordinance #002-2009, on March 26, 2009, in North Buffalo Gap, BEING 0.50 acres of land out of the Moses Evans Survey 111, Taylor County, Texas, and being more fully described by metes and bounds as follows:

BEGINNING at a point on the South boundary line of F.M. highway 613 for the Northwest corner of this tract, from which the Northeast corner of said Moses Evans

Survey 111 bears N 89° 29' E 3150.80' and North 3433.54';

THENCE S 52° 30' 16" E 238.44' to a point for the Northeast corner of this tract;

THENCE along a curve to the left having a property line radius of 1566.366, a delta of 03° 23' 23", a chord bearing of 92.67' to a point for the Southeast corner of this tract;

THENCE N 52° 30' 16" W 203.71' to a point on the East boundary line of F.M. Highway 1235 for the Southwest corner of this tract;

THENCE N 02° 2' 11" E 70.00' along the East boundary line of said F.M. Highway 1235 to an iron rod found for the beginning of a curve to the left;

THENCE along said curve to the left, having property line radius of 11,509.20' a delta of 0° 05' 46", a chord bearing of N 02° 04' 01" E and along an arc distance of 19.32' to the end of said curve;

THENCE S 89° 20' 41" E along the South boundary line of F.M. Highway 613, 32.25' to the point of beginning and containing 0.50 acres of land, more or less.

ZONE R MANUFACTURED HOUSING, HUD CODE is currently approved for the Esta Neva South Section of the Town of Buffalo Gap; and

Manufactured Home Parks are currently approved and operating on a specified section of East Street and all of Block 28, Town of Buffalo Gap.

PLANNED DEVELOPMENT DISTRICT: must be granted with an amendment to this ordinance, must be in excess of twenty acres in size and is intended to provide for

combining and mixing uses allowed in various zones with appropriate regulations and to permit flexibility in the use and design of land and buildings in situations where modification of specific provisions of this ordinance is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the community. A PD District may be used to permit new and innovative concepts in land utilization. While great flexibility is given to provide special restrictions which will allow development not otherwise permitted, procedures are established herein to insure against misuse of the increased flexibility.

ZONE R shall include all of the rest and residue of land currently inside the corporate limits of the Town of Buffalo Gap, Texas.

SECTION VIII USE OF ZONES AND DISTRICTS

USE OF C ZONE

1. Any use permitted in R Zone.

2. Private Recreation Facilities (Indoors and Outdoors), Parking Area, Parking Lot, or Parking Garage for large vehicles, Privately owned Stadiums, Arenas, and Auditoriums, Privately owned indoor and/or outdoor theaters, employment agencies, Medical and Dental Centers, Professional offices, Opticians, Travel Agencies, Banks and Financial Institutions, Beauty Parlors and Barber Shops, Cleaning and Dyeing Facilities, Commercial Laundries, Daycare Centers, Locksmiths, Self Service Laundromats, Shoemaker, Bakeries, Catering Establishments, Grocery Stores/Supermarkets, private Club, Restaurant and Cafes, Antique Shops, Art and/or Craft Shops, Blueprinting Stores, Camera Sales and Repair, Carpet and Rug Stores, Clothing Stores and Tailors, Department Stores, Drug Stores/Pharmacies, Florist Shops (Not Outdoor Nursery), Furniture Stores, Household Appliance Stores, Jewelers, Office Supply Stores, Paint and Wallpaper Stores, Print Shops, Sporting Goods Stores, Taxidermists, Auction Rooms, Exterminating/Pest Control Stores, Furniture Refinishing, Hardware Stores, Hotels and Motels, Lumber Yards and Building Materials, Outdoor Nursery, Plumbing Store, Spray Painting Operations, Upholstery Shops, Weighing Stations, Welding Shops, Automobile Accessory Stores, Auto Body Repair Shop, Automobile Sales and Service, Automobile Service Station, Car Washes, Vehicle Service Centers, Mini Warehouses.

RESTRICTIONS

1. All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings unless otherwise approved by the Town Council.

2. Individuals, businesses, organizations, and others may not use streets, right of ways, or other Town property for sales, solicitation, special events, or any other purpose without the approval of the Town Council.

3. Streets or alleys, or portions of streets or alleys, may not be closed, temporarily or otherwise, for any purpose without advance written approval of the Town Council.

4. Any enterprise or function which causes a public nuisance, disturbance of the peace, or produces smoke, particulate matter, dust, odor, gas, fumes, glare, vibration, radiation hazards, electrical disturbances, water pollution, or objectionable noise due to intermittence, beat frequency, or shrillness exceeding 75db(A) at the property line where the offending enterprise or function is performed is prohibited. The owner of the property where the offense occurs, as well as the offending party or parties, shall be held in violation of this ordinance.

5. Any enterprise or function that is dangerous or detrimental to other property in the area, or to the health, safety, and welfare of occupants thereof, or to the citizens of Buffalo Gap is prohibited.

6. Sexually oriented businesses are prohibited in the Town of Buffalo Gap because they are detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. "Sexually oriented business" means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

7. Any property must be inspected and found to be safe and sound before Town utilities are approved and turned on.

USE OF I ZONE

1. Any use permitted in C Zone or R Zone.
2. Sale of all alcoholic beverages.

Restrictions in the I Zone are the same as those listed for the C Zone.

USE OF ZONE R MANUFACTURED HOUSING, HUD CODE

Manufactured Housing, HUD Code: Structures constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one(1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. All references in this ordinance to manufactured housing or manufactured home(s) shall be references to HUD code Manufactured Housing, unless otherwise specified.

Zone R Manufactured Housing, HUD Code shall include tracts of land of not less than ten (10) acres which has been final platted of record in its entirety in accordance with the subdivision records of the Town of Buffalo Gap for occupancy by HUD-Code manufactured housing and industrialized housing; and

Manufactured Home Parks that must be a tract of land under single ownership of not less than eight (8) acres and not more than twenty-five (25) acres approved for occupancy by manufactured housing, HUD Code, and accessory structures related thereto and designed and operated in accordance with the standards herein set forth or as set forth in any other ordinance of the Town of Buffalo Gap relating to the location, use, construction, operation, or maintenance of manufactured housing.

RESTRICTIONS

Manufactured Homes not constructed according to the rules of the United States Department of Housing and Urban Development and/or constructed before June 15, 2006 are prohibited.

Before Town utilities are turned on, Manufactured Homes, HUD Code must be inspected and found to be in a safe and sound condition, and must be maintained in a safe and sound condition.

Manufactured Homes, HUD Code must be placed and set up in accordance with the standards set forth by this ordinance and all other ordinances of the Town of Buffalo Gap. If they are placed in a Manufactured Home Park, they must conform to all rules and regulations of that Manufactured Home Park.

USE OF PD DISTRICT

Any use specified in the ordinance granting a Planned Development District shall be permitted in that zone. The size, location, appearance, and method of operation may be specified to the extent necessary to insure compliance with the purpose of the ordinance.

Development standards for each separate PD District shall be set forth in the ordinance granting the PD District and may include, but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the Town Council may deem appropriate.

In the PD District, the particular zone(s) to which uses specified in the PD are most similar shall be stated in the granting ordinance. All PD applications shall list all requested variances from the standard requirements set forth throughout this ordinance. (applications without this list will be considered incomplete.)

The ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein. A specific list is required of variances in each zone or zones and a general statement citing the reason for the PD request.

The Planned Development District shall conform to all other sections of the ordinance unless specifically exempted in the granting ordinance.

In establishing a Planned Development District, the Town Council shall approve and file, as part of the amending ordinance, appropriate plans and standards for each Planned Development District. During the review and public hearing process, the Town Council shall require a conceptual plan and a development plan (or detail site plan).

The applicant shall submit the conceptual plan. The plan shall show the applicant's intent for the use of the land within the proposed Planned Development District in a graphic manner and shall be supported by written documentation of proposals and standards for development.

A conceptual plan for residential land use shall show general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type, and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.

A conceptual plan for uses other than residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the Town Council, may include but is not limited to the type of use(s), topography, and boundary of the PD area, physical features of the site, existing streets, alleys, and easements, location of future public facilities, building heights and locations, parking ratios, and other information to adequately describe the proposed development and to provide data for approval which is to be used in drafting the final development plan.

Changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, building height, or coverage of the site and which do not decrease the off-street parking ratio, reduce the yards provided at the boundary of the site, or significantly alter the landscape plans as indicated on the approved conceptual plan may be authorized by the building official or his/her designated representative. If an agreement cannot be reached regarding whether or not a detail site plan conforms to the original concept plan, the Town Council shall determine the conformity.

The Development Plan or Detailed Site Plan shall set forth the final plans for development of the Planned Development District and shall conform to the data presented and approved on the conceptual plan. Approval of the development plan shall be the basis for issuance of a building permit. The development plan may be submitted for the total area of the PD or for any section by the Town Council. A public hearing on approval of the

development plan shall be required at the Council level unless such a hearing is waived by the Town Council upon determination that a single public hearing for the conceptual plan and the development plan is adequate.

The Development Plan shall include:

1. A site inventory analysis including a scale drawing of existing vegetation, natural water courses, creeks or bodies of water, and an analysis of planned changes in such natural features as a result of the development. This should include a delineation of any flood prone areas.
2. A scale drawing showing any proposed public or private streets and alleys; building sites or lots; and areas reserved as parks, parkways, playgrounds, utility easements, school sites, street widening and street changes; the points of ingress and egress from existing streets; general location and description of existing and proposed utility services, including size of water and sewer mains; the location and width for all curb cuts and the land area of all abutting sites and the zoning classification thereof on an accurate survey of the tract with the topographical contour interval of not more than five (5) feet.
3. A site plan for proposed building complexes showing the location of separate buildings, and between buildings and property lines, street lines, and alley lines. Also to be included on the site plan is a plan showing the arrangement and provisions of off-street parking.
4. A landscape plan showing screening walls, ornamental planting, wooded areas, and trees to be planted.
5. An architectural plan showing elevations and signage style to be used throughout the development in all zones except single family and two family may be required by the Town Council if deemed appropriate. Any or all of the required information may be incorporated on a single drawing if such drawing is clear and can be evaluated by the building official or his/her designated representative.

Procedure for Establishment

The procedure for establishing a Planned Development District shall follow the procedures for zoning amendments as set forth in this ordinance. This procedure is expanded as follows for approval of conceptual development plans.

1. Separate public hearings shall be held by the Town Council for the approval of the conceptual plan and the development plan or any section of the development plan, unless such requirements are waived by the Town Council upon determination that a single public hearing is adequate. A single public hearing is adequate when:

- (a) The applicant submits adequate data with the request for the Planned Development District to fulfill both plans; or

(b) Information on the concept plan is sufficient to determine the appropriate use of the land and the detail site plan will deviate substantially from it; and

(c) The requirement is waived at the time the amending ordinance is approved. If the requirement is waived, the conditions shall be specifically stated in the amending ordinance.

2. The ordinance establishing the Planned Development District shall not be approved until the conceptual plan is approved.

3. The development plan may be approved in sections. When the plan is approved in sections, the separate approvals by the Town Council, for the initial and subsequent sections will be required.

4. An initial development plan shall be submitted for approval within six (6) months from the approval of the conceptual plan or some portion of the conceptual plan. If the development plan is not submitted within six (6) months, the conceptual plan is subject to re-approval by the Town Council. If the entire project is not completed within two (2) years, the Town Council may review the original conceptual plan to ensure its continued validity.

5. Regardless of whether the public hearing is waived for the development plan, approval by the Town Council is still required.

Written Report May Be Required

When a PD is being considered, a written report may be requested of the applicant discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic. Written comments from the applicable public school district and from private utilities may be submitted to the Town Council.

Planned Developments to Be Recorded

All Planned Development Districts approved in accordance with the provisions of this ordinance in its original form, or by subsequent amendment(s) thereto, shall be referenced on the Town Zoning Map, and a list of such Planned Development Districts, together with the category of uses permitted therein, shall be maintained in an appendix of this ordinance.

USE OF R ZONE

Single-Family Dwelling, Attached: Part of a structure containing three (3) or more dwellings, each designed and constructed for occupancy by one family, with each dwelling unit attached by a common wall to another with a minimum length of attachment of twenty (20) feet, in which each dwelling is located on a separate platted lot.

Single Family Dwelling, Detached: A detached building designed exclusively for occupancy by one (1) family, excluding manufactured housing and nonconventional structures as defined herein. A Customary Home Occupation status may be allowed in this type of structure. (See Customary Home Occupation requirements listed under Restrictions).

Two-Family Dwellings: A building designed for occupancy by two (2) individuals or families living independently of each other within separate units which have a common wall and are under one (1) roof.

Townhouse or Row Dwelling: One of a series of not less than three (3) nor more than ten (10) attached one (1) family dwellings under common roof with common exterior wall, and separated from one another by single partition walls without openings from basement to roof. No townhouse dwelling unit is to be constructed above another townhouse dwelling unit.

Multi-Family Dwellings and Condominiums: Any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three (3) or more dwelling units or apartments or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units.

Residence Hotel: A multi-dwelling unit extended stay lodging facility consisting of efficiency units or suites with a complete kitchen suitable for long-term occupancy. Customary hotel services such as linen, maid service, telephone, and upkeep of furniture shall be provided. Meeting room, clubhouse, and recreational facilities intended for use of residents and their guests are permitted. This definition shall not include other dwelling units as defined in this ordinance.

Boarding or Rooming House: A building, other than hotel or multiple family dwelling, where lodging is provided to persons for compensation, and where facilities for food preparation are not provided in individual rooms. Facilities usually referred to, as "**bed and breakfast**" arrangements are included in this definition.

Community Homes: as described in Texas Human Resources Code Sec. 123.001

Nursing Homes and Retirement Housing: A development providing dwelling units specifically designed for the needs of ambulatory and pre-ambulatory retired persons. Subsidiary uses shall be permitted to provide on-site goods and services for residents and their guests, but not intended for use by the general public, including: Cafeteria or dining room, library, game room, swimming pool and or Jacuzzi, exercise room, arts and crafts facilities, greenhouse, housekeeping service, transportation service, snack bar with a maximum of 350 square feet per 100 dwelling units, convenience retail shop with maximum of 350 square feet per 100 dwelling units to provide for sale of food items, non prescription drugs, small household items and gifts.

Schools: Public and Private Schools; College or University

Utilities: Public Utility Facilities (Electric, Gas, Water, Telephone) as approved by Town Council.

Nonconventional Structures: A nonconventional structure used as a residence, including but not limited to container homes, tiny homes (defined as single-family detached home that is less than 500 square feet in size), yurts, tents, recreational vehicles, and travel trailers. A nonconventional structure may be allowed with a specific use permit as provided under Restrictions).

Other: Churches, Parish Houses, Convents, Hospitals, Fraternal Organizations, Mortuaries, Post Office Facilities, City or School Recreation Facilities (Indoors), City or School Recreation Facilities (Outdoors), Public Community Centers, Public Playgrounds, Recreational fields, Private Greenhouses, trees parking area, parking lot or parking garage for passenger vehicles, agricultural crops, poultry and domestic animals.

RESTRICTIONS

1. Customary Home Occupation: An occupation, profession, domestic craft, or economic enterprise which is customarily conducted in a "residential dwelling" as hereinafter defined, subject to compliance with each of the following conditions:

a) "Residential Dwelling" shall mean a detached building designed, used and occupied exclusively by members of one (1) family as a residence.

b) No person other than members of a family who reside in the residential dwelling shall be engaged in such occupation, profession, domestic craft or economic enterprise.

c) Such use shall be and remain incidental and subordinate to the principal use of the residential dwelling as a family residence and the area utilized for such occupation, profession, domestic craft, or economic enterprise shall never exceed twenty five percent (25%) of the total of the floor area of the residential dwelling.

d) Not more than one (1) non-illuminated sign advertising the home occupation shall be allowed; said sign shall be not more than one (1) square foot in area and shall be mounted on the building in which the home occupation is being conducted.

e) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior commercial appeal.

f) No exterior storage of material, equipment, and/or supplies used in conjunction with such occupation, profession, domestic craft, or enterprise shall be placed, permitted, or allowed on the premises occupied by the residential dwelling.

g) No offensive noise, vibration, smoke, dust, odors, heat, or glare generated by or associated with the home occupation shall extend beyond the property line of the lot or tract on which the home occupation is being conducted.

h) The occupation, profession, domestic craft, or enterprise shall be conducted wholly within the residential dwelling and no accessory building shall be used in conjunction therewith.

i) No stock, goods, wares, or merchandise shall be sold or kept for sale on the premises.

j) The only equipment to be used in such occupation, profession, domestic craft, or enterprise shall be that which is ordinarily used in a private home in a like amount and kind.

k) A home occupation shall not generate such additional traffic as to create a traffic hazard or disturbance to nearby residents.

2. Any property must be inspected and found to be safe and sound before Town utilities are approved and turned on.

3. A person wishing to install a nonconventional structure in this district must obtain a specific use permit prior to such installation. A request for a specific use permit shall be processed by the Planning and Zoning Commission and Town Council as a request for a change in a zoning classification pursuant to Section XIII of this Ordinance.

SECTION IX PLANNING AND ZONING COMMISSION

Organization and Appointment

There is hereby created a Planning and Zoning Commission which shall be organized, appointed, and function as follows:

Membership: The Planning and Zoning Commission shall consist of five (5) members who are residents of the Town of Buffalo Gap or individuals who own property within the city limits and also reside within a two-mile radius of the city limits, each to be appointed by the Town Council for a term two (2) years and removable for any reason by the Town Council. Vacancies shall be filled for the un-expired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. Two of the members will be appointed in even numbered years, with three appointed in odd numbered years.

Terms: The terms of members shall expire on June 30 of their respective year. Commission members may be appointed to succeed themselves. Vacancies shall immediately be filled for un-expired terms.

Organization: The commission shall hold an organizational meeting in July of each year. The commission shall meet regularly and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this ordinance and the requirements of law. The Planning and Zoning Commission shall elect a chairman, and other officers, from its own membership at its annual organizational meeting.

Quorum and Compensation: A quorum for the conduct of business shall consist of three members of the commission, including the chairman who is a voting member. The members shall serve without compensation.

Duties and Authority

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

Formulate and recommend to the Town Council, for its adoption, a Town plan for orderly growth and development of the Town and its environs and from time to time recommend changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the Town.

Formulate a zoning plan as may be deemed best to carry out the goals of the Town plan; hold public hearings and make recommendations to the Town Council relating to the creation, amendment, and implementation of zoning regulations and districts as authorized under state law.

Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as authorized under state law.

Study and recommend the location, extension, and planning of public rights-of-way, parks, or other public places, and on the vacating or closing of same.

Study and make recommendations regarding the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances.

Initiate, in the name of the Town, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.

Formulate and recommend to the Town Council, for its adoption, policies and regulations consistent with the adopted Town plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the Town.

Submit, each May, a progress report to the Town Council summarizing its activities for the past year and a proposed work program for the coming year.

The Town Council will serve as Planning and Zoning Commission in the absence or non-existence of one.

SECTION X ZONING BOARD OF ADJUSTMENT

Creation, Membership, and Procedures:

A Zoning Board of Adjustment is hereby re-established in accordance with the provisions of Texas Local Government Code 211.008, as amended, regarding the zoning of cities and with the powers and duties as provided in said Code.

Membership: The Zoning Board of Adjustment shall consist of five (5) members, each to be appointed, in July, by the Town Council for a term of one (1) year and removable for cause by the appointment authority upon written charges and after public hearing. Vacancies shall be for the un-expired term of any member, whose place becomes vacant for cause, in the same manner as the appointment was made.

Terms: The terms of members shall expire on June 30 of each year. Board members may be appointed to succeed themselves. Vacancies shall immediately be filled for un-expired terms.

Organization: The Board shall hold an organizational meeting in July of each year. The Zoning Board of Adjustment shall elect a chairman from its own membership at its annual organizational meeting.

Hearings: The hearings of the Board shall be public. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any permit is pending, and shall also hear any other parties in interest. All hearings are to be heard by at least four (4) members of the Board.

Meetings: Regular meetings of the Board shall be held at such times as the Board may determine. Special meetings of the Board shall be held at the call of the chairman or at the written request of two regular members of the Board, said request to be submitted to the Chairman.

Rules and Regulations: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Secretary and shall be public record. The Board shall act by resolution in which four (4) members must concur. The Board shall adopt, from time to time, such additional rules and regulations as it may deem necessary to carry into effect the provisions of the ordinance, and shall furnish a copy of the same to the Zoning Administrator and the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

Powers and Duties of The Zoning Board of Adjustment

Appeals Based on Error: The Board shall have the power to hear and decide appeals where it is alleged there is error of the law in any order, requirement, decision or determination made by an administrative official of the Town of the enforcement of this ordinance.

Special Exceptions: The Board shall have the power to hear and decide special exceptions to the terms of this ordinance upon which the Board is required to pass as follows:

Permit the erection and use a building or the use of premises for railroads if such uses are in general conformity with the Master Plan and present no conflict or nuisance to adjacent properties.

Permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

Grant a permit for the extension of a use, height, or area regulation into an adjoining zone where the boundary line of the zone divides a lot in a single ownership on the effective date of this ordinance.

Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than fifty (50%) percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the non-conforming use and primary purpose of continuing the non-conforming use is not to continue a monopoly.

Waive or reduce the parking and loading requirements of any of the zones, whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

Rule on all applications on siting of manufactured homes in areas not so zoned. Approval shall only be allowed in cases of extreme hardship under guidelines established by the Board.

Limitation on Reapplications: When the Board has denied a proposal, no new applications of similar nature shall be accepted by the Board or scheduled for twelve (12) months after the date of Board denial. Applications, which have been withdrawn at or before the Board meeting, may be resubmitted at any time for hearing before the Board.

Vote of Four Members Required: The concurring vote of four members of the Board is necessary to:

- (a) reverse an order, requirement, decision, or determination of an Administrative Official;
- (b) decide in favor of an applicant on a matter on which the Board is required to pass; or
- (c) authorize a variation from the terms of a zoning ordinance.

Appeals

Procedure: Appeals may be taken to and before the Zoning Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau in the Town. Such appeal shall be made by filing, in the office of the Town Secretary, a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record from which the action appealed was taken.

Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Zoning Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by restraining order which may be granted or by a court of equity, after notice to the office from which the appeal was taken.

Notice of Hearing on Appeal: The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the Town. Depositing of such written notice in the mail shall be deemed sufficient compliance herewith.

Decision by Board: The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the officer or department from whom the appeal is taken.

Variances

The Board shall have the power to authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

1. Permit a variance in the yard requirements of any zone where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to

an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or general welfare.

2. Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings and structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the Comprehensive Plan as established by this ordinance and at the same time, surrounding property will be properly protected.

The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the Building Inspector in the enforcement of this ordinance. Except as otherwise provided herein, the Board shall have, in addition, the following specific powers:

To permit the erection and use a building or the use of premises for railroads if such uses are in general conformity with the Master Plan and present no conflict or nuisance to adjacent properties.

To permit a public utility or public service or structure in any zone, or a public utility or public service building of a ground area and of a height at variance with those provided for in the zone in which such public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

to grant a permit for the extension of a use, height, or area regulation into an adjoining zone where the boundary line of the zone divides a lot in a single ownership on the effective date of this ordinance.

To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than fifty (50%) percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the non-conforming use and primary purpose of continuing the non-conforming use is not to continue a monopoly.

To waive or reduce the parking and loading requirements of any of the zones, whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:

- a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zone;
- b) that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone under terms of this ordinance;
- c) that special conditions and circumstances do not result from actions of the applicant;
- d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same zone; and
- e) no non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

SECTION XI PLATTING PROPERTY IS PERMANENTLY ZONED

Zoning Required Prior to Approval of Plat

1. The Town Council shall not approve any plat of any subdivision or planned development district, within the Town limits, until the area, covered by the proposed plat shall, have been approved by the Tree Board and permanently zoned by the Town Council.

2. Annexation Prior to Approval of Plat

The Town Council shall not approve any plat, subdivision, or planned development district within any area where a petition or ordinance for annexation to the Town is pending before the Town Council, unless and until such annexation shall have been approved by resolution by the Town Council.

3. Contemporaneous Action on Zoning and Annexation

In the event the Town Council holds a hearing on proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed. The Town Council may, at its discretion, act contemporaneously on the matters of permanent zoning and annexation.

SECTION XII CLASSIFICATION OF NEW AND UNLISTED USES

Procedure For Classifying New/Unlisted Uses

It is recognized that new types of land use will develop and forms of land use, not anticipated, may seek to locate to Buffalo Gap. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

1. The Zoning Administrator shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation to the Town Council as to the zoning classification(s) into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer. The Planning and Zoning commission shall make a recommendation to the Town Council regarding the zone(s) within which such use should be permitted.
2. The Planning and Zoning commission and the Town Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various zones, in determining the zone or district within which such use shall be permitted.
3. The Town Council shall by resolution approve or make such determination concerning the classification of such use as is determined appropriate, based upon its findings.

SECTION XIII CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

1. Declaration of Policy

The Town declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the zoning boundaries except: to correct any error in the regulations or map; to recognize changed or changing conditions or circumstances in a particular locality; and/or to recognize changes in technology, style of living, or manner of doing business.

2. Authority to Amend Ordinance

The Town Council may from time to time, after public hearings that are required by law, amend, supplement, or change the zoning regulations herein provided or the classification or boundaries of zones or districts. Any amendment, supplement, or change to a zoning regulation contained in this Zoning Ordinance and any change in the classification or boundaries of zones or districts may be ordered for consideration by the Town Council, may be initiated by the Planning and Zoning Commission, the Town

Council, or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

3. Public Hearing and Notice

Upon filing of an application for an amendment to a zoning regulation and/or map, the Planning and Zoning Commission shall call a public hearing on said application.

Written notice of a hearing on a proposed change in a zoning classification shall be sent to the owner of the property or his agent and to all owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given not less than eleven days before the date of such hearing, to all owners who have rendered their said property for Town taxes as the ownership appears on the last approved Town tax roll. Such notice may be served by depositing the same properly addressed and postage paid, in the Town Post Office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the Town after the final date for making the renditions which are included on the last approved Town tax roll, notice to such owners shall be given by one publication in the official newspaper at least sixteen (16) days before the time of the hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.

Written notice of a hearing regarding a zoning regulation or change in zoning classification shall also be published in the official newspaper of the Town at least sixteen (16) days before the date of the hearing.

If at the conclusion of the hearing, the Planning and Zoning Commission recommends amendment of this ordinance to the Town Council, said recommendation shall be by resolution of the Planning and Zoning Commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the Town Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.

The Planning and Zoning Commission may recommend denial of an application with or without prejudice against the applicant to refile the application. If the Commission recommends denial of the application and fails to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being recommended for denial without prejudice against refiling. If it is later determined by the commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period of one year and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

4. Action of the Town Council

After receiving the report of the Planning and Zoning Commission, the Town Council shall set said application for public hearing and shall give notice of the time and place of the

hearing by one (1) publication in the official newspaper at least sixteen (16) prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all property owners of real property lying within two hundred (200) feet of the subject property at least eleven days before said hearing.

If the Planning and Zoning Commission has recommended to the Town Council that a proposed amendment be disapproved, the Town Council may refuse to adopt the amendment by a simple majority vote of Council Members present and voting. However, in order to adopt the amendment which has been recommended for disapproval by the Planning and Zoning Commission, the amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Town Council of Buffalo Gap present and voting.

When the Planning and Zoning Commission has recommended to the Town Council that a proposed amendment be approved, the Town Council may disapprove the petition or application for amendment by a simple majority vote of the Town Councilmen present and voting. In the event of a tie vote of the Town Councilmen present and voting, the Mayor may cast the deciding vote.

In the case of a protest against an amendment to the ordinance signed by the owners of twenty percent (20%) or more either of the area of lots or land immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Town Council of Buffalo Gap.

In making its determination, the Town Council shall consider the following factors:

1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.
2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.
3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the Town, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.
4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.
5. The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified.

6. Any other factors which will substantially affect the public health, safety, morals or general welfare.

In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the Town Council shall further consider whether said application shall be denied with or without prejudice against re-filing. If the Town Council shall deny the application and fail to clearly to state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against refiling. If an application is denied with prejudice, no application may be filed for all or part of the subject tract of land for a period of one (1) year from the date of denial by the Town Council. If it is determined by the Planning and Zoning Commission that there has been sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

Effect of Denial of Petition

If an application for an amendment to the zoning ordinance is denied by the Town Council, said application shall not be eligible for reconsideration for one (1) year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning and Zoning Commission, to be eligible for consideration within one (1) year of the denial of the original application.

In the event of a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

Final Approval and Ordinance Adoption

If the amending ordinance is not approved within six (6) months from the time of its original consideration, the zoning request, at the option of the Town Council, may be recalled for a new public hearing.

SECTION XIV SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Town Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for appeals and other matters pertaining to this ordinance. The schedule shall be posted in the office of the administration official and may be altered or amended only by Town Council.

No special exceptions or variances shall be issued unless and until such costs, charges, fees or expenses have been paid in full, nor shall any action taken on the proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

The exact charge for the following services will be established by separate ordinance:

- a. for docketing a zoning petition with the Planning and Zoning Commission of the Town of Buffalo Gap.
- b. for docketing an application for relief with the Board of Adjustment of the Town of Buffalo Gap.

SECTION XV PENALTY FOR VIOLATIONS

Any person or corporation violating any of the provisions of this ordinance shall upon conviction be fined a sum not to exceed two thousand dollars (\$2000.00) per day and each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in the district where such property owner may be affected or invaded by a violation of the terms of the ordinance to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

SECTION XVI VALIDITY, SEVERANCE AND CONFLICT

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so dedicated to be invalid or unconstitutional. To the extent any provision of this ordinance conflicts with other ordinances of the Town of Buffalo Gap the terms of this ordinance shall control.

SECTION XVII EFFECTIVE DATE

This Ordinance shall be effective, and replace any prior zoning ordinances, including amendments, upon the posting and/or publication of its caption as required by law and the Town Secretary is hereby directed to implement such posting and/or publication.

Passed and Approved by 5 votes of the Town Council of the Town of Buffalo Gap, Texas on this the 11th day of April, 2024.

ATTEST:


Mackenzie Miller, Town Secretary

SIGNED:


Dave Perry, Mayor