

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 010-007

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING APPENDIX A – ZONING THEREOF, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, BY AMENDING VARIOUS SECTIONS THEREOF TO REQUIRE A SPECIAL USE PERMIT FOR A PORTABLE SCHOOL BUILDING; AMENDING ARTICLE IV, R-1 SINGLE FAMILY DWELLING DISTRICT REGULATIONS OF APPENDIX A - ZONING TO PROVIDE THAT A SCHOOL PORTABLE BUILDING IS SUBJECT TO THE SPECIAL USE PERMIT PROVISIONS OF ARTICLE XX OF APPENDIX A – ZONING; AMENDING ARTICLE XX, SPECIAL USES, SECTION 1 TO ADD PORTABLE SCHOOL BUILDING AS BEING SUBJECT TO A SPECIAL USE PERMIT; AMENDING ARTICLE XXX, DEFINITIONS, OF APPENDIX A – ZONING BY ADDING THERETO A DEFINITION OF PORTABLE SCHOOL BUILDING AND OF SCHOOL FACILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, school districts across the State of Texas, including in and around Dallas County and the Town of Addison, Texas (the “City”), from time to time use portable school buildings adjacent to a permanent school building for education and education-related purposes; and

WHEREAS, a number of environmental related concerns have historically been associated with the use of portable school buildings, including the following as stated by the U.S. Environmental Protection Agency (“EPA”) (at <http://www.epa.gov/iaq/schooldesign/portables.html>): poorly functioning HVAC systems that provide minimal ventilation with outside air; poor acoustics from loud ventilation systems, chemical off-gassing from pressed wood and other high-emission materials; water entry and mold growth; and site pollution from nearby parking lots or loading areas; and

WHEREAS, the EPA has further found that pressed-wood products, which may contain higher concentrations of formaldehyde, are used more in factory-built portable classroom units than in buildings constructed on-site, which may result in higher levels of airborne chemicals in new portable classrooms, particularly where ventilation is reduced; and

WHEREAS, in November 2004 the California Environmental Protection Agency submitted a report to the California Legislature entitled “Environmental Health Conditions in California’s Portable Classrooms,” which found, among other things, that: excessive noise

results in ventilation systems being turned off in portable classrooms by a significantly greater percentage than in traditional classrooms; portable classrooms had more HVAC problems than traditional classrooms; a higher percentage of portable classrooms experienced temperatures below the American Society of Heating, Refrigerating, and Air-conditioning Engineers thermal comfort standards for the heating season to a greater extent than in traditional classrooms; and portable classrooms generally had higher formaldehyde levels than traditional classrooms; and

WHEREAS, in 2007 the Texas Legislature adopted Section 46.008(b) of the Texas Education Code, requiring that any portable, modular building capable of being relocated after September 1, 2007 for use as a school facility must be inspected as provided by Chapter 1202 of the Texas Occupations Code to ensure compliance with the mandatory building codes or approved designs, plans and specifications; and

WHEREAS, in 2009 the 81st Texas Legislature adopted H.B. 2763 as a cleanup bill of the provisions relating to compliance with all mandatory building codes for relocatable educational facilities (portable classrooms) when they are moved from one location to another, transferring the provisions from the Education Code to the Occupations Code, thereby repealing the provisions of Section 46.008(b) of the Education Code; and

WHEREAS, pursuant to the adoption of Section 46.008(b), the Texas Education Agency amended its rule regarding school facilities standards by, among other things, establishing special provisions for portable, modular buildings that are used as a school facility, including a requirement that such buildings be inspected by the local building authority for compliance with mandatory building codes or approved designs, plans, and specifications where a school district is located in an area that has adopted local construction codes, and pursuant to the adoption of H.B. 2763, the Texas Department of Licensing and Regulation adopted rules relating to relocatable educational facilities to, among other things, regulate site built relocatable educational facilities; and

WHEREAS, in light of the health and safety concerns regarding portable school classrooms, the City has concerns for the health and welfare of children attending school in a portable classroom, and desires to establish a process by which the installation and use of portable classrooms would be reviewed; and

WHEREAS, the City has further concerns regarding the impact of portable classrooms on traffic and the surrounding neighborhood; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending Appendix A – Zoning, the same being the comprehensive Zoning Ordinance of the City, to amend the same and to address the matters set forth herein and as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission

of the City recommended to the City Council the amendment to the said Appendix A – Zoning as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

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

Section 1. The above and foregoing premises and recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. The Code of Ordinances of the Town of Addison, Texas is hereby amended by amending Appendix A – Zoning, the same being the City’s comprehensive Zoning Ordinance, in part as follows (additions are underlined; deletions are ~~struck through~~; where asterisks (*****) are used, the same represents text that is not included herein and is not amended or modified by this Ordinance):

A. Article IV, R-1 Single-Family Dwelling District Regulations, of the said Appendix A – Zoning is amended by amending Section 1 thereof to read as follows:

Section 1. Use regulations.

In an R-1 single-family dwelling district, no land shall be used and building shall be erected for or converted to any use other than:

1. A single-family dwelling.
2. A church or school, public or denominational, having a curriculum equivalent to a public elementary, middle school, junior high, or high school, but not including a portable school building (which is subject to Article XX of this appendix).
3. Public park, playgrounds or neighborhood recreation centers owned and operated by the Town of Addison, all others by special permit only.
4. Telephone exchange, provided no public business and no repair or storage facilities are maintained, fire stations, public museums, public libraries, water supply reservoir, water pumping plant, tower or artesian well.
5. Railway right-of-way and tracks, passenger station but not including railroad yards, team tracks or storage yards.
6. Golf course, but not including miniature golf course, driving range or any forms of commercial amusement.

7. Farm, truck, garden, orchard or nursery and greenhouse for the growing of plants, shrubs and trees, provided no retail, or wholesale business is maintained on the premises.

8. Accessory buildings, including a private garage, bona fide servants quarters, not for rent but for the use of servants employed on the premises, when located not less than 60 feet from the front lot line, nor less than five feet from either side line, provided said accessory building shall not occupy more than 50 percent of the minimum required rear yard in the case of a one-story building. When the accessory building is directly attached to the main building, it shall be considered an integral part of the main building. When the accessory building is attached to the main building by a breezeway, the breezeway is considered a part of the accessory building. Temporary metal buildings of less than 600 square feet which are used for tool and supply storage shall be allowed.

9. Temporary buildings to be used for construction purposes only and which shall be removed upon completion or abandonment of construction work. Field offices for the sale of real estate which shall be removed upon request of the building inspector.

10. The uses customarily incidental to any of the above uses when situated in the same dwelling and not involving the conduct of a business, including home occupations engaged in by occupants of the dwelling, but said incidental use shall never be permitted as a principal use, rather only as a secondary use engaged in by persons of the immediate family.

11. Day nursery where not more than four children, not related by blood, are kept at one time.

B. Article XX, Special Uses, of the said Appendix A – Zoning is amended by amending Section 1 (Special uses in specified districts) thereof adding a new subsection (4) thereto to read as follows:

Section 1. Special uses in specified districts.

A. The city council may, after public hearing and proper notice to all parties affected, and, after recommendation from the planning and zoning commission containing such requirements and safeguards as are necessary to protect adjoining property, authorize by ordinance the location of any of the following in the following specified districts:

(1) Any public building to be erected or used by the town, county, state or federal government in any district.

(2) Private schools, kindergartens and nurseries teaching the same subjects as public elementary and high schools in any district, provided the building or buildings are set back from all required yard lines in the district in which they are to be located two feet for each foot of building height and provided off-street parking facilities are provided.

For schools and kindergartens, a minimum building area of 30 square feet per pupil and minimum site area of 200 square feet per pupil shall be provided, in any district.

- (3) Institutions of a religious, educational or philanthropic nature in any district.
- (4) Portable school building in the R-1, R-2 and R-3 districts. ~~*Reserved.~~
- (5) Airport or landing field or airport facilities in any district.
- (6) Day nurseries keeping more than four children in any district.
- (7) Dog kennels and veterinarian hospitals in the commercial district or on sites of five acres or more, in any district.
- (8) Reserved.
- (9) Riding academy or public stable on sites of five acres or more in any district.
- (10) Hotel and motel.
- (11) Any installation of public utility, either privately or publicly owned, fire stations, public museums, public libraries, water supply reservoir, water pumping plant, water tower, artisan wells, or sewage lift stations in any district.
- (12) Gas and electrical public utility regulating stations in any district.
- (13) Hospitals, children's homes, convalescent homes, old people's homes, maternity homes, in any district.
- (14) Homes for the insane, alcoholics, feeble-minded, and narcotics in the commercial-1 and commercial-2 district or in any district where a site of 20 acres or more is provided.
- (15) Lodges, fraternity and sorority houses, boardinghouses, roominghouses in the "A" district.
- (16) Private clubs and community buildings in an apartment district or on a site of three acres or more in any district.
- (17) Drive-in theaters in the local retail district or on sites of ten acres or more in any district.
- (18) Greenhouses and nurseries in any district.
- (18a) Lots and/or business operating the sale of Christmas trees between the dates of November 15 and December 26 in any district.

- (19) Dance halls, when located in the commercial-1 and commercial-2 district or on sites of ten acres or more in any district.
- (20) Trailer parks in the commercial-1 and commercial-2 district or on sites of 20 acres or more in any district.
- (21) Rock quarries, sand, gravel, and earth excavations in any district.
- (22) Dental and medical offices and clinics in the apartment district.
- (23) Railway right-of-way and tracks, railway passenger station but not including railroad yards, team tracks or storage yards in any district.
- (24) Golf course, but not including miniature golf course, driving range or any forms of commercial amusement in any district.
- (25) Farm, truck garden, orchard or nursery and greenhouse for the growing of plants, shrubs and trees, provided no retail or wholesale business is maintained on the premises and provided further that no poultry or livestock, other than normal household pets, shall be housed within 100 feet of any property line in any district.
- (26) Sale of alcoholic beverages for off-premises consumption only in any local retail district.
- (27) Sale of beer and wine for off-premises consumption only in any local retail district.
- (28) Sale of alcoholic beverages for on-premises consumption only in any local retail district or in any planned development district wherein the sale of alcoholic beverages for on-premises consumption is specifically allowed in the ordinance establishing such planned development.
- (29) Private clubs where alcoholic beverages may be served in any local retail district.
- (30) Restaurants without drive-in service (service to be entirely within the building); and restaurants with drive-in facilities, provided that no food or drink may be served to vehicles parked on the public street in any district.
- (31) Arcade, billiard parlor, or bowling alley, which shall be permitted only in a local retail district or in a planned development district where such use is specifically allowed in the article establishing the planned development.
- (32) Self-service storage facilities, only in commercial-1, commercial-2, industrial-1, industrial-2 and industrial-3 districts.
- (33) Gasoline service stations and/or convenience stores in any district.

- (34) Movie picture theater in any district.
- (35) Reserved.
- (36) Brewpub, to be permitted only in local retail districts and in any planned development district wherein the use is specifically allowed in the article establishing such planned development.
- (37) Retail, wholesale, or retail and wholesale businesses in excess of 50,000 square feet in floor area.
- (38) Wind energy systems in any district.

*If authorized, a special use permit for a portable school building and any ordinance authorizing the same shall be subject to review and re-consideration at least every 18 months following the date of such authorization.

C. Article XXX, Definitions, of the said Appendix A – Zoning is amended by amending Section 1 (Terms defined) thereof by adding a new subsection 90.1 and a new subsection 100.1 to read as follows:

Article XXX. Definitions

Section 1. Terms defined.

Certain words in this appendix are defined for the purpose hereof as follows:

* * * * *

90.1 *Portable school building* means an industrialized building as defined by the Texas Occupations Code, Section 1202.003, or any other manufactured or site-built building that is capable of being relocated and is used as a school facility, and including a relocatable educational facility as defined by section 1202.004, Texas Occupations Code.

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100.1 *School facility* means buildings and structures operated or used by a school, including in which students receive instruction or participate in school sponsored extracurricular activities, maintenance facilities, administrative facilities, and similar facilities not regularly utilized by students.

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Section 3. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

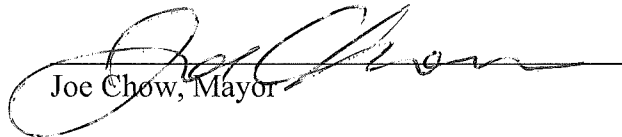
Section 4. No Other Amendment; Savings. Except for the amendment and change made herein, Appendix A - Zoning of the City's Code of Ordinances is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 5. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful 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 that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 9th day of March, 2010.


Joe Chow, Mayor

ATTEST:

By: 
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: 
John Hill, City Attorney