CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2011- 1894

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 10B, ENTITLED "REGULATIONS AND DESIGN GUIDELINES FOR ACCESSORY STRUCTURES," BY DELETING SECTION 10B IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 10B, SECTIONS 10B-100 TO 10B-1700, ENTITLED, "REGULATIONS AND DESIGN GUIDELINES FOR ACCESSORY STRUCTURES"; AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 11-701, ENTITLED "SPECIAL AREA REGULATIONS," BY DELETING SECTION 11-701, AND REPLACING IT WITH A NEW SECTION 11-701, ENTITLED 'SPECIAL AREA REGULATIONS"; AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 25-101, ENTITLED "DEFINITIONS," BY AMENDING THE DEFINITIONS FOR "ACCESSORY USE (PERMANENT)," "ACCESSORY BUILDING (RESIDENTIAL)," "CARGO CONTAINER," AND "MAIN BUILDING"; AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 29, ENTITLED "ILLUSTRATIONS," BY DELETING ILLUSTRATION NO. 3 AND REPLACING ILLUSTRATION NO. 3 WITH A NEW ILLUSTRATION NO. 3, ENTITLED "YARDS"; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS ($2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

WHEREAS, Appendix A, Section 24-101(4) of the Code of Ordinances of the City of The Colony, Texas, provides the following, "A public hearing shall be held by the governing body before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City of The Colony stating the time and place of such hearing which time shall not be earlier than fifteen (15) days from the date of publication;" and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is

of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

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

SECTION 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. That Appendix A, Section 10B, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled "Regulations and Design Guidelines for Accessory Structures," is hereby deleted in its entirety and replaced with a new Section 10B, Sections 10B-100 to 10B-1700, entitled "Regulations and Design Guidelines for Accessory Structures," which shall read as follows:

"SECTION 10B.
REGULATIONS AND DESIGN GUIDELINES FOR ACCESSORY STRUCTURES

Section 10B-100. General provisions and standards--All accessory uses.

(a) *Accessory uses included.* Accessory uses and structures are permitted in all zoning districts unless specifically prohibited in this section.

(b) *Accessory use/structure.* Accessory structures shall include, but not be limited to, fences, detached garages, storage sheds, carports, gazebos/arbors, pools, patios/patio covers, decks, recreational and play equipment, swimming pools/hot tubs, and greenhouses. See illustrations for examples of what is acceptable and unacceptable.

(c) *Applicable regulations.* An accessory use or structure is clearly incidental and secondary to an existing principal use and does not change the character of the principal use. It is located on the same parcel as the associated principal use. All accessory uses and structures shall be subject to the general, dimensional, operational, and use-specific regulations stated in this Code of Ordinances, in addition to the same regulations that apply to the principal use in each district. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this Code of Ordinances, the standards of this section shall control. Building permit review is required for accessory uses, unless specifically exempted in this Code of Ordinances.

(d) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arbor shall mean a stand-alone structure designed with lattice and used to support climbing plants.

Cargo Container means a pre-manufactured structure, of metal construction, that is delivered to a site as a fully contained unit. This shall include a container that is designed as a shipping container and used for portable storage; but shall exclude storage sheds that are assembled at the site. A cargo container, as defined herein, shall be considered a structure for purposes of the International Building Code.

Carport means a structure that is open on a minimum of two sides and designed or used to shelter not more than three vehicles and not to exceed 24 feet on its longest dimension.

Donation boxes shall be defined as an unattended booth, receptacle, or combination thereof designed with a door, slot, or other opening that is intended to accept and/or store donated items.

Gazebo. An accessory building consisting of a detached, covered freestanding, open air structure not exceeding 300 square feet.

Homemade shall mean constructed by the owner or occupant with new materials in accordance with the regulations herein.

Patio shall mean a level, landscaped, and/or surfaced area, also referred to as a terrace, directly adjacent to a principal building at or within three (3) feet of the finished grade and not covered by a permanent roof.

Patio Cover shall mean a roofed structure supported by columns, which may be attached to or detached from the principal structure, located over a patio and is open on at least three (3) sides.

Pergola shall mean an arbor or trellis treated architecturally, as with stone columns or similar massive structure.

Portable On-Demand Storage Container shall mean a transportable, fully-enclosed, box-like container that is:

(1) Designed for temporary storage of personal property household items; wares, and building materials or merchandise;

(2) Typically rented to owners or occupants of property for their temporary use; and

(3) Delivered and removed by truck.

Such containers are uniquely designed for their ease of loading to and from a transport vehicle.

(e) *General standards.* All accessory uses, structures, and activities shall meet the following standards:

(1) The accessory use or structure:

(A) Directly serves the principal use or structure and is reasonably and customarily incidental to the principal use or structure;

(B) Is subordinate in area, size, and height to the principal structure;

(C) Is located on the same lot as the principal use or structure; and

(D) Is owned or operated by the same person or entity as the principal use or structure.

(2) The principal use or structure, together with the accessory use/structure, does not violate the maximum lot coverage requirements of this Code of Ordinances.

(3) No accessory use or structure, except fences, shall be constructed or established prior to the principal use or structure.

(4) No accessory uses or structures, except fences, are permitted on a lot or tract without the existence of a primary structure.

(5) *Maximum lot coverage.* The total combined lot coverage of all primary and accessory uses, buildings and structures shall not exceed forty percent (40%) of the lot area. Lot coverage shall be defined as the percentage of the property covered by structures including the primary dwelling "footprint" and all accessory structures. All impervious surfaces shall be included in the calculation of lot coverage, except swimming pools, hot tubs, sidewalks and driveways. Projecting balconies, carports, stairways, porches, patio covers, patios and decks more than thirty (30) inches above grade are also considered when calculating lot coverage, as are roof overhangs exceeding four (4) feet.

(6) *Maximum number of accessory uses, buildings and structures.* There is no maximum number of accessory use buildings or structures permitted per lot; however installation of an accessory use shall not cause the property to exceed the maximum lot coverage. Accessory uses, buildings and structures that cause the property to exceed the maximum lot coverage are prohibited and will be denied.

(7) *Height for accessory uses buildings and structures.* The maximum height of accessory uses shall be sixteen (16) feet or the height of the principal structure, whichever is less.

(8) *Roof.* Flat roofs are prohibited on carports, patio covers, detached garages and storage buildings unless the roof of the principal dwelling is flat.

(9) *Quality workmanship.* Work must be performed in such a manner that would make the structure safe and sound in accordance with the adopted building codes.

(10) *Municipal accessory structure.* A municipal owned structure separate from the primary structure that is used for municipal operations including, but not limited to, structures to provide shade, ancillary storage, activity space, and similar uses.

Section 10B-200. Table of permitted accessory uses.

(a) *Table as guide--Table of permitted accessory uses.* Any accessory use or structure not listed in the table of permitted accessory uses will be reviewed in accordance with the standards of item (c) below.

(b) *Listed accessory uses.* Table 10B-200 lists what types of accessory uses, structures, and activities are permitted in all of the zoning districts. If a specific accessory use is permitted in a zoning district, the column underneath the zoning district will be marked with a "P." If the accessory use or structure is not permitted in a particular zoning district, the column will be left "blank." If there is a reference contained in the column entitled "additional requirements," please refer to the cited section(s) for additional standards that shall apply to the specific accessory use.

(c) *Interpretation of unlisted uses.* The Development Services Director shall evaluate potential accessory uses that are not identified in the table of permitted accessory uses on a case-by-case basis. In making the interpretation, the Development Services Director shall apply the following criteria and standards:

(1) The definition of "accessory use" stated in this Code of Ordinances and the general accessory use standards stated in this section;

(2) The purpose and intent of the subject zoning district;

(3) Any potential adverse impacts the accessory use may have on other properties in the area, compared with other accessory uses permitted in the zoning district; and

(4) The compatibility of the accessory use with other principal and accessory uses permitted in the zoning district.

(d) *Municipal accessory structure.* The provision of this section shall apply to a municipal accessory structure. Upon the submission of a detailed site plan for a municipal accessory structure as defined herein, the Development Services Director may approve the site plan, except that if strict application thereof would impair the public health, safety and welfare as determined by the Development Services Director or designee. In the event that approval is not provided by the Development Services Director, the City Council may find that placement of such structure protects the health, safety and welfare of the community and approve with or without conditions.

Section 10B-300. Standards for carports.

(a) *Permit required.* All carports require a building permit and associated fees. See Illustrations in Section 29 for acceptable and unacceptable examples.

(b) *Location.* No carport shall occupy space in the required front or side yard setback.

(c) *Setback from primary structure.* Carports may be located closer than three (3) feet to the primary structure if the accessory structure is properly permitted, is not used for storage, and does not have walls. Accessory carports may not be attached to the primary structure.

Table 10B-200

Table of Accessory Uses																	
P = Permitted Use NP = Not Permitted S = Specific Use Permit																	
Specific Accessory Use	**SF**	**MF-1**	**MF-2**	**MF-3**	**MF-4**	**MF-5**	**PD**	**O1**	**O2**	**NS**	**SC**	**GR**	**LC**	**HC**	**I**	**BP**	**See Additional Regulations**
Cargo Containers (Temporary or Long-term)	NP	NP	NP	NP	NP	NP	S	S	S	S	S	S	S	S	S	S	Section 10B-1500
Carports	P	P	P	P	P	P	P	P	P	NP	NP	NP	NP	NP	NP	NP	Section 10B-300
Detached garages accessory to residential uses	P	P	P	P	P	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-400
Municipal accessory structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Patios and decks accessory to residential uses	P	P	P	P	P	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-500
Patio covers, arbors, gazebos and pergolas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 10B-600
Portable on-demand storage container (Temporary)	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-1400
Recreational play equipment, and playhouses accessory to residential uses	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-800
Storage buildings less than 120 square feet or less than 8 feet in height accessory to residential uses	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-900
Storage buildings greater than 120 square feet or greater than 8 feet in height accessory to residential uses	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-1000
Swimming pools and hot tubs accessory to residential uses	P	P	P	P	P	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	Section 10B-1100

(d) *Setback from property lines.* Carports shall be located at least three (3) feet from any property line.

(e) *Setbacks from easements.* No carport shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into, and are granted, a license agreement to allow the easement encroachment.

(f) *Design.* Carports shall be designed to be in accordance with the adopted International Residential Code, as amended. See illustrations for acceptable and unacceptable examples.

(g) *Material.* Carports shall be constructed of wood, metal, brick, stone or other masonry material intended for the exterior of a structure.

(h) *Utilities limited.* Water and sewer lines may not be extended to a carport. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-400. Standards for detached garages accessory to residential use.

(a) *Permit required.* All detached garages require a building permit and associated fees. See Illustrations in Section 29 for acceptable and unacceptable examples.

(b) *Location.* No detached garage shall occupy space in the required front or side yard setback.

(c) *Setback from primary structure.* All detached garages must maintain a three (3) foot setback from the primary structure.

(d) *Setback from property lines.* Detached garages shall be located at least three (3) feet from any property line.

(e) *Setbacks from easements.* No detached garage shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(f) *Design.* Detached garages shall be designed in accordance with the adopted International Residential Code, as amended. The exterior walls of detached garages must be a minimum of seventy percent (70%) brick, natural stone, or EIFS (exterior insulation and finishing system) construction and be similar in style and content of the primary structure. See illustrations for acceptable and unacceptable examples.

(g) *Dwelling units prohibited.* No dwelling unit shall be located in any detached garage.

(h) *Utilities limited.* Water and sewer lines may be extended to a detached building or structure on a residential lot or parcel but must use the same meter as the primary structure. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-500. Standards for patios and decks accessory to residential use.

(a) *Permit required.* Any patio or deck accessory to a residential use that is greater than thirty (30) inches in height from ground level and/or one-hundred-twenty (120) square feet in area requires a building permit and associated fees. See illustrations for acceptable and unacceptable examples.

(b) *Location.* No patio or deck shall occupy space in the required front yard setback. Patios or decks located in the side yard setback must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(c) *Setback from primary structure.* Patios and/or decks may be closer than three (3) feet to the primary structure, if the patio or deck is properly permitted, is not used for storage, and does not have walls.

(d) *Setback from property lines.* Patios and decks shall be located at least three (3) feet from any property line.

(e) *Setbacks from easements.* No patio or deck shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(f) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprints.

(g) *Utilities limited.* Water and sewer lines may be extended to a detached building or structure on a residential lot or parcel but must use the same meter as the primary structure. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-600. Standards for detached patio covers, arbors, gazebos and pergolas.

(a) *Permit required.* All detached patio covers, arbors, gazebos and pergolas over one-hundred-twenty (120) square feet in area and/or eight (8) feet in height require a building permit and associated fees. See illustrations for acceptable and unacceptable examples.

(b) *Location.* No detached patio cover, arbor or gazebo shall occupy space in the required front yard setback. Detached patio covers, arbors or gazebos located in the side yard setback must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(c) *Setback from primary structure.* Detached patio covers, arbors and gazebos shall be located at least three (3) foot setback from the primary structure.

(d) *Setback from property lines.* Detached patio covers, arbors and gazebos shall be located at least three (3) feet from any property line.

(e) *Setbacks from easements.* No detached patio cover, arbor or gazebo shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(f) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprints.

(g) *Design.* Detached patio covers, arbors, gazebos and pergolas shall be constructed of wood, metal, vinyl or masonry material designed for use on the exterior of a structure.

(h) *Dwelling units prohibited.* No dwelling unit shall be located in any accessory structure or building.

(i) *Utilities limited.* Water and sewer lines may be extended to a detached building or structure on a residential lot or parcel but must use the same meter as the primary structure. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-700. Standards for attached patio covers.

(a) *Permit required.* All attached patio covers require a building permit and associated fees. See illustrations for acceptable and unacceptable examples.

(b) *Location.* No attached patio cover shall occupy space in the required front yard setback. Attached patio covers located in the side yard setback must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(c) Attachment to *primary structure.* Attached patio covers must be attached to the primary structure.

(d) *Setback from property lines.* Attached patio covers shall be located at least three (3) feet from any property line.

(e) *Setbacks from easements.* No attached patio cover shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(f) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any attached accessory building, structure or use shall not exceed one-half (1/2) of the principal dwelling's footprints.

(g) *Design.* Attached patio covers shall be constructed of wood, metal, vinyl or masonry material designed for use on the exterior of a structure. See attached illustrations for acceptable and unacceptable examples.

(h) *Dwelling units prohibited.* No dwelling unit shall be located in any accessory structure or building.

(i) *Utilities limited.* Water and sewer lines may be extended to an attached building or structure on a residential lot or parcel but must use the same meter as the primary structure. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-800. Standards for recreational play equipment and playhouses accessory to residential uses.

(a) *Location.* No recreational play equipment or playhouse shall occupy space in the required front yard setback. Recreational play equipment or playhouses located in the side yard setback must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(b) *Setback from property lines.* Recreational play equipment or playhouses shall be located at least three (3) feet from any property line.

(c) *Setbacks from easements.* No recreational play equipment or playhouse shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(d) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprint.

(e) *Utilities limited.* Water and sewer lines may not be extended to a detached building or structure on a residential lot or parcel. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-900. Standards for storage buildings/greenhouses less than one-hundred-twenty (120) square feet in area and/or less than eight (8) feet in height accessory to residential use.

(a) *Permit required.* All storage buildings/greenhouses less than one-hundred-twenty (120) square feet in area and/or less than eight (8) feet in height do not require a building permit. See illustrations for acceptable and unacceptable examples.

(b) *Location.* No storage building/greenhouse shall occupy space in the required front. Storage buildings less than one-hundred-twenty (120) square feet in area or less than eight (8) feet in height located in the side yard must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(c) *Setback from primary structure.* Storage buildings/greenhouses less than one-hundred-twenty (120) square feet in area and/or greater than eight (8) feet in height must maintain a three (3) foot setback from the primary structure.

(d) *Setback from property lines.* Storage buildings/greenhouses less than one-hundred-twenty (120) square feet in area or less than eight (8) feet in height may be placed on the rear or side as long as the overhang and/or eaves do not encroach any adjacent property line, and so long as no water run-off is allowed to encroach any adjacent property.

(e) *Setbacks from easements.* No storage building/greenhouse shall be located within any platted or recorded easement or over any known utility.

(f) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprint.

(g) *Dwelling units prohibited.* No dwelling unit shall be located in any accessory structure or building.

(h) *Utilities limited.* Water and sewer lines may not be extended to a detached building or structure on a residential lot or parcel. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-1000. Standards for storage buildings/greenhouses greater than one-hundred-twenty (120) square feet in area or greater than eight (8) feet in height accessory to residential use.

(a) *Permit required.* All storage buildings/greenhouses greater than one-hundred-twenty (120) square feet in area or greater than eight (8) feet in height require a building permit and associated fees. See illustrations for acceptable and unacceptable examples.

(b) *Location.* No storage building/greenhouse shall occupy space in the required front yard. Storage buildings greater than one-hundred-twenty (120) square feet in area or less than eight (8) feet in height located in the side yard must be blocked from public view by an appropriate form of solid screening. Appropriate forms of solid screening are:

(1) Living wall consisting of evergreen plant material spaced a minimum of three (3) feet on center and eight (8) feet in height at time of mature growth;

(2) Wood fence a minimum of eight (8) feet in height;

(3) Masonry wall a minimum of eight (8) feet in height.

(c) *Setback from primary structure.* Storage buildings/greenhouses one-hundred-twenty (120) square feet in area and/or greater than eight (8) feet in height must maintain a three (3) foot setback from the primary structure.

(d) *Setback from property lines.* Storage buildings/greenhouses one-hundred-twenty (120) square feet in area and/or less than eight (8) feet in height may be placed on the rear or side as long as the overhang and/or eaves do not encroach any adjacent property line, and so long as no water run-off is allowed to encroach any adjacent property.

(e) *Setbacks from easements.* No storage building/greenhouse shall be located within any platted or recorded easement or over any known utility, unless the easement grantee(s) and the property owner enter into and are granted a license agreement to allow the easement encroachment. A copy of the completed license agreement shall be submitted with the building permit application.

(f) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprint.

(g) *Design.* Storage buildings/greenhouses shall be designed to be compatible, to the maximum extent practicable, with the principal building(s).

(h) *Dwelling units prohibited.* No dwelling unit shall be located in any accessory structure or building.

(i) *Utilities limited.* Water and sewer lines may not be extended to a detached building or structure on a residential lot or parcel. Electric utilities are permitted but must use the same meter as the primary structure.

Section 10B-1100. Standards for swimming pools and hot tubs accessory to residential uses.

(a) *Permit required.* All swimming pools and hot tubs require a building permit and associated fees.

(b) *Location.* No swimming pool or hot tub shall occupy space in the required front yard setback. Location is measured from the perimeter of the excavation.

(c) *Setback from primary structure.* Swimming pools and hot tubs must maintain a three (3) foot setback from the primary structure. Setback is measured from the perimeter of the excavation.

(d) *Setback from property lines.* Swimming pools and hot tubs must maintain a three (3) foot setback from any property line. Setback is measured from the perimeter of the excavation.

(e) *Setbacks from easements.* No swimming pool or hot tub shall be located within any platted or recorded easement or over any known utility. Setback is measured from the perimeter of the excavation.

(f) *Equipment.* No equipment may be placed within the required or established front yard as defined in subsection (a) of this section, or within any easement. Equipment in relation to the pool and/or hot tub shall not be affixed to any required perimeter fencing or common fences between property owners.

(g) *Maximum building or structure size on a residential lot or parcel.* The maximum footprint of any detached building, structure or use shall not exceed one-half of the principal dwelling's footprint.

(h) *Compliance with building code.* All swimming pools and hot tubs are subject to the requirements of the applicable building code.

Section 10B-1200. Special exception procedures.

(a) *Special exception request.* In the event a proposed accessory structure does not comply with the regulations in this article, the owner of the proposed accessory structure may request a special exception before the Board of Adjustment.

(b) *Special exception process.* Upon submission of an application for a special exception, the case shall be scheduled for Development Review Committee consideration. The Development Review Committee shall consider the case and make a recommendation to the Board of Adjustment. The Board of Adjustment shall consider the case during a public hearing for which proper notification has been made. Proper notification is defined as fifteen (15) days prior to the public hearing a notice will be posed in the newspaper and written notification with response forms will be sent to property owners within 200 feet of the affected property. The Board of Adjustment shall make a determination on the requested special exception. All Board of Adjustment decisions on special exceptions are final.

(c) *Application required.* An application for a special exception, any revision of a previously approved special exception application, or any reconstruction, enlargement, extension, moving or structural alteration of an approved special exception shall be submitted in writing to the Development Review Committee, accompanied by the following:

(1) A complete application with applicable fees;

(2) A written statement describing the proposed use;

(3) A site plan of the proposed accessory use or structure showing the following:

(A) Placement of proposed and existing accessory uses or structures on the lot;

(B) Square footage of proposed and existing accessory uses or structures;

(C) Distance from proposed and existing accessory uses or structures to property lines, easements, and the primary structure on the lot; and

(D) Location of proposed screening.

(d) *Architectural plans showing the following:*

(1) Elevations of the proposed accessory use or structure if applicable;

(2) Details of proposed screening.

(e) *Consideration for special exception.* In reviewing an application of a special exception, the Board of Adjustment will take the following criteria in consideration:

(1) Development Review Committee recommendation;

(2) The impact on adjacent property owners;

(3) The existence of a hardship that is not a result of the property owner's action;

(4) The proposed location and height of the proposed accessory structure or use;

(5) The compatibility with the existing uses on the lot and surrounding uses;

(6) Provision of adequate access to the accessory use or structure, existing uses on the lot, and surrounding properties for fire and police protection; and

(7) The proposed accessory use or structure shall not interfere with public facilities.

(f) *Limitation on reconsideration of requests.* No appeal to the Board of Adjustment for a special exception shall be allowed prior to the expiration of one (1) year from a previous ruling by the Board of Adjustment on a request for special exception. A request for a special exception may be heard prior to the one (1) year expiration date if a change of circumstances exists, but such conditions shall not have any force in law to compel the Board of Adjustment, after a hearing, to grant a subsequent appeal; such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

Section 10B-1300. Standards and regulations for donation boxes.

(a) *Prohibitions; regulations.*

(1) *Residential:* No person, owner or occupant shall cause, permit, suffer or allow a donation box as defined herein or any bin, trailer, or receptacle without an attendant, on any lot, tract or property within a residential zoned district.

(2) *Nonresidential:* No person, owner or occupant shall cause, permit, suffer or allow a donation box, as defined herein, on any lot, tract or property within a nonresidential zoned district without first having obtained a permit in accordance with this section. The following information shall be required on all permits:

(A) Name, address and telephone number of the person installing, placing or maintaining the donation box;

(B) A statement to identify the zoning district, and the location by lot and block number and/or street number; and

(C) The permit shall list the date the fee was paid and the amount paid. A separate permit shall be issued for each donation box located in accordance with this section and each permit shall expire on the first anniversary date following the issuance of the permit.

(b) *Special regulations.* The building official or designated representative shall issue an annual permit for a donation box to an owner of occupant of real property located in a nonresidential zoning district upon payment of the prescribed fee and under the following conditions:

(1) Letter from property owner consenting to the location of the donation box;

(2) Maximum of one donation box per lot or contiguous lots under common ownership or occupancy;

(3) Donation box shall not be located within the designated fire lane or hinder the movement of emergency public safety vehicles and/or equipment;

(4) Donation box shall not be located within required parking spaces or within or immediately adjacent to designated handicap parking areas;

(5) Building materials and color of such donation boxes shall be compatible to the primary structure and may not include any of the following:

(A) Metal, smooth or corrugated;

(B) Fiberglass; or

(C) Cement material, except Hardi Plank.

(6) Donation boxes shall be painted or stained in natural earth-tone colors which are compatible to the main structure;

(7) Screening by a fence or other compatible screening materials is required to screen any storage located outside the donation box; and

(8) Signage shall be compatible to the wall-sign regulations contained in the Code of Ordinances. A signage schematic drawing shall be submitted and approved by the building official for each donation box.

(c) *Permit fee.* A permit fee shall be established by resolution of the City Council.

(d) It shall be the responsibility of the person installing, placing, constructing or maintaining a donation box to immediately notify the building official in writing of any changes in the names and addresses required in this article. Upon receiving written notice of the change, the building official or designee shall securely attach the written notice of the change to the copy of the permit on file in the Development Services Department.

(e) *Maintenance.* Any person having received a permit for placement of a donation box as defined herein shall maintain such structure in a good and sufficient condition.

Section 10B-1400. Standards and regulations for temporary portable on-demand storage container.

(a) A portable on-demand storage structure may be utilized as a temporary structure within the city when in compliance with the standards of this subsection. Any use of such structures within the city not in compliance with this subsection shall be unlawful.

(b) *General requirements for moving or off-premise storage purposes.* The following general requirements shall apply to all portable on-demand storage containers temporarily delivered to properties within residential zoning districts for moving or off-premise storage purposes:

(1) A no cost permit is required to be obtained from the City in order to place the temporary portable on-demand storage containers. An official permit placard, which includes the permit number and expiration date, shall be issued to the applicant who will affix the issued placard to the portable on-demand storage container(s) to be visible from the street or alley.

(2) Portable on-demand storage containers are allowed on the subject property for no longer than seven (7) continuous days from time of delivery to time of removal.

(3) A portable on-demand storage container may be utilized onsite for a period not to exceed twenty-eight (28) days in any 365 day period.

(4) Portable on-demand storage containers: shall be located in such a manner as to not impair a motor vehicle operator's view of motor vehicles, bicycles or pedestrians upon entering or exiting a right-of-way or alley.

(5) Portable on-demand storage containers shall be located in such a manner as to not obstruct the flow of pedestrian or vehicular traffic.

(6) Portable on-demand storage containers shall not be parked within the street right-of-way, alley or sidewalk area.

(7) Portable on-demand storage container must be placed on a concrete or asphalt surface of the dwelling, but no closer than five (5) feet from the front property line. Any portable storage container must also comply with the side lot setback line requirement.

(8) Portable on-demand storage containers shall not be used for retail sales or any other principal use.

(9) Two (2) portable on-demand storage containers may be located on a specific piece of property within the city at one time with each portable on-demand storage containers individually limited to the duration time period established herein.

(10) Portable on-demand storage containers placed shall not exceed eight and one half (8½) feet in height, and ten (10) feet in width, and twenty (20) feet in length.

(c) *General requirements for construction purposes.* The following general requirements shall apply to all portable on-demand storage containers temporarily delivered to properties within all zoning districts for construction purposes:

(1) A no cost permit is will be issued with the issuance of a building permit for required to be obtained from the City in order to place the temporary portable on-demand storage containers. An official permit placard, which includes the permit number and expiration date, shall be issued to the applicant who will affix the issued placard to the portable on-demand storage container(s) to be visible from the street or alley.

(2) A portable on-demand storage container used in conjunction with construction purposes are allowed on the subject property from the time of delivery to the time of removal as long as a valid building permit is in effect.

(3) A portable on-demand storage container must be removed from the property prior to the final inspection of a valid building permit or within thirty (30) days after the expiration of a valid building permit.

(4) Portable on-demand storage containers: shall be located in such a manner as to not impair a motor vehicle operator's view of motor vehicles, bicycles or pedestrians upon entering or exiting a right-of-way or alley.

(5) Portable on-demand storage containers shall be located in such a manner as to not obstruct the flow of pedestrian or vehicular traffic.

(6) Portable on-demand storage containers shall not be parked within the street right-of-way or alley.

(7) Portable on-demand storage container must be placed on a concrete or asphalt surface of the dwelling, but no closer than ten (10) feet from the front property line. Any portable storage container must also comply with the side and rear lot setback line requirements.

(8) Portable on-demand storage containers shall not be used for a construction office or any other use other than for storage.

(9) Two (2) portable on-demand storage containers may be located on a specific piece of property within the city at one time with each portable on-demand storage containers individually limited to the duration time period established herein.

(10) Portable on-demand storage containers placed shall not exceed eight and one half (8½) feet in height, and ten (10) feet in width, and twenty (20) feet in length.

(d) *Exceptions.* In the case of emergencies, such as floods, wind storms, fires, or other acts of God, and manmade disasters such as sewage back-ups, water leaks, electrical overloads and other such events that damage property, Chief Building Official or Community Image Officers may make reasonable allowance for the extension of all time periods, limits on numbers of portable on-demand storage containers, locations of containers on the property and other appropriate waivers where necessary, to assist in recovery, restoration, mitigation of further damage and reconstruction efforts.

(e) *Enforcement.* When the Chief Building Official finds a tenant, occupier of land, owner of property or registered person that is in violation of the provisions of this chapter, the Building Official may issue a "Notice of Violation" to remove the portable on-demand storage containers, and direct the person(s) not complying to remove the violating container no later than ten (10) business days from the date said notice of violation was delivered or posted on the subject property or portable on-demand storage container(s).

Section 10B-1500. Cargo Containers.

Cargo containers shall not be stored, maintained, or otherwise kept on any property within the City except as follows:

(a) *Short Term Uses.* The following short term uses of cargo containers may be permitted:

(1) Temporary storage. One (1) cargo container may be used for temporary storage in any non-residential zoning district, provided that approval of a Specific Use Permit is obtained, pursuant to Section 10-900, Specific Use Permit, of Appendix A, Zoning, of the Code of Ordinances, and the cargo container does not exceed a height of eight and one-half (8½) feet, a width of eight (8) feet, and a length of forty (40) feet. The time period for which a cargo container may be used for temporary storage under this subsection shall be established through the Specific Use Permit, but in no case shall exceed twelve (12) months in a three (3) year period. A cargo container approved pursuant to this subsection shall require approval of a building permit.

(2) Temporary Storage on City Property. For City-owned property (regardless of the underlying zoning district), one (1) or more cargo containers may be permitted for a period not to exceed twelve (12) months in the three (3) year period with the approval of the City Manager or his designee. A cargo container approved pursuant to this subsection shall not require approval of a building permit.

(b) *Long Term Uses.* The following long term [longer than one (1) year] uses of cargo containers may be obtained pursuant to Section 10-900, Specific Use Permit, of Appendix A, Zoning, of the Code of Ordinances, provided that no one cargo container exceeds a height of eight and one-half (8½) feet , a width of eight (8) feet, and a length of forty (40) feet. Additionally, each cargo container shall be painted an earth tone color that is approved by the Development Services Director and shall not contain any names, logos, or other markings painted on, or otherwise attached to, the exterior of the container. A building permit shall be obtained for the long term use of a cargo container:

(1) Long Term Storage – The use of a cargo container for long term storage may be permitted, provided the cargo container is substantially screened from view from any other private property, public right of way, or street easement, subject to the review and approval of the Development Services Director. A site plan shall be submitted with the review of a building permit for the long term use of a cargo container under this subsection.

(2) City Uses – For City owned property (regardless of the underlying zoning district), one (1) or more cargo containers for long-term storage use may be permitted with approval of the City Manager. The number of cargo containers allowed and the time period for which a cargo container may be used under this subsection shall be established by the City Manager or his designee.

(c) *Development standards.* The following development standards shall apply to all cargo containers for short-term or long-term uses:

(1) A scaled site plan drawn to show the location of all existing buildings, parking spaces, and the size and location of the proposed cargo container(s) shall be submitted. Additionally, the site plan shall show all slopes on the lot, as well as all slopes adjacent to the subject site.

(2) Cargo Containers shall be setback a minimum ten (10) feet from any property line and five (5) feet from another cargo container or other structure.

(3) Cargo Containers shall not block, obstruct, or reduce in any manner any required exits, windows, vent shafts, parking spaces, fire lanes, and/or access driveways.

(4) Cargo Containers shall not be stacked on top of each other or on any other structure.

(5) Cargo Containers shall not be used to store hazardous materials.

(6) Refuse and/or debris shall not be stored in, against, on, or under the cargo container.

(7) Cargo Containers shall not be used for human habitation.

(8) Cargo Containers shall not have any factory-built or field applied electrical, plumbing, heating, or air conditioning systems. Furthermore, the cargo container shall not be connected to a power system.

(9) Cargo containers shall be constructed of steel or aluminum with a minimum 14-gauge thickness, except for a wood floor within the metal shell. Structural plans and calculations are not required.

(10) Although a permanent foundation is not required cargo containers shall be installed on a concrete or asphaltic concrete pad and/or slab which is maintained in a level and plumb condition with a maximum differential settlement to grade of two (2) inches.

(d) *Exceptions.* In the case of emergencies, such as floods, wind storms, fires, or other acts of God, and manmade disasters such as sewage back-ups, water leaks, electrical overloads and other such events that damage property, Chief Building Official or Community Image Officers may make reasonable allowance for the extension of all time periods, limits on numbers of cargo containers, locations of cargo containers on the property and other appropriate waivers where necessary, to assist in recovery, restoration, mitigation of further damage and reconstruction efforts.

(e) *Enforcement.* When the Chief Building Official finds a tenant, occupier of land, owner of property or registered person that is in violation of the provisions of this chapter, the Building Official may issue a "Notice of Violation" to remove the cargo containers, and direct the person(s) not complying to remove the violating container no later than ten (10) business days from the date said notice of violation was delivered or posted on the subject property or cargo container(s).

Section 10B-1600. Appeals Process.

All appeals requested for this section must be filed in accordance with Section 21 of the Zoning Ordinance and Chapter 211 of the Local Government Code.

Section 10B-1700. Illustrations.

See Exhibit A of this Ordinance, which is attached hereto and incorporated herein for all purposes.

The following are examples of ACCEPTABLE Carports:

Metal

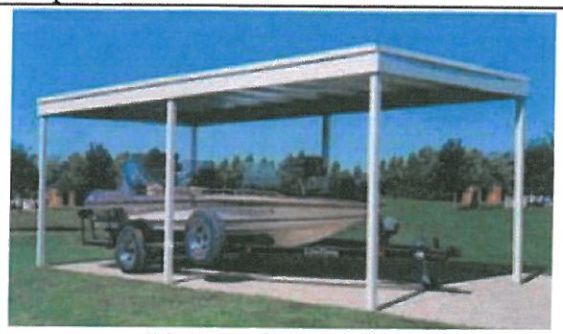
Siding

Brick/Stone/Masonry

Wood - Attached

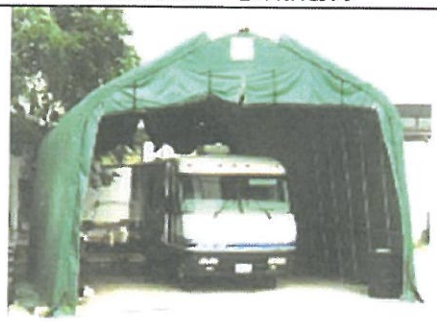
The following are examples of UNACCEPTABLE Carports:

Metal Tubing & Awning



Flat Roof - Detached

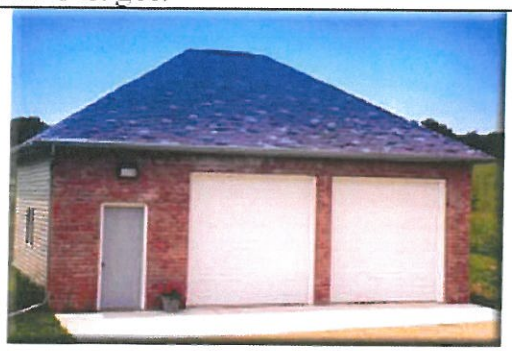
Substandard Material or Work



Portable Structures

The following are examples of ACCEPTABLE Detached Garages:

Siding



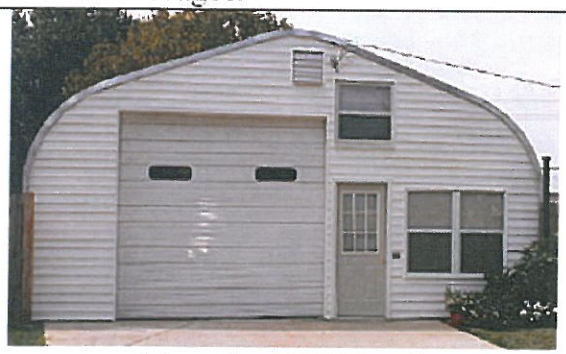
Brick

EFIS

Stone

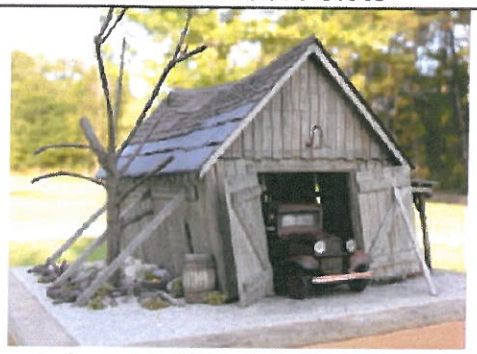
The following are examples of UNACCEPTABLE Detached Garages:

More than 30% Metal



More than 30% Steel

More than 30% Wood



Substandard Material or Work

The following are examples of ACCEPTABLE Patios/Decks:

Tile

Stone

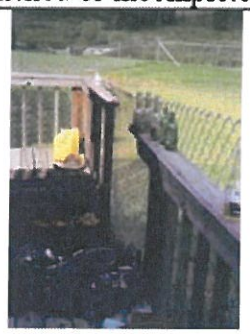
Wood

Concrete

The following are examples of UNACCEPTABLE Patios/Decks:

Unfinished or incomplete work

Substandard Material or Work

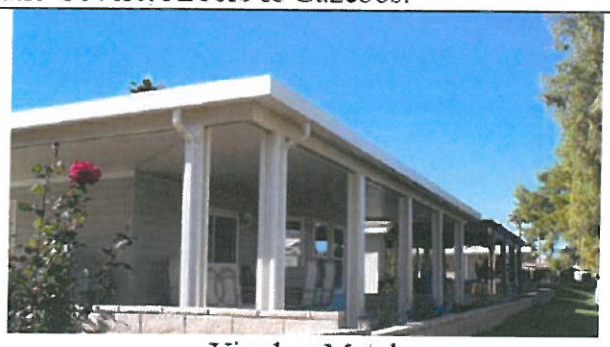


Unapproved deck/patio material

Not built according to building code

The following are examples of ACCEPTABLE Patio Covers, Arbors & Gazebos:

Fiberglass & Wood



Vinyl or Metal

Wood

Masonry

The following are examples of UNACCEPTABLE Patio Covers, Arbors & Gazebos:

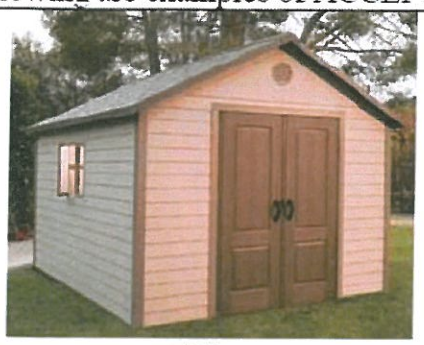
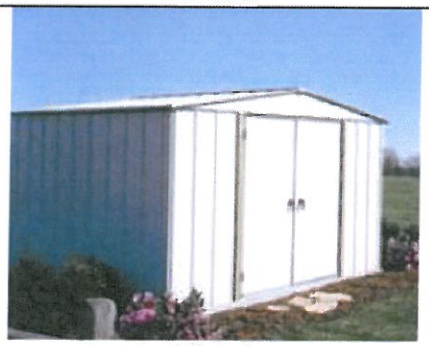
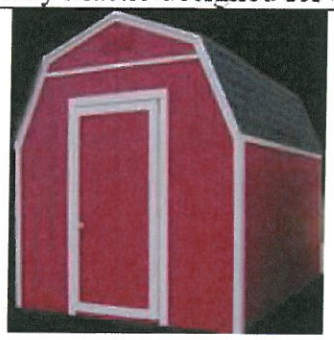
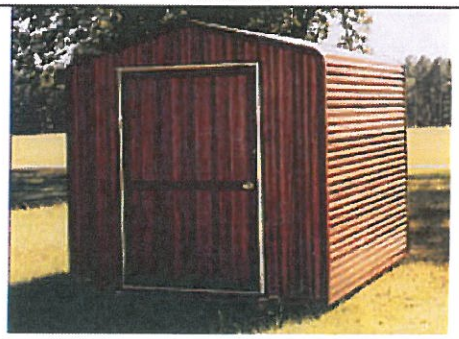
Enclosed – Exterior Walls

Substandard Material or Work

Non-Retractable Fabric/Canvas

Substandard Material or Work

The following are examples of ACCEPTABLE Storage Buildings (any size):

 Siding	Heavy Duty Plastic designed for such use
Wood	Heavy Duty Plastic designed for such use
 Metal	 Barn Style
 Aluminum	Hardy Board or Masonry Product

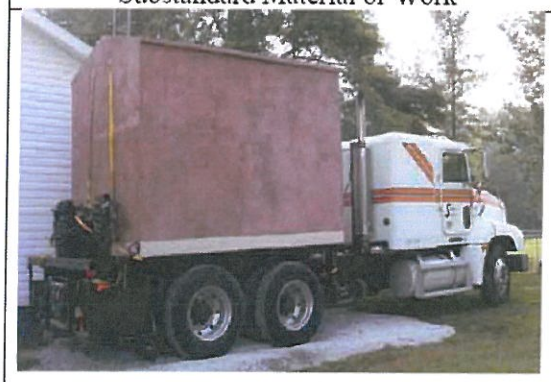
The following are examples of UNACCEPTABLE permanent Accessory Storage Buildings (any size):

Structures not designed for such use

Fabric, Canvas or Tent Style

Substandard Material or Work

Substandard Material or Work



Vehicles used for storage

SECTION 3. That Appendix A, Section 11-701, entitled "Special area regulations," is amended to read as follows:

"**11-700. Special area regulations.**

(11-701) *Court standards.* The minimum dimension and area of outer or inner courts provided in multiple-family residential buildings shall be in accordance with the following provisions:

(1) For multiple-family structures, any other court which is used for access of light or air and which has doors or windows or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court up to twenty (20) feet, but the width of any such outer court need not exceed twenty (20) feet even though the depth of the court may exceed such dimension.

(2) For multiple-family structures, any inner court which is used for access of light or air or which has doors or windows or which may be used for emergency access purposes shall have minimum dimensions in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width nor the length of the base of such inner court need exceed twenty-five (25) feet even though the height of the enclosing walls may exceed such dimension."

SECTION 4. That Appendix A, Section 25-101, entitled "Definitions," is amended to read as follows:

"25-100. Certain words in this ordinance are defined as follows:

(25-101) Words in the present tense include the future, words in the singular number include the plural number and words in the plural number include the singular number: The word "building" includes the word "structure;" the word "lot" includes the words "plot" or "tract;" the word "shall" is mandatory and not discretionary.

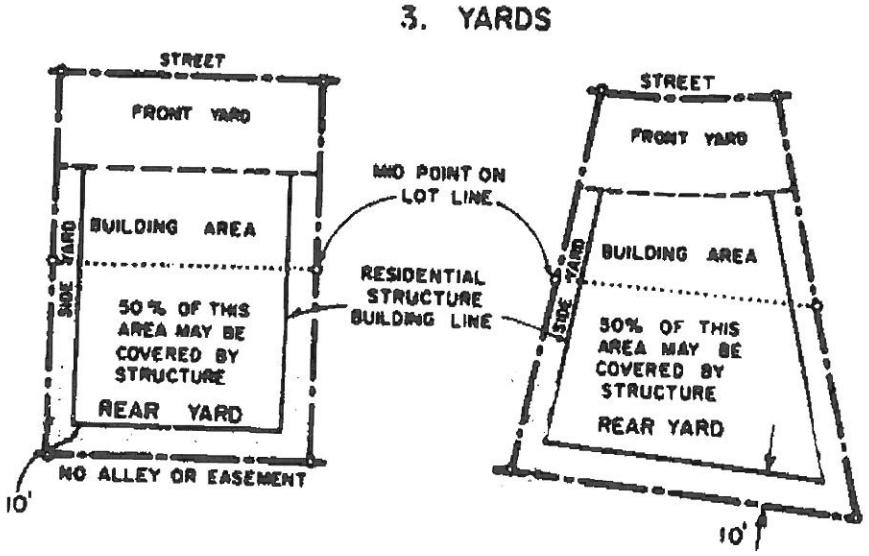
(1) *Accessory use (permanent)* means a use that is customarily incidental, appropriate and subordinate and incidental to the principal use of land or buildings and that is located upon the same lot/tract therewith.

(1-1) *Accessory building (residential)* means, in a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental and secondary to the main structure but does not change the character of the principal use and/or involve the conduct of a business. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse, home workshop, children's playhouse, storage building, garden shelter, etc.

(11-1) *Cargo Container* means a pre-manufactured structure, of metal construction, that is delivered to a site as a fully contained unit. This shall include a container that is designed as a shipping container and used for portable storage; but shall exclude storage sheds that are assembled at the site. A cargo container, as defined herein, shall be considered a structure for purposes of the International Building Code.

(31) *Main building* means the building or buildings on a lot/tract which are occupied by the primary use."

SECTION 5. That Appendix A, Section 29, entitled "Illustrations," Illustration No. 3, is amended by deleting the existing Illustration No. 3, entitled "Yards," and replacing Illustration No. 3 with a new Illustration No. 3, entitled "Yards," which shall read as follows:



SECTION 6. If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 7. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 8. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court

of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars ($2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 9. This Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 22nd day of March , 2011.

Joe McCourry, Mayor

ATTEST:

Christie Wilson, City Secretary

APPROVED AS TO FORM:

Jeff Moore, City Attorney