

ORDINANCE NO. 4-2009
Historic Revitalization Zone

AN ORDINANCE OF THE CITY OF MARION, TEXAS, ESTABLISHING AN HISTORIC REVITALIZATION ZONE ON NORTH SEGUIN STREET FROM NORTH BEYER STREET TO LIVE OAK STREET AND ALONG SAN ANTONIO STREET FROM NORTH BEYER STREET TO LIVE OAK STREET AND ON BOTH SIDES OF SOUTH CENTER STREET FROM SAN ANTONIO STREET TO OTTO STREET AND ALL OF THE LAND COMPRISING THE SOUTHERN PACIFIC RAILROAD PROPERTY BETWEEN LIVE OAK STREET AND BEYER STREET; ADOPTING AN OFFICIAL ZONING MAP; PROVIDING A PENALTY FOR VIOLATIONS; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of Marion has determined that it would serve the public interest to create an Historic Revitalization District in the center of the City in that it would increase property values, enhance tax revenue, conserve the value of historical buildings, create community pride, and preserve the historical, cultural and architectural importance of the affected area; and

WHEREAS, the City has determined that it is authorized to create zoning districts pursuant to Chapter 211 of the Texas Local Government Code; and

WHEREAS, the City has determined that the regulations contained herein are consistent with and a natural result of the City's comprehensive plan; and

WHEREAS, the City has determined that this ordinance was adopted after the City had complied with all notice and public hearing requirements of Chapter 211 of the Texas Local Government Code; and

WHEREAS, the City Council finds that this Ordinance was adopted at a meeting held in strict compliance with the Texas Open Meetings Act at which a quorum of the Council was present and voting.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS:

Section 1. PURPOSE.

This ordinance is for the purpose of creating an initial zoning ordinance for the City with the specific purpose of creating an Historical Revitalization District as more particularly described herein, restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures, and land for trade, industry, residence and other specified uses; to regulate the intensity of the use of lot areas, and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified, business, residential and other uses within such areas; to fix standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures incompatible with the character of such districts; to prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and

limitations lawfully imposed hereunder; providing for the gradual elimination of nonconforming uses of land, building and structures; and prescribing penalties for the violation of the ordinance; 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; to protect and maintain the historical character of the district, to conserve the taxable value of land and buildings within the Historical Revitalization District; and to promote the public health, safety, and general welfare.

Section 2. DEFINITIONS.

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular; the word "building" shall include the word "structure"; and the word "lot" shall include the word "plot"; and the word "shall" is mandatory and not directory.

Accessory building or use: A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

Alley: A public thoroughfare, not less than 20 feet wide, and not more than 60 feet in width, which affords only a secondary means of access to abutting property.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Automobile repair: General repair, engine rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting of motor vehicles.

Automobile service station: A place where gasoline stored only in underground tanks, motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile repairs and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Billboard: Any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

Boarding house: A building other than a hotel or restaurant, where meals are provided for compensation for four or more persons, but not exceeding twelve persons.

Building: Any structure having a roof supported by columns or walls, and designed or

intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Building line: For the purpose of this ordinance the building line is the same as a front yard setback line.

Chiropodist: A practitioner of the medical practice which consists of treatment of the foot.

Chiropractor: Any practitioner licensed by the state who uses a system of therapy in which disease is considered the result of a neural malfunction and manipulation of the spinal column and other bodily structures is the preferred method of treatment.

Conditional uses: The following uses of land or structures, or both, may be permitted in the Historical Revitalization District:

Bus terminal, railroad passenger station, or any other transportation terminal facilities;

Churches and accessory buildings used for religious teaching;

Municipal or privately owned recreation building or community center;

Nursery schools, day nurseries, and child care centers;

Parking area, public;

Police stations, fire stations, or place for storage of municipal equipment;

Public administration building, auditorium, gymnasium or any other publicly owned structure;

Public or private park or playground;

Public utility facilities

Railroad right-of-way;

Schools, public or private;

Telephone exchange.

No conditional use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

Court: An open unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such building.

Dentist's office: A place where the practice of dentistry takes place.

Diet and health clinics: Any establishment where advice is offered on dieting or where exercise or other programs intended to foster good health takes place.

Doctor's office: An establishment of a person or persons trained in the healing arts and licensed to practice medicine or to perform surgery.

Dwelling: A building or portion thereof, but not an automobile house trailer, designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels, boarding and lodging houses.

Dwelling, one-family: A detached building designed exclusively for occupancy by one family.

Dwelling, two-family: A building designed exclusively for occupancy by two families living independently of each other.

Dwelling, multiple: A building or portion thereof designed for occupancy by three or more families living independently of each other.

Dwelling unit: One or more rooms in a dwelling or apartment hotel designed primarily for occupancy by one family for living or sleeping purposes.

Family: An individual, or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. Family shall include two or more persons with a handicap as defined in the Fair Housing Amendments Act of 1988, 42 U.S.C.A. § 3601 and following, living as a single housekeeping unit, and a community home for disabled persons under Chapter 247 of the Texas Health and Safety Code.

Frontage: All property on one side of a street between two intersecting streets, or natural barriers.

Garage, private: An accessory building for the storage of not more than three motor-

driven vehicles, of which not more than one shall be a commercial vehicle of not more than two-ton capacity.

Garage, public: A building other than a private garage, used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure.

Hotel: A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are six or more guest rooms, and in which no provisions are made for cooking in any individual room or suite. Unless the context indicates otherwise, "Hotel" includes a motel or motor hotel.

Lodging house: A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or transients.

Lot: A parcel of land occupied or suitable for occupancy by one main building or use, with accessory buildings, including the open spaces required by this ordinance, and having its principal frontage upon a public street or highway.

Lot, corner: A lot situated at the intersection of two or more streets.

Lot, depth: The horizontal distance between the front and rear lot lines measured in the

mean direction on the side lot lines.

Lot, width: The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Motel or motor hotel: See hotel.

Nonconforming use: Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations of this ordinance.

Office condominium: An office building in which units are owned separately. Also an office unit in such a building.

Parking area, public: An open area, other than street, used for the temporary parking of more than four automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.

Parking space: An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one standard automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Psychiatrist's office: A place where a licensed physician especially trained for the purpose practices psychiatry.

Signs, outdoor advertising: Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof.

Structural alterations: Any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure: Anything constructed or erected, which required location on the ground or attached to something having location on the ground.

Tourist home: A dwelling in which overnight accommodations are provided or offered for transient guests.

Use: The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Veterinarian's office: An enclosed structure for the treatment of diseased or injured animals by trained personnel.

Yard: An open space on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

Yard, front: A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

Yard, rear: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, side: That part of the yard lying between the main building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

Section 3. OFFICIAL ZONING MAP.

There is hereby adopted by reference the Official Zoning Map of the City of Marion, Texas. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Secretary, and bear the official seal of the City of Marion under the following words:

“This is to certify that this is the Official Zoning Map referred to in Section 1 of the City of Marion Ordinance Number 26-2008.”

The Official Zoning Map is a part of this ordinance and on file in the office of the City clerk and all notations, references and other information shown thereon are a part of this ordinance and have the same force and effect as if the Official Zoning Map and all such notations, references, and other information shown thereon were fully set forth or described herein.

Section 4. HISTORICAL REVITALIZATION DISTRICT.

A. The initial Official Zoning Map shall include only the Historical Revitalization District (“District”), which shall include all of the following Lots:

1. All Lots on West Seguin Street between North Beyer Street and North Live Oak Street;

2. All Lots on West San Antonio Street between South Beyer Street and South Live Oak Street;

3. All of the land composing the right-of-way of the Southern Pacific Railroad between Beyer Street and Live Oak Street; and

4. All of the Lots on South Center Street between San Antonio Street and City Limits

all as more particularly shown on the Official Zoning Map.

B. In the event of any uncertainty as to the boundaries of the Official Zoning Map, the City Building Inspector shall provide clarification and resolve any uncertainty.

Section 5. GENERAL PROVISIONS.

A. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the District.

B. No building or structure other than a building for conditional use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district.

C. No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this ordinance, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court, or other open space requirement of or for any other building. The minimum yards or other open spaces, including lot areas per family required by this ordinance for each and every building existing at the time of passage of this ordinance or for any building hereafter erected, shall not be encroached upon or considered as yard- or open-space requirements for any other building.

D. Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined and in no case shall there be more than one such building on one lot unless otherwise provided in this ordinance.

E. No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of twenty-five feet unless an easement of lesser width was of record prior to the adoption of this ordinance.

F. No wall, fence, or shrubbery shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.

G. No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling; except that in a two-story garage with living quarters upon the second floor, such quarters may be occupied by a servant (and his or her family) of the family occupying the main structure. There may also be constructed a guest house (without kitchen) or rooms for guests within an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the main structure and not for permanent occupancy by others as a housekeeping unit.

H. Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this ordinance and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within two years from the date of passage and publication of this ordinance.

I. **HISTORICAL REVITALIZATION DISTRICT.** The City hereby declares the Historical Revitalization District is hereby declared to be an area of historical significance that has unique identifiable characteristics that shall be protected to the fullest extent permitted by law. All designs for any construction, repair or replacement purposes of any building in the District shall be in harmony with the general tone of the area and with the architecture that was common in the District

during the period of the 1880's to the 1920's. (Reference book entitle "IN THE BEGINNING; A HISTORY OF MARION 1877-1977"). This ordinance does not require that the dominant style be mimicked or recreated as a mirror image of what might have been found during that era, but this ordinance does require that any such construction activities shall be compatible with the style of the era and the existing architecture of the District.

Section 6. USE REGULATIONS.

A. Use regulations: Permitted uses are:

Agricultural implement sales and service conducted wholly within a completely enclosed building.

Air conditioning and heating sales and service.

Auction rooms.

Auditoriums.

Automobile sales or automobile service shop conducted wholly within a completely enclosed building and as one integrated business operation.

Battery and tire service stations.

Beverage distributors, but not including bottling plants.

Billiard and pool rooms.

Book binding.

Bowling alleys.

Catering establishments.

Chiropodists.

Chiropractors.

Dance halls.

Dentists' offices.

Department, furniture and home appliance stores.

Diet and health clinics.

Doctors' offices.

Dressmaking establishments.

Employment agencies.

Expressing, baggage, and transfer delivery service.

Garages, public, for storage of private passenger automobiles, but not including repair service.

Hand laundries.

Hotels.

Laboratories.

Laundry employing facilities for not more than one thousand pounds of dry goods per day.

Ophthalmologists.

Opticians.

Painting and decorating shops.

Plumbing, heating and roofing supply and workshop.

Printing, publishing and issuing of newspapers, periodicals, books and other reading

matter.

Printing shops.

Psychiatrists' offices.

Radio broadcasting station.

Recreation places.

Signs, outdoor advertising.

Tailor shops.

Taverns, or retail sale of alcoholic liquors, subject to the regulations of other adopted ordinances of the City.

Taxi service stations.

Telegraph service stations.

Theaters, indoor, outdoor, and mobile and open air concerts.

Trailer sales when conducted within a building.

Veterinarians' offices.

Wholesale establishments, excluding a building the principal use of which is for a storage warehouse.

Manufacturing or processing which is clearly incidental to retail use is permitted. Such manufacturing or processing is limited to that which employs not more than ten persons in the manufacturing or processing.

B. Conditional uses: Automobiles or trailers (new or used) offered for sale may be stored in the open on the rear half of the lot, or lots, the front portion of which is occupied by a structure containing automobile or trailer showrooms, and where no

part of the open storage area is within fifty feet of any street line. Used car sales lots, independent of automobile sales rooms and service conducted within a building, are not permitted.

C. Height: No building or structure shall be erected or structurally altered to exceed a height of three stories nor shall it exceed forty-five feet in height.

D. Areas: No front or side yards shall be required except that when a building or group of buildings abuts upon a residential district, a yard shall be provided on the side of the lot abutting the residential district, such yard having a width of not less than ten feet. There shall be a rear yard with a depth of not less than fifteen feet when abutting upon a publicly dedicated alley or public way and not less than twenty feet when no dedicated alley or public way exists at the rear of the lot.

Section 7. OFF-STREET PARKING AND LOADING.

A. Off-street parking: For the purpose of this section, one hundred and eighty square feet of lot or floor area, which has a means of ingress or egress from an alley or street, shall be deemed parking space for one vehicle. Such space shall not occupy any part of any required front yard, but where open may be included as part of a required open space for side or rear yard. On corner or through lots, parking space may not be included as part of required yards lying adjacent to either street. Such parking spaces and access driveways, required in residential districts, when used

in compliance with the provisions of this ordinance, shall be paved or otherwise surfaced with an all-weather, dustproof material. That part of the driveway connecting from the curb line to the property line shall be paved with concrete or asphaltic materials.

Parking areas serving nonresidential uses of property shall be hard surfaced and graded so as to drain off all surface water to storm sewer inlets. When such parking areas or lots abut upon adjacent residential properties, there shall be provided a wall or solid screen planting of appropriate shrubs to a height of not less than four feet, along the entire boundary, common to both the residential and parking areas. Walls or solid screen planting to a height of not less than four feet shall also be placed along the street line where a parking lot abuts upon a street which provides access to adjacent residential properties. Lights used to illuminate such parking lots shall be so arranged as to reflect lighting away from the adjoining residential lots. Such parking spaces shall be reserved for the sole use of the occupants of the building or lots, their customers, and the visitors thereto. Churches, theaters, stadiums, auditoriums, and other places of assembly may make arrangements for joint use of parking spaces as hereinafter specified.

Every building built, or structurally altered, enlarged or increased in capacity, and every land use initiated subsequent to the adoption of this section shall be provided with minimum off-street parking facilities as follows:

One- and two-family dwellings and multiple-family dwellings: One parking space

for each dwelling unit.

Hotels, rooming houses, clubs and fraternal homes: One parking space for each two guest sleeping rooms.

Tourist homes, and bed and breakfast homes: One parking space for each transient sleeping room offered for tourist accommodation in addition to parking spaces required for permanent residents of the building.

Motels: One parking space for each lodging unit.

Churches, auditoriums, gymnasiums, stadiums, theaters and other places of public or private assembly with fixed seats: One parking space for each five seats or bench seating spaces, based upon maximum seating capacity.

For the purpose of this type of use, parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments, or off-street parking facilities provided by the municipality, lying within three hundred feet of the place of public assembly as measured along the lines of public access, and that are not normally in use between the hours of 6 p.m. and midnight, and are made available for other parking, may be used to meet up to 75% of the total requirements of parking space for places of public assembly.

Dance halls, bowling alleys and private clubs: One parking space for each two hundred square feet of floor area, to be provided on the premises or within three hundred feet of the entrance.

Funeral homes: Fifteen parking spaces on the premises, plus five spaces for each area which can be used as a parlor.

Stores and other retail establishments: One parking space for each three hundred square feet of store space, to be provided on the premises or within two hundred feet of the entrance and off of the street, except that restaurants or establishments whose primary use is to serve meals and refreshments to patrons shall provide one parking space for each one hundred square feet of floor space in the building.

Wholesale and distributing establishments including telephone exchanges: One parking space for each three employees.

Loading or unloading areas shall not be considered as parking areas.

The joint use of parking facilities may be permitted in cases where major parking demands occur on different days of the week or during different hours, provided (1) that parking spaces will be available for each use in accordance with the above standards, and (2) that the owners agree in writing that any subsequent sale or division of the property or change in use thereof will not interfere with the joint use of the parking facilities.

A plan of parking facilities shall accompany each application for a building permit or certificate of compliance. The completion of the improvements for parking according to such plan shall be a requisite for the validity of the permit or certificate.

B. Reserved spaces for handicapped people: Each required off-street parking lot shall have not less than two spaces reserved for handicapped drivers. Such spaces shall be not less than fifteen feet or 4.6 meters wide and shall be clearly marked with the international wheelchair symbol on a sign or wall. In parking lots having spaces for more than fifty cars, there shall be reserved spaces equal to 4%, rounded off, of the total number of spaces.

Section 8. NONCONFORMING USES.

The lawful use of land or buildings existing at the time of the adoption of this ordinance may continue although such use does not conform to the regulations specified by this ordinance for the district in which such land or building is located, subject to the following conditions and specifications.

A. A nonconforming use of land (outside of a building) shall be made to conform to the provisions of the zoning ordinance within a period of two years after adoption of the zoning ordinance.

- B. Any nonconforming use of land or building which has ceased by discontinuance or abandonment for a period of one year shall thereafter conform to the provisions of this ordinance.
- C. Any nonconforming building which has been destroyed or damaged by fire, explosion, act of God, or by a public enemy to the extent of 60% or more of its assessed valuation, shall thereafter conform to the provisions of this ordinance. Where more than 40% of the assessed value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage.
- D. No nonconforming use of a building may be moved to any other part or parcel of land upon which such use is prohibited by this ordinance.
- E. No nonconforming building shall be enlarged or structurally altered except to make it a conforming building. A nonconforming use of a building existing at the time of the adoption of this ordinance may be extended throughout the building provided no structural alterations, except those required by ordinance or law are made therein, and provided approval is granted by the City Council.
- F. The use of a nonconforming building may be changed only to a use of like or similar character, or to a use conforming to the district in which the property is located.

- G. Any nonconforming signs or billboards shall be removed within a period of two years from the adoption of this ordinance.

Section 9. ENFORCING OFFICER.

The Building Inspector of the City is designated as the officer to be responsible for enforcing the zoning ordinance. The Building Inspector shall have the power and shall exercise the function prescribed by the state law and by terms of all ordinances now in force or hereafter passed.

Section 10. BUILDING PERMITS, CERTIFICATE OF COMPLIANCE, USE PERMITS.

- A. Building permit: No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the Building Inspector stating that the building or structure, and use of land comply with the regulations of this ordinance and all building and health laws and ordinances.

All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot or lots to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of

these regulations. A careful record of such applications and plats shall be kept in the office of the Building Inspector.

No building shall be constructed, and no permit shall be issued for any building, on any premises not served by a sewer unless.

- B. **Certificate of compliance:** No building or structure hereafter erected or structurally altered shall be occupied and used until a certificate of compliance has been issued by the Building Inspector. The certificate of compliance shall be issued only after the Building Inspector makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this ordinance and other health and building laws and in accordance with building permit.

Certificate of compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alterations of such buildings shall have been satisfactorily completed. A record of all certificates shall be kept on file in the office of the Building Inspector and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected.

- C. **Use permit:** No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, without a use permit having first been issued by the Building Inspector.

No such use permit shall be issued to make such change unless it is in conformity with the provisions of this ordinance or amendments thereto hereafter duly enacted.

- D. Continuation of existing uses: Nothing in this article shall prevent the continuance of the present occupancy or lawful use of any existing building, except as may be necessary for the safety of life and property, and except as provided in Section 8.

Section 11. ZONING BOARD OF ADJUSTMENT.

- A. A Zoning Board of Adjustment is hereby established, pursuant to Chapter 211 of the Texas Local Government Code. Said board shall consist of five regular members and two alternate members appointed as provided by law.

The board of zoning appeals shall select one member as its chairman and another to serve as its vice-chairman, each for a term of one year and subject to reelection. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses.

The board shall also select one member as secretary to keep minutes and maintain the records of the zoning board of adjustment.

- B. Meetings: All meetings of the board of zoning appeals and all hearings shall be

open to the public. Meetings shall be held at the call of the chairman and at such other times as the board may determine. Meetings may be called at the request of three members of the board. The board shall keep minutes of its proceedings showing the vote of each member upon every question decided by it, or if any member is absent or fails to vote, indicating such fact. Statement of the facts found by the board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying an exception as herein provided shall also appear in the minutes. In every instance, a statement of the facts upon which such recommendations are based shall appear in the minutes. The board shall adopt its own rules of procedure, a copy of which and all amendments thereto shall be filed in the office of the clerk. The minutes of the board shall be open to public examination at reasonable hours. Expenses incurred by the Zoning Board of Adjustment are to be itemized and shall be borne by the City.

- C. Jurisdiction: The board shall hear and decide appeals from, and review any order, requirement, decision, or determination, made by the administrative official charged with the enforcement of this ordinance.

The board of zoning appeals shall also hear all applications for special exceptions to the provisions of this ordinance and shall submit its recommendations, based upon a finding of fact, for enactment in an amended ordinance.

The board shall have no authority to authorize change in the use of any parcel of property or structure.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the officer from whom an appeal is taken or to decide in favor of the applicant any matter in which said board is required to pass under the provisions of this ordinance.

D. Appeals and review: Any person aggrieved by a ruling of the Building Inspector, respecting the interpretation of this ordinance or any officer, department, board or bureau of the City affected by a ruling of the Building Inspector concerning the interpretation of the ordinance, may take an appeal to the Zoning Board of Adjustment. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rules adopted by it, and shall be taken by filing with the Building Inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof, together with such plats and exhibits as are reasonably necessary. Such appeal shall be taken upon forms provided by the board. The Building Inspector shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

E. Stay of proceedings: The appeal shall stay all proceedings and furtherance of the action appealed from unless the Building Inspector certifies to the board of zoning appeals after the notice of appeal has been filed with him that by reason of facts

stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by court of record on application, with notice to the building commissioner, and all due causes shown.

The board of zoning appeals shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the persons appealing and to the officer from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At the hearing, parties of interest may appear in person or by agent or attorney.

The board may reverse or affirm, wholly or in part, or may modify the order, requirement, 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 from whom the appeal is taken.

F. Variations: The City Council, by ordinance, may authorize in the manner provided by law variations from the provisions of this ordinance where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the provisions of this ordinance relating to the use, construction or alteration of buildings or structures or the use of land. However, no such variation shall be made, except in a specific case and after a public hearing before the zoning board of adjustment, pursuant to notice and after a report with a finding of fact of the board, as provided by the laws of this state.

G. Rules governing variations: No variation shall be allowed:

1. To permit a nonconforming use which will materially interfere with the use of adjoining premises in conformity with the regulations applicable to the use district in which it is located.

2. To permit a billboard to be erected or maintained.

H. Notice: Decisions and recommendations of the zoning board of adjustment shall be reached only after a public hearing and after notice has been given by registered mail to the applicant. In addition, notice of the time and place of such public hearing shall be published in a paper of general circulation in the City not less than fifteen days nor more than thirty days previous to the hearing. Such notice shall contain the address or location of the property for which a hearing by the board is sought, as well as a brief description of the nature of the application.

Section 12. CONDITIONAL USES.

Applications for conditional uses, as defined in this ordinance, shall be considered at a public hearing before the City Council pursuant to the requirements of this ordinance.

Conditional uses shall be permitted by the council upon the showing of particular

facts and circumstances which make the conditional use appropriate in the location in which the conditional use is proposed. Facts to be taken into account include the need for the conditional use, both in the neighborhood and in the community, and the effect of the conditional use on neighboring property values, on the use of neighboring property, on traffic patterns, and on the capacity of City facilities, such as water mains and sewer mains to serve the area. No conditional use shall be granted until after a public hearing to determine the applicable facts. The council order granting a conditional use may include restrictions or conditions to ensure that the guidelines set out in this section are met.

Section 13. INTERPRETATIONS; PURPOSE AND CONFLICT.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this ordinance to interfere with, abrogate, amend or repeal any ordinance, rules, regulations, previously adopted, and not in conflict with any of the provisions of this ordinance or which shall be adopted, pursuant to law relating to the use of buildings or premises, nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by such other ordinances or such easements, covenants or other agreements, the provisions of this ordinance shall control.

Section 14. FEES.

Fees pertaining to petitions for zoning amendments, use permits, certificates of compliance, variations, and for appeals to the zoning board of adjustment, shall be established by action of the council from time to time. Such fees shall be paid to the clerk, who shall give a receipt therefor.

Section 15. SEPARABILITY.

The provisions of this ordinance are separable, and if any provision or part of this ordinance should be held invalid, such invalidity shall not affect the validity of the remainder of this ordinance.

Section 16. PUBLIC HEARINGS.

Wherever this zoning ordinance calls for a public hearing, notice of such hearing shall be given in the manner provided by state law.

Section 17. PENALTY.

Any person, firm or corporation violating any provision of this ordinance shall be fined not less than \$1.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or

continues.

Section 18. EFFECTIVE DATE.

This ordinance shall be effective 20th October 2008.

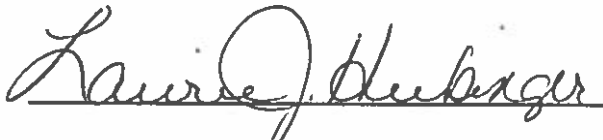
PASSED AND APPROVED on the 20th day of October, 2008.

CITY OF MARION, TEXAS



Glenn Hild, Mayor

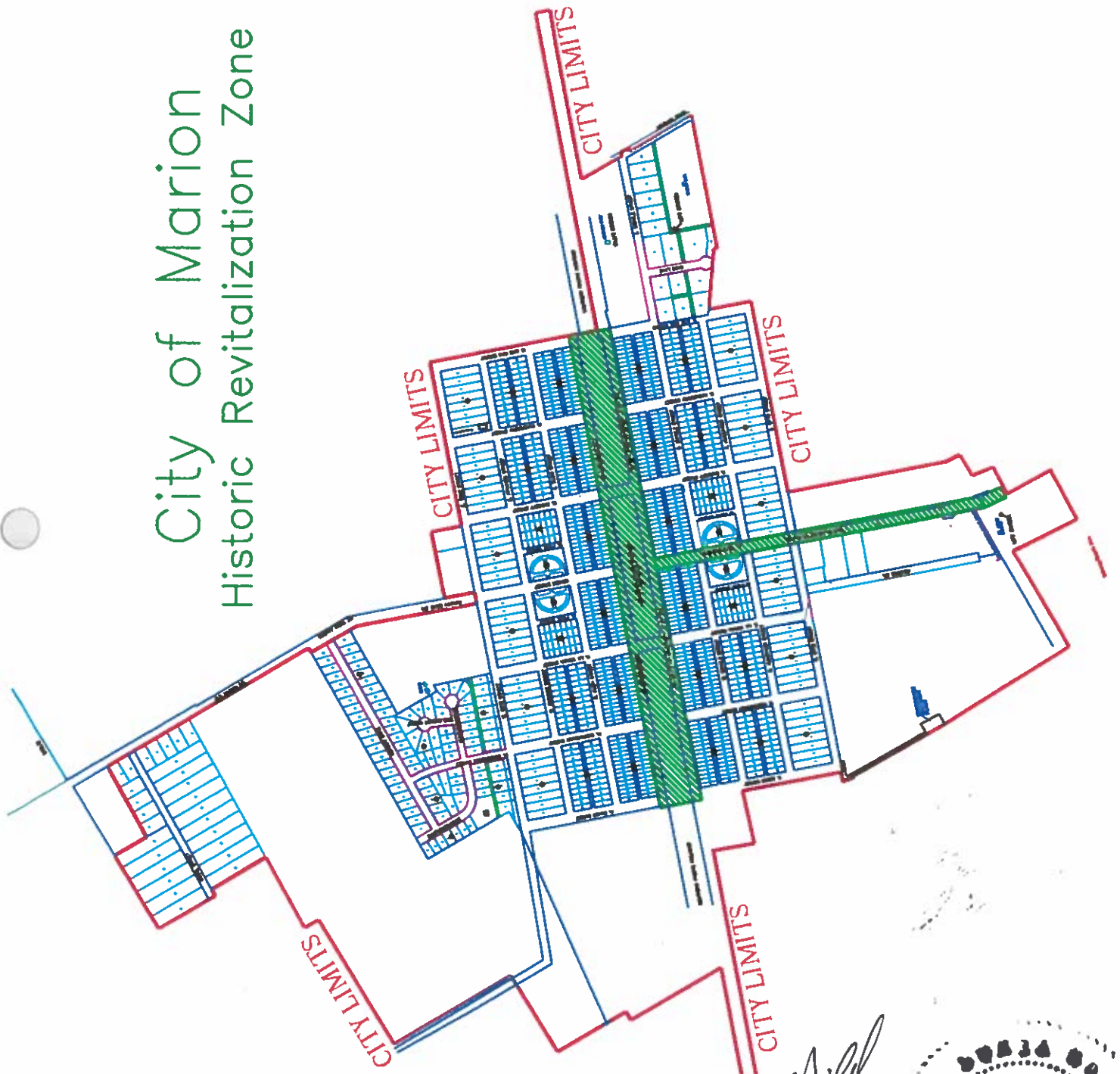
ATTEST:



Laurie Huebinger, City Secretary



City of Marion Historic Revitalization Zone



Tom A. Hill

