ORDINANCE NO. 82-2

AN ORDINANCE PROVIDING FOR CERTAIN AMENDMENTS TO THE DEFINITION OF VARIOUS WORDS TO THE PLANNING CODE; PROVIDING FOR A CHANGE IN THE PROCEDURE FOR REVIEW OF SPECIAL USES; PROVIDING FOR A CHANGE IN THE JURISDICTION OF THE PLANNING COMMISSION CONCERNING REVIEW OF SPECIAL USES; AND OTHER MATTERS.

WHEREAS, the present Planning Code is either inadequate or creates a hardship in certain instances for certain citizens of the City of Atkins, and,

WHEREAS, the present Planning Code does not adequately cover certain matters which should be covered in the Code.

NOW THEREFORE, be it ordained by the City Council of the City of Atkins as follows:

SECTION 1: Article 2-1 DEFINITIONS Section B. is hereby amended in part to read:

12. Child Care Center: Nursery-Child care center is any establishment which provides supplemental parental care and supervision, and/or educational instruction to six (6) or more children during the whole or any portion of the day on a regular basis for compensation.

20. Dwelling, Detached: Dwelling, detached is a building which is entirely surrounded by open space on the same lot.

31. Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which is clearly incidental and secondary to the use of the dwelling for dewlling purposes and does not change the character thereof and in connection with which there is no external display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there are no commercial vehicles operating from the residence; no more than two rooms normally considered as living space are

required; there are no advertising signs other than one non-illuminated name plate not more than four (4) square feet in area attached to the main or accessory building; and no person is employed other than a member of the immediate family residing on the premises. No equipment or process shall be used in such home occupation which created noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property line. A professional person may use his residence for infrequent consultation, emergency treatment, or performance of religious rites, but not for the general practice of his profession. A beauth shop utilizing more than one operator shall not be considered a home occuptation.

66. Structure: Anything constructed or erected on the building site for which a building permit has or should have been obtained, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, except that driveways shall not be considered structures.

SECTION 2: Article 4-1 AGRICULTURAL DISTRICT (A) Section C. is hereby amended to read:

C. Procedure for Review of Special Uses by Planning Commission. The procedure for review of special uses will be the same as outlined in Section C. Article 4-3 (Single Family Residential). The headings thereafter under Article 4-1 AGRICULTURAL DISTRICT (A) shall read:

D. Lot Area

E. Lot Width

F. Yard Requirement

G. Bulk and Height Requirement

H. Structure Coverage

I. Parking and Loading

J. Signs

K. Other Conditions.

SECTION 3: Article 4-2 FLOOD PLAIN DISTRICT (FP) E. 2., Article 4-3 SINGLE FAMILY RESIDENTIAL (R-1) C. 2., and Article 4-4 RESIDENTIAL USE DISTRICT (R-2) C. 2. shall all be amended to read:

At least seven (7) days prior to the Planning Commission meeting at which the request is to be considered, the applicant shall, by certified mail and at his own expense, notify all owners of property within 200 feet of the property on which the special use is to be located, of the proposed use to be requested and the date, time, and location of the meeting at which the request will be reviewed by the Planning Commission.

SECTION 4: Article 8-2 CHANGE IN CLASSIFICATION, Section B. 1. is hereby amended to read:

The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published at the applicant's expense in a newspaper of general circulation in the City, at least one time fifteen (15) days prior to the hearing. The petitioner shall post and maintain a notice of hearing at a conspicuous place on the property fifteen (15) days prior to said hearing, and shall, at his own expense and by certified mail, notify all property owners within 200 feet of the subject property at least seven (7) days prior to the hearing of the date, time, place, and purpose of the hearing.

SECTION 5: Article 4-4 RESIDENTIAL USE DISTRICT (R-2) Section A. is hereby amended to read:

A. Permitted Uses:

1. One family dwellings
2. Two family dwellings
3. Multi-family dwellings
4. Public or private schools offering a general education course

5. Public parks and playgrounds and other municipal recreational uses

6. Kindergartens (public or private)

7. Public utilities such as water storage, power substations, and sewer lift stations

8. Accesory structures and uses pertinent to the principal structure and use.

SECTION 6: Article 4-4 RESIDENTIAL USE DISTRICT (R-2)

Section B. Uses Permitted upon Review of the Planning Commission, is hereby amended to read:

1. Churches or other similar places of worship

2. Hospitals

3. Nursing Home

4. Mobile homes, provided that they

(a) are intended for the use of the owner or his immediate family and not classified as rental property for general occupancy. Immediate family shall be considered grandparents, father-in-law, mother-in-law, father, mother, spouse, brother, sister and children.

(b) are located on a lot meeting the size and area requirements of this section

(c) conform to the area, bulk, and setback requirements of this section

(d) are anchored and underpinned as deemed appropriate by the Planning Commission.

5. Home occupation.

SECTION 7: Article 4-3 SINGLE FAMILY RESIDENTIAL (R-1)

Section H. Dimensions 1. and 2. are hereby amended to read:

1. There shall be no minimum or maximum dimension requirements.

SECTION 8: Article 9-2 BUILDING PERMIT Section A. is hereby amended to read:

A building permit will be issued only when the applicant has been approved by the building official as meeting requirements of this Ordinance. All applications for building permits shall be accompanied by a plan in duplicate drawn to

scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected and its location on the lot, and such other information as required on the permit application as may be necessary to provide for the enforcement of this Ordinance. A record of such application and plats shall be kept by the building official and are subject to review by the Planning Commission. The Building Inspector may waive the plan requirement for minor construction.

SECTION 9: Article 4-3 SINGLE FAMILY RESIDENTIAL (R-1) Section C. 3. and Article 4-4 RESIDENTIAL USE DISTRICT (R-2) Section C. 3. shall be amended to read, so that in addition to Subsections (a), (b) and (c), there shall be a Subsection (d) to read:

(d) The proposed use is dissimilar to and not in conformity with the present use of land in surrounding areas. Surrounding areas shall not necessarily be limited to those areas within 200 feet of the property on which the special use is proposed to be located.

SECTION 10: Article 4-7 GENERAL COMMERCIAL DISTRICT (C-2) shall be amended to read:

This district is intended to provide space for retail activities and services.

A. Permitted Uses

Accessory uses that are incidental to the permitted uses and that are not detrimental to the adjacent properties or the character of the district.

Automobile Dealers.

Drive-in restaurants.

Garages and gasoline service stations subject to the following provisions:

(a) No repair work is performed out-of-doors

(b) Pumps, lubricating or other devices are located at least twenty (20) feet from any street or highway right-of-way

(c) All automobile parts, dismantled vehicles and similar articles are stored within a building;

Hospitals.

Motels and Hotels.

Office buildings and uses.

Restaurants.

Retail establishments which serve the motorist and those businesses requiring large sites.

Veterinary clinics.

B. Use Permitted Upon Review of the Planning Commission:

Residences

Mobile homes

C. Procedure for Review of Special Uses by the Planning Commission:

The procedure for review of special uses will be the same as outlined in Section C., Article 4-3 (Single Family Residential).

D. Lot Area: No requirement.

E. Yard Requirements:

1. Front yard depth: Minimum of forty (40) feet from all street property lines if off-street parking is in front of the building. Front yard may be reduced to twenty-five (25) feet if off-street parking is on the side or rear of the building.

2. Side yard width: No requirement.

3. Rear yard depth: No requirement.

F. Width:

1. Minimum width: None required.

G. Height:

1. Maximum height of a structure shall be two stories and not to exceed thirty-five (35) feet.

H. Structure Coverage:

1. On any lot the area occupied by all structures shall not exceed forty-five percent (45%) of the total area of such lots.

2. Provisions shall be made for on-lot and customer parking to handle normal anticipated demand.

I. Off-street Parking and Loading:

1. At least two square feet of parking shall be provided for each square feet of floor area.

SECTION 11: This ordinance being necessary for the public peace, health and safety, and the present Planning Code being inadequate and arbitrary in several respects, an emergency is hereby declared to exist, and this Ordinance shall be in effect from and after its passage.

THIS 16th day of AUGUST, 1982.

Jimmy L. McGee

JIMMY McGEE, Acting Mayor

Attest:

Dallas Swain

DALLAS SWAIN, City Clerk