

SECTION 6
NONCONFORMING USES
(As amended by Ordinance No. 480-N & 480-QQ)
(As further amended by Ordinance No. 480-WW)
(As further amended by Ordinance No. 480-BBBB)

- 6.1 INTENT - Within the districts established by this ordinance or amendments thereto that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these nonconformities to continue (whether by the same or different owners or tenants) until they are removed, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere within the same district. A nonconforming use of a structure or land shall not be extended or enlarged after passage of this ordinance by the addition of uses of a nature which would be prohibited generally in the district involved.
- 6.2 EXISTING BUILDING PERMITS - To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or land development project for which a building permit was lawfully issued no more than six months prior to the date of adoption or amendment of this ordinance. Construction on a building permit issued prior to the adoption of this ordinance must be begun within six months of the adoption date and must be completed within two years of adoption as under Section 3.5, "Expiration of Building Permit." Such permit shall not be renewed or extended without all other conditions of this zoning ordinance having been met.
- 6.3 SIZE NONCONFORMITY OF LOTS OF RECORD - In any district in which single-family dwellings or commercial buildings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling or commercial building and customary accessory buildings may be erected on any single lot at the effective date of adoption or amendment of this ordinance where zoning under this ordinance is otherwise proper. This provision shall apply even though such lot fails to meet requirements for width or area, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

Nothing in the above paragraph shall apply to a mobile home previously legally permitted and used or occupied as a residential dwelling on any tract of land within the city. Permits for use and occupancy for the replacement of such mobile homes with HUD-code manufactured homes is authorized. (as amended by Ord. 480-QQ)

6.4 NONCONFORMING USES OF LAND - Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- b. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use. A nonconforming use, if changed to a more restrictive nonconforming use, may not thereafter be changed except to an equal or a more restricted use;
- c. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
- d. No additional structures shall be erected in connection with such nonconforming use of land.

6.5 NONCONFORMING STRUCTURES - Where a lawful structure exists at the effective date of this ordinance or amendment thereof that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. Such structure may not be enlarged in a way which increases its nonconformity;
- b. Such structure may not be altered in a way which increases its nonconformity;
- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

Nothing in the above paragraph shall apply to a mobile home previously legally permitted and used or occupied as a residential dwelling on any tract of land within the city. Permits for use and occupancy for the replacement of such mobile homes with HUD-code manufactured homes is authorized. (as amended by Ordinance 480-QQ)

6.6 NONCONFORMING USES OF STRUCTURES - If a lawful use of a structure exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the

district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- b. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use. A nonconforming use, if changed to a more restrictive nonconforming use, may not be thereafter changed except to an equal or to a more restricted use;
- c. Any nonconforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such structure.

6.7 REPAIRS AND MAINTENANCE - On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five percent (25%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.

If a building or portion of a building containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized City official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6.8 SPECIAL EXCEPTION USES/SPECIFIC USE PERMITS: NOT NONCONFORMING USES - Any use for which a special exception or specific use permit is granted pursuant to this ordinance shall not be deemed a nonconforming use, but shall, without further action be deemed a conforming use in such district only for the single property granted such special exception or specific use permit.

Any special exception or specific use permit heretofore granted by the Board of Adjustment or City Council which was lawfully existing at the effective date of this ordinance but which is no longer permitted under this ordinance or amendment thereof shall be considered a nonconforming use and shall be subject to all terms of this ordinance relating to nonconforming

uses, unless the zoning classification under this ordinance for the property to which the special use attaches allows that particular use. Any special exception or specific use permit which has expired or which is not in compliance with the conditions placed upon such use shall not be permitted to continue.

6.9 DISCONTINUANCE OR ABANDONMENT (Amended by Ordinance 480-BBBB)

- a. If a legal, non-conforming use is either discontinued or abandoned under the terms and conditions of this section, such use shall not be resumed and any further use shall be in conformity with the provisions of this ordinance.
- b. For the purpose of this section, "abandonment" shall be defined as intent by the owner to permanently close or cease the use, coupled with any act or statement by the owner that manifests such intent. The following conditions, events or conduct shall be presumed to constitute intent to abandon a non-conforming use:
 1. the closure or cessation of the non-conforming use for a period of one hundred twenty (120) consecutive days;
 2. the failure of the owner to repair the structure or property used to operate the non-conforming use within thirty (30) days after the chief building official or code enforcement officer has given the owner written notice that the building, structure or property is:
 - (a) in an advanced stage of dilapidation, as determined by either the zoning administrator or the chief building official;
 - (b) in violation of one or more applicable health and safety codes adopted by the City that govern the use or condition of structures designed for human occupancy, as amended, including but not limited to the applicable building, plumbing, electrical, mechanical, and life safety codes as adopted by the City; or
 - (c) otherwise unsafe for the continuation of the current use or occupancy.
- c. For the purpose of this section, "discontinuance" shall be defined as follows:
 1. When a non-conforming use has historically been operated on a continuous basis, a closure or cessation of a use for a period of one hundred eighty (180) consecutive days, irrespective of whether the owner has actual intent to abandon the use.
 2. When a non-conforming use has historically been operated only on a seasonal basis, such use shall be deemed to have been discontinued, regardless of whether the owner has actual intent to abandon the use, if either:

- (a) the structure or property upon or in which the use has been operated is closed or the non-conforming use ceases to operate for a period of one hundred eighty (180) consecutive days; or
 - (b) the structure or property upon or in which the use has been operated is closed or the non-conforming use ceases to operate in a bona-fide manner during one or more normal and customary seasons or periods of operation during which the non-conforming use has historically been operated.
- d. Upon the request of the City or any other interested complainant, including the owner of any real property located within one thousand (1,000) feet of the real property containing a legal non-conforming use or structure, the zoning administrator shall make a written determination as to whether such use has been abandoned or discontinued as provided herein.
- e. If the complainant or the owner of the nonconforming use wishes to appeal a determination of the zoning administrator as to whether the non-conforming use has been abandoned or discontinued, such person may perfect an appeal by filing a written notice of appeal with the zoning administrator and city secretary and paying the applicable fee within ten (10) business days of the zoning administrator's decision. Upon the filing of such an appeal, the board of adjustment shall, as soon as practicable, hold a public hearing on such appeal, and, following such public hearing, may reverse the decision of the zoning administrator based on a majority vote of the members present and voting. The complainant shall bear the burden of proof and persuasion to establish either that the non-conforming use has been closed or ceased for a period of one hundred twenty (120) consecutive days or that the owner of the non-conforming use has failed to repair the structure or property used to operate the non-conforming use within thirty (30) days after the chief building official or code enforcement officer has given the owner written notice as described above. The owner of the nonconforming use shall bear the burden of proof and production to establish that the owner of the nonconforming use did not have actual intent to abandon the use.

6.10 DESTRUCTION OR DAMAGE TO NONCONFORMING STRUCTURE OR USE
(Amended by Ordinance 480-BBBB)

a. Nonconforming Structures.

1. If a legal nonconforming structure is totally destroyed or partially damaged by the elements, fire, other catastrophe, or other casualty, the structure may not be repaired or reconstructed except in conformity with the provisions of this ordinance.
2. If a nonconforming structure is partially damaged by the elements, fire, other catastrophe, or other casualty, and the owner of the nonconforming structure wishes to repair or reconstruct the damaged structure, upon submission of a request for a building permit, the zoning administrator shall first determine in writing whether the cost of repair or reconstruction is less than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property. In making a determination regarding the cost of repair or reconstruction, the zoning administrator shall include all costs to make all repaired or reconstructed portions of the structure conform to all applicable health and safety codes adopted by the City that govern the use or condition of structures designed for human occupancy, as amended, including but not limited to the applicable building, plumbing, electrical, mechanical, and life safety codes as adopted by the City.
3. If the zoning administrator determines that the cost of repair or reconstruction is less than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property, and the owner of the nonconforming structure complies with all other requirements of the City Code, the owner of the nonconforming use or structure shall be entitled to a building permit permitting the owner to repair or reconstruct the damaged structure, provided that all repaired or reconstructed portions of the structure shall conform to all applicable health and safety codes adopted by the City as described above. If the zoning administrator determines that the cost of repair or reconstruction is equal to or greater than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property, the owner of the nonconforming structure shall be entitled to a building permit authorizing the owner to repair or reconstruct the damaged structure only if the proposed repairs and reconstruction completely eliminate the non-conformity; otherwise, the owner shall be required to demolish the damaged structure and bring the property into full conformity with the terms of this ordinance.

b. Nonconforming Uses.

1. If a structure used in the operation of a legal nonconforming use is totally destroyed or partially damaged by the elements, fire, other catastrophe, or other casualty, the structure may not be repaired or reconstructed and the nonconforming use may not be recommenced except in conformity with the provisions of this ordinance.
2. If a structure used in the operation of a legal nonconforming use is partially damaged by the elements, fire, other catastrophe, or other casualty, and the owner of the nonconforming use wishes to repair or reconstruct the damaged structure, upon submission of a request for a building permit, the zoning administrator shall first determine in writing whether the cost of repair or reconstruction is less than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property. In making a determination regarding the cost of repair or reconstruction, the zoning administrator shall include all costs to make all repaired or reconstructed portions of the structure conform to all applicable health and safety codes adopted by the City that govern the use or condition of structures designed for human occupancy, as amended, including but not limited to the applicable building, plumbing, electrical, mechanical, and life safety codes as adopted by the City.
3. If the zoning administrator determines that the cost of repair or reconstruction is less than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property, upon obtaining all required permits, the owner may repair or reconstruct the structure and continue the nonconforming use. If the zoning administrator determines that the cost of repair or reconstruction is equal to or greater than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property, the owner may not repair or reconstruct the structure, and shall discontinue the nonconforming use.

c. Multiple Structures used in Operation of Non-Conforming Use.

1. If an individual structure(s) used in operation of a legal non-conforming use is destroyed or damaged by the elements, fire, other catastrophe, or other causes, and the owner of the nonconforming structure wishes to repair or reconstruct the damaged structure, the zoning administrator shall first determine in writing whether the cost of repair or reconstruction is less than fifty percent (50%) of the total value of structures and improvements used to conduct the nonconforming use, exclusive of the value of the real estate, and whether the destroyed or damaged structure(s) constituted an integral part of the nonconforming use without which the nonconforming use cannot be profitably operated. In making a determination regarding the cost of repair or reconstruction, the zoning administrator shall include all costs to make all repaired or reconstructed portions

of the structure conform to all applicable health and safety codes adopted by the City that govern the use or condition of structures designed for human occupancy, as amended, including but not limited to the applicable building, plumbing, electrical, mechanical, and life safety codes as adopted by the City.

2. (a) If the zoning administrator determines that the cost of repair or reconstruction is less than fifty percent (50%) of the total value of structures and improvements used to conduct the nonconforming use, exclusive of the value of the real estate, and that the destroyed or damaged structure(s) constituted an integral part of the nonconforming use without which the nonconforming use cannot be profitably operated, and the owner of the nonconforming structure complies with all other requirements of the City Code, the owner of the nonconforming use or structure shall be entitled to a building permit permitting the owner to repair or reconstruct the damaged structure, provided that all repaired or reconstructed portions of the structure shall conform to all applicable health and safety codes adopted by the City as described above, and shall be entitled to continue to use the repaired or reconstructed structure in operation of the non-conforming use.
- (b) If the zoning administrator determines both that the cost of repair or reconstruction is equal to or greater than fifty percent (50%) of the total value of structures and improvements used to conduct the nonconforming use, exclusive of the value of the real estate, and that the destroyed or damaged structure(s) constituted an integral part of the nonconforming use without which the nonconforming use could be profitably operated, the owner may not repair or reconstruct the structure and shall discontinue the nonconforming use.
- (c) If the zoning administrator determines that the cost of repair or reconstruction is equal to or greater than fifty percent (50%) of the total value of structures and improvements used to conduct the nonconforming use, exclusive of the value of the real estate, but that the destroyed or damaged structure(s) did not constitute an integral part of the nonconforming use without which the nonconforming use could be profitably operated, the owner may not repair or reconstruct the structure but may continue the nonconforming use.
- (d) If the zoning administrator determines that the cost of repair or reconstruction is less than fifty percent (50%) of the total value of structures and improvements used to conduct the nonconforming use, exclusive of the value of the real estate, but that the destroyed or damaged structure(s) did not constitute an integral part of the nonconforming use without which the nonconforming use could be profitably operated, the owner of the nonconforming use or structure shall

be entitled to a building permit permitting the owner to repair or reconstruct the damaged structure, provided that all repaired or reconstructed portions of the structure shall conform to all applicable health and safety codes adopted by the City as described above, but shall not be entitled to continue to use the repaired or reconstructed structure in operation of the non-conforming use.

- d. **Conditions on Repair or Reconstruction.** All repaired or reconstructed portions of the structure shall conform to all applicable health and safety codes adopted by the City as described above. Notwithstanding any provision of this section to the contrary, the costs for repair or reconstruction of any damaged or destroyed structure(s) may not be included in determining the owner's investment in the non-conforming use subject to recoupment or amortization, and also shall not be included in any subsequent proceedings regarding amortization of the nonconforming use. If the zoning administrator and/or Board of Adjustment have previously permitted repair or reconstruction or a non-conforming structure or a structure used in the operation of a non-conforming use, the owner of the nonconforming use shall bear the burden of proof and production to establish that the costs of repair or reconstruction have been excluded in any subsequent proceedings regarding amortization of the nonconforming use. The zoning administrator and/or Board of Adjustment may also impose other conditions on repair or reconstruction to prevent such repair or reconstruction from unduly delaying the return of such property to a conforming use and to prevent the increase of any nonconformity of a nonconforming structure or use beyond what existed prior to the casualty, and to require that the reconstructed structure conforms in all other respects to the all requirements of the ordinances of the City. The determination of the Board of Adjustment on these issues shall be final.

- e. **Special Exception for Financial Hardship.**
 - 1. If the zoning administrator determines that the cost of repair or reconstruction is equal to or greater than fifty percent (50%) of the structure's fair market value immediately preceding the casualty, exclusive of the value of the real property, and either the owner of the nonconforming use or structure does not timely appeal that determination or the board of adjustment affirms that determination, the owner of the nonconforming use or structure may request a special exception permitting the owner of the nonconforming use or structure to repair and/or reconstruct the structure and/or continue the nonconforming use by filing a written request for special exception relating to continuance of a non-conforming use or structure with the zoning administrator and city secretary and paying the applicable fee within ten (10) business days of the date of determination of the zoning administrator, or within ten (10) business days of the date the board of adjustment affirms the determination of the zoning administrator, as may be applicable.

 - 2. Upon the filing of such a request for special exception, the board of adjustment

shall, as soon as practicable, hold a public hearing on such request and, following such public hearing, may grant the special exception and authorize repair and reconstruction if the board of adjustment determines that the financial hardship caused the owner of the nonconforming use or structure outweighs any negative impacts on the City and surrounding properties caused by the continuation of operation of the non-conforming use. When making this determination, the Board of Adjustment shall consider the property rights both of the owner of the non-conforming structure or non-conforming use and the owners of adjacent and nearby properties, the desirability for all property to conform to the regulations of this ordinance, the character of the area surrounding the non-conforming use or structure, the historic uses of the area surrounding the non-conforming use or structure, the adverse impacts, if any, of the non-conforming structure or use on the surrounding property and neighborhood, the diminishment of value, if any, of the surrounding property and neighborhood due to the continuance of the non-conforming structure or non-conforming use, and the public welfare, including any person or persons affected by the continuation of the non-conforming structure or non-conforming use.

3. The owner of the nonconforming use or structure will bear the burden of proof and persuasion on the property rights of the owner of the nonconforming use or structure, the investment of the owner in the non-conforming structure or non-conforming use, and the past and/or anticipated future profitability of the non-conforming structure or non-conforming use, and any other circumstances which support the granting of the special exception. The City will bear the burden of proof and persuasion on the property rights of the owners of adjacent and nearby properties, the desirability for all property to conform to the regulations of this ordinance, the character of the area surrounding the non-conforming use or structure, the historic uses of the area surrounding the non-conforming use or structure, the adverse impacts, if any, of the non-conforming structure or use on the surrounding property and neighborhood, the diminishment of value, if any, of the surrounding property and neighborhood due to the continuance of the non-conforming structure or non-conforming use, and the public welfare, including any person or persons affected by the continuation of the non-conforming structure or non-conforming use. The determination of the Board of Adjustment shall be final.
- f. Single family residences. Notwithstanding anything herein to the contrary, a non-conforming single family residence which is damaged or destroyed shall be permitted to be reconstructed without approval of the zoning administrator or Board of Adjustment regardless of the extent of destruction provided that the reconstruction complies with all current building codes and is commenced within six (6) months of the date of destruction. The failure of the owner to start such reconstruction within six (6) months shall forfeit the owner's right to restore or reconstruct the dwelling except in conformance with this ordinance.

- g. Appeals. If the owner of the nonconforming use or structure wishes to appeal a determination of the zoning administrator under this section, the owner may do so by filing a written notice of appeal with the zoning administrator and city secretary and paying the applicable fee within ten (10) business days of the zoning administrator's decision. Upon the filing of such an appeal, the board of adjustment shall, as soon as practicable, hold a public hearing on such appeal, and, following such public hearing, shall decide such appeal. The owner of the nonconforming use or structure shall bear the burden of proof and production at such appeal hearing to establish that the zoning administrator's determination should be reversed. The determination of the Board of Adjustment shall be final.
- h. Failure to timely commence repair or reconstruction. With regard to any request to repair or reconstruct under this section, if the owner of a nonconforming use or structure fails to begin reconstruction of the structure (when permitted to do so by the terms of this ordinance) within six (6) months of the later of the date of issuance of a building permit, the nonconforming structure or use shall be deemed to be discontinued or abandoned as provided in Section 6.9 above.
- i. Notice and Procedures for Board of Adjustment Hearing. Prior to any hearing before the Board of Adjustment under this section, the zoning administrator shall provide the owner of any nonconforming use or structure for which termination or amortization is sought with at least thirty (30) days prior written notice of the appeal hearing. Such written notice shall make specific reference to this section. At the public hearing on the issue, the owner may appear in person and/or by counsel, and the City and the owner may present any evidence, written or oral, to the Board, which each deems relevant. The Board will not be bound by formal rules of evidence. The City will be represented by the City Attorney. The Board may also retain separate legal counsel to represent and advise the Board, and the City shall pay for such counsel.

6.11 AMORTIZATION OF NONCONFORMING USES (Amended by Ordinance 480-BBBB)

- a. The Board of Adjustment may from time to time on its own motion, on the City's motion, or upon cause presented by interested persons, inquire into the existence, continuation or maintenance of any nonconforming use within the City. The Board of Adjustment may take specific action to abate, remove, limit or terminate any nonconforming use or structure under the guidelines established in this section.
- b. The Board of Adjustment may order the immediate termination of a nonconforming use or structure if the Board determines that the owner's investment in the nonconforming use or structure has been recouped through amortization over time.
- c. Alternatively, if the Board determines that the owner's investment in the nonconforming use or structure has not been recouped through amortization at the time of the hearing, the Board of Adjustment may order the termination of a nonconforming use or structure on such future date by which the Board determines the owner's investment in the

nonconforming use or structure will be recouped through amortization.

- d. In making any determination under this section, the Board of Adjustment shall first hold a public hearing. The zoning administrator shall provide the owner of any nonconforming use or structure for which termination or amortization is sought with at least thirty (30) days prior written notice of the action sought. Such written notice shall make specific reference to this section.
- e. In making any determination under this section, the Board shall consider the investment of the owner in the non-conforming structure or non-conforming use, the past and/or anticipated future profitability of the non-conforming structure or non-conforming use, the desirability for all property to conform to the regulations of this ordinance, the character of the area surrounding the non-conforming use or structure, the historic uses of the area surrounding the non-conforming use or structure, the adverse impacts, if any, of the non-conforming structure or use on the surrounding property and neighborhood, the diminishment of value, if any, of the surrounding property and neighborhood due to the continuance of the non-conforming structure or non-conforming use, the property rights both of the owner of the non-conforming structure or non-conforming use and the owners of adjacent and nearby properties, and the public welfare, including any person or persons affected by the continuation of the non-conforming structure or non-conforming use.
- f. The City will bear the burden of proof and persuasion on the desirability for all property to conform to the regulations of this ordinance, the character of the area surrounding the non-conforming use or structure, the historic uses of the area surrounding the non-conforming use or structure, the adverse impacts, if any, of the non-conforming structure or use on the surrounding property and neighborhood, the diminishment of value, if any, of the surrounding property and neighborhood due to the continuance of the non-conforming structure or non-conforming use, the property rights of the owners of adjacent and nearby properties, and the public welfare, including any person or persons affected by the continuation of the non-conforming structure or non-conforming use. The owner of the nonconforming structure or use will bear the burden of proof and persuasion on the owner's property rights, the investment of the owner in the non-conforming structure or non-conforming use, and the past and/or anticipated future profitability of the non-conforming structure or non-conforming use. The decision of the Board of Adjustment shall be final.
- g. Prior to any hearing before the Board of Adjustment under this section, the zoning administrator shall provide the owner of any nonconforming use or structure for which termination or amortization is sought with at least thirty (30) days prior written notice of the appeal hearing. Such written notice shall make specific reference to this section. At the public hearing on the issue, the owner may appear in person and/or by counsel, and the City and the owner may present any evidence, written or oral, to the Board, which each deems relevant. The Board will not be bound by formal rules of evidence. The City will be represented by the City Attorney. The Board may also retain separate legal

counsel to represent and advise the Board, and the City shall pay for such counsel.

- h. No outside storage or display that is not in conformity with this ordinance shall be allowed.