

# Kerrville Ordinance Updates

## CRC Meeting #5

*May 9, 2019*







# Meeting Overview

- Call to Order
- Meeting Overview
- New Draft Zoning Code: Highlights
- Zoning Code Issues: Pending
- Discussion/Direction: Draft Zoning Code
- Overview: Draft Zoning Map
- Discussion/Direction: Draft Zoning Map
- Overview: Updated Sign Ordinance
- Next Steps

# New Draft Code

## Highlights



# Project Goals

- Create a user-friendly ordinance
  - Simplify/Streamline/Clarify the code
    - Number of zoning districts reduced from 49 to 17 (65% reduction)
    - Standard format for zoning district regulations for ease of use
  - Revise out-of-date standards and uses
    - Numerous new uses added and Land Use Table expanded
    - Number of uses requiring CUP reduced
    - Setback and height based on zoning district, not use classification
    - Standards for parking, drive-thru facilities updated
    - Special Use District eliminated



# Project Goals

- Create a user-friendly ordinance (continued)
  - Address inconsistencies; Minimize the need for interpretation by staff
    - Definition section greatly expanded (including definitions for basic terms and all uses)
    - Requirements added where missing
- Minimize nonconformities resulting from a new code and zoning map
  - For Residential, Commercial, Industrial, and Airport districts, existing area and height regulations maintained as much as possible or relaxed slightly in an effort to avoid creating nonconformities
  - Side and rear setback requirement eliminated unless adjacent to single-family residential zoning
  - Discussion on consultants' nonconformity analysis later in the presentation



# Project Goals

- Support the Kerrville 2050 vision (anticipates development types not accommodated by existing regulations)
  - New MU Mixed Use district created to facilitate development in certain Catalyst Areas
  - Standards revised for the Downtown district to emphasize arts and culture and supporting uses and to encourage mixed-use buildings
  - Additional residential options developed and existing regulations modified to acknowledge affordable housing challenge
  - Distance/Separation requirements added for uses involving motor vehicles/motor vehicle fuels to protect Guadalupe River as a water source
  - Overlay guidelines to be developed for Downtown and the River Corridor in the next phase of the project



# Other Changes

- AG Agriculture district added to address agricultural uses and as a temporary zoning category for newly annexed property
- Special height and setback provisions added to protect residential property adjacent to nonresidential property
- Graphics included to help illustrate basic concepts as well as design standards for drive-thru facilities, parking lot types, and new height/setback provisions
- Submittal requirements for zoning change, ZBA application revised to require only information appropriate for the early stages of the development review process



# Other Changes

- Public hearings streamlined by:
    - Allowing recess of a public hearing to a specific date at the original hearing without requiring new notification
    - Halting the review of an application where the P&Z recommends denial unless the applicant requests in writing to move forward to the City Council within 10 days of the P&Z decision
  - New requirement for a TIA when:
    - Proposed development will generate 1,000 or more net new vehicle trips per day
    - Proposed development will generate 150 or more net new vehicle trips during the AM or PM peak hour
- \* Calculation of trips generated based on accepted industry standards

# Zoning Code Issues

Pending

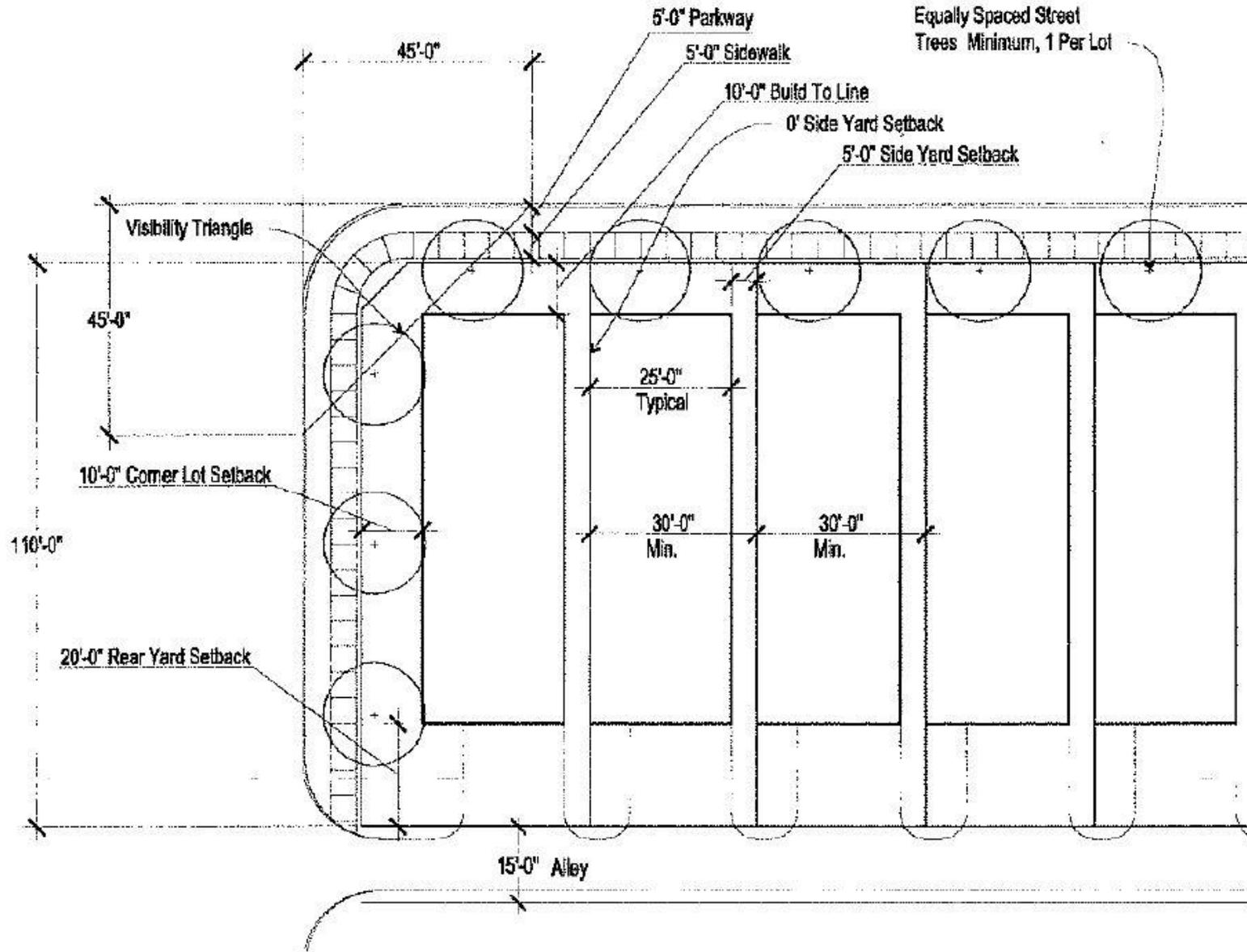


# Smaller Single-family Lot Options

- Researched examples of small lot single-family detached product being built in Texas (many cities call them detached townhomes)
- Smallest example found has the following area regulations:
  - Front yard: 10' build to line (porches and bay windows may encroach up to 4')
  - Side yard: 0' on one side and 5' minimum on other side – adjacent to side street – 10' side yard required (Overhangs of up to 24" allowed into adjacent lot on 0' side)
  - Rear yard: 20'
  - Minimum dwelling size: 1,600 sf
  - Maximum lot coverage: 65%
- This approach requires fire rated side walls due to spacing of units, and alley's due to small lot width



# Smaller Single-family Lot Layout



# Smaller Single-family Lot Layout





# Smaller Single-family Lot Examples





# Smaller Single-family Lot Examples



# Smaller Single-family Lot Examples



# Smaller Single-family Lot Examples





# Flexibility for Nonconforming Situations

- Nonconforming Lots, Structures, Uses, Site Elements
  - A nonconforming use can continue to exist/operate after adoption of the new code as long as it is not expanded or enlarged (“grandfathered in”)
    - Nonconforming structure/use cannot be enlarged or expanded
      - Cannot increase the size of the building containing a nonconforming use
      - Cannot increase the area within a building occupied by a nonconforming use
      - Cannot increase the seating capacity or parking/loading/storage area associated with the nonconforming use
      - Cannot build new structure(s) to accommodate the nonconforming use
  - Nonconforming building can be repaired to keep it safe, parking lot can be maintained, landscape materials can be replaced



# Flexibility for Nonconforming Situations

- Nonconforming Uses and Structures
  - Once a building or use becomes conforming, may not revert to nonconforming status
  - Once a use is abandoned for six months or more, no longer considered legally nonconforming (criteria: actual discontinuance of the use; no usage of water, sewer service, electricity)
  - Nonconforming use/structure can be reinstated/rebuilt if:
    - Discontinued due to fire, flood, explosion, windstorm, earthquake, war, riot, or other calamity
    - Amount of damage or destruction to the building does not exceed 50% of its fair market value (new; tested in court)
    - Reconstruction due to damage is initiated within 6 months of the event (exemptions for factors beyond the owner's control)
    - Reconstruction does not create a greater nonconformity than existed prior to the damage



# Options for nonconformities

- Encourage the applicant to rezone if there is a suitable zoning category to address the nonconformity and a spot zoning situation would not be created
- Give ZBA authority to:
  - Establish an expiration date for a nonconforming use
  - Allow reinstatement of a nonconforming use
  - Allow expansion of a nonconforming use
  - Allow reconstruction of a nonconforming structure
  - Allow expansion of a nonconforming structure
  - Determine whether rights to a nonconforming use or structure have terminated



## Options for nonconformities (continued)

- Allow an appeal to the ZBA which requires the applicant to rebut the presumption in the ordinance that a use or structure lost nonconforming status by demonstrating lack of intent to abandon or less than the percentage of destruction stated in the ordinance, such as:
  - Property actively marketed to prospective buyers and tenants
  - Work being performed under building permit
  - Estimates/Appraisals showing less than stated percentage of destruction



# Accessory Buildings

- Additional flexibility for accessory structures balancing:
  - Desire to build larger structures than the code presently allows
  - Need to maintain an acceptable amount of open space on a residential lot
- Approaches include:
  - Increasing the maximum total size for accessory buildings
    - Current limit is 528 sq. ft.; staff is seeing requests for 1,000 to 1,200 sq. ft.
  - Not specifying a maximum building size, but specifying a maximum building coverage
    - Example: Total square footage for all accessory buildings shall not exceed 50% of the rear yard area on the lot
  - Combination of the above



# Conditional Use Permits

- Goal was to reduce number of uses requiring a CUP
- Several uses formerly allowed by CUP now permitted by right
- Others still require a CUP in some or all districts

# Discussion/Direction

Draft Zoning Code

# Overview

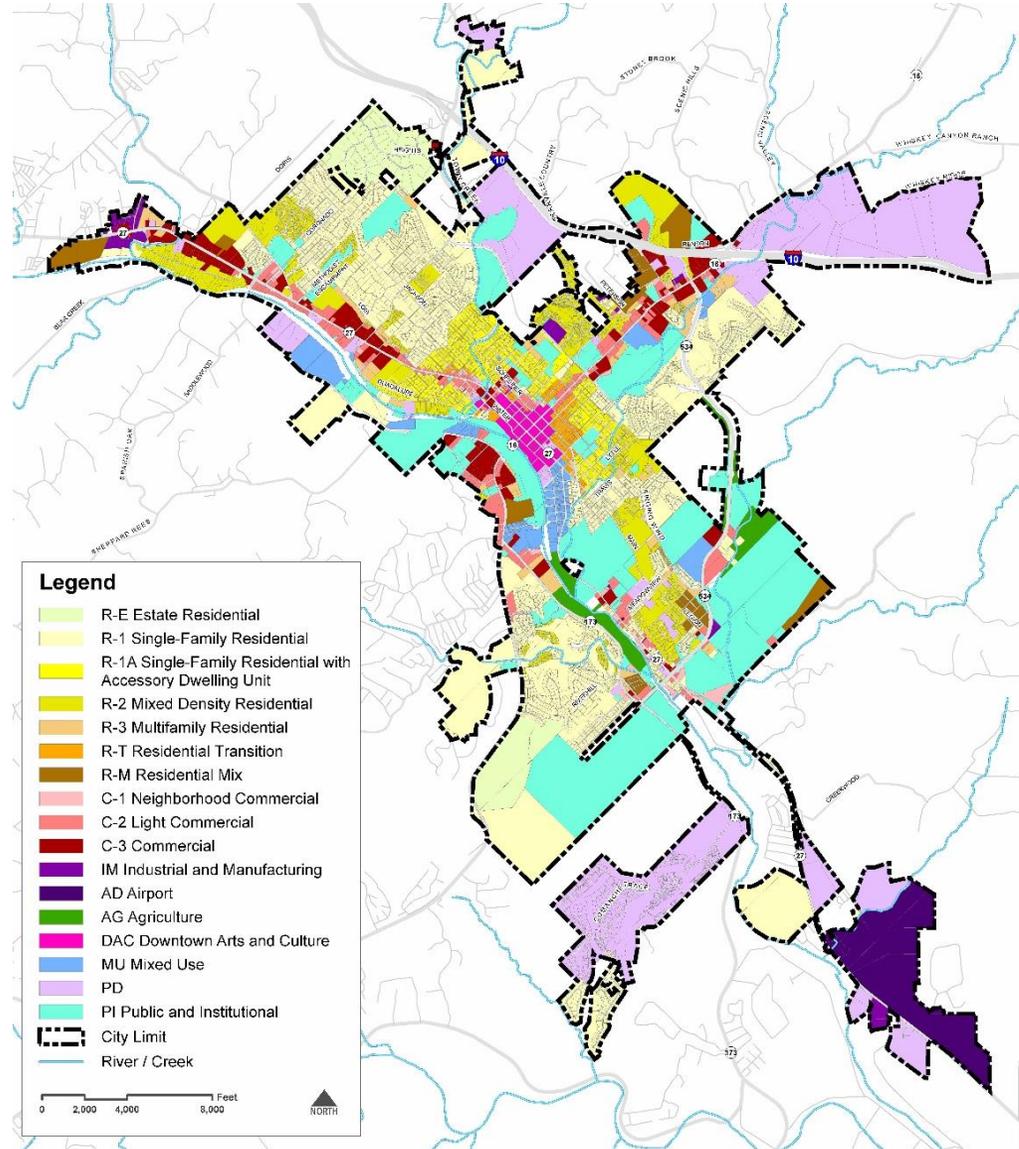
## Draft Zoning Map



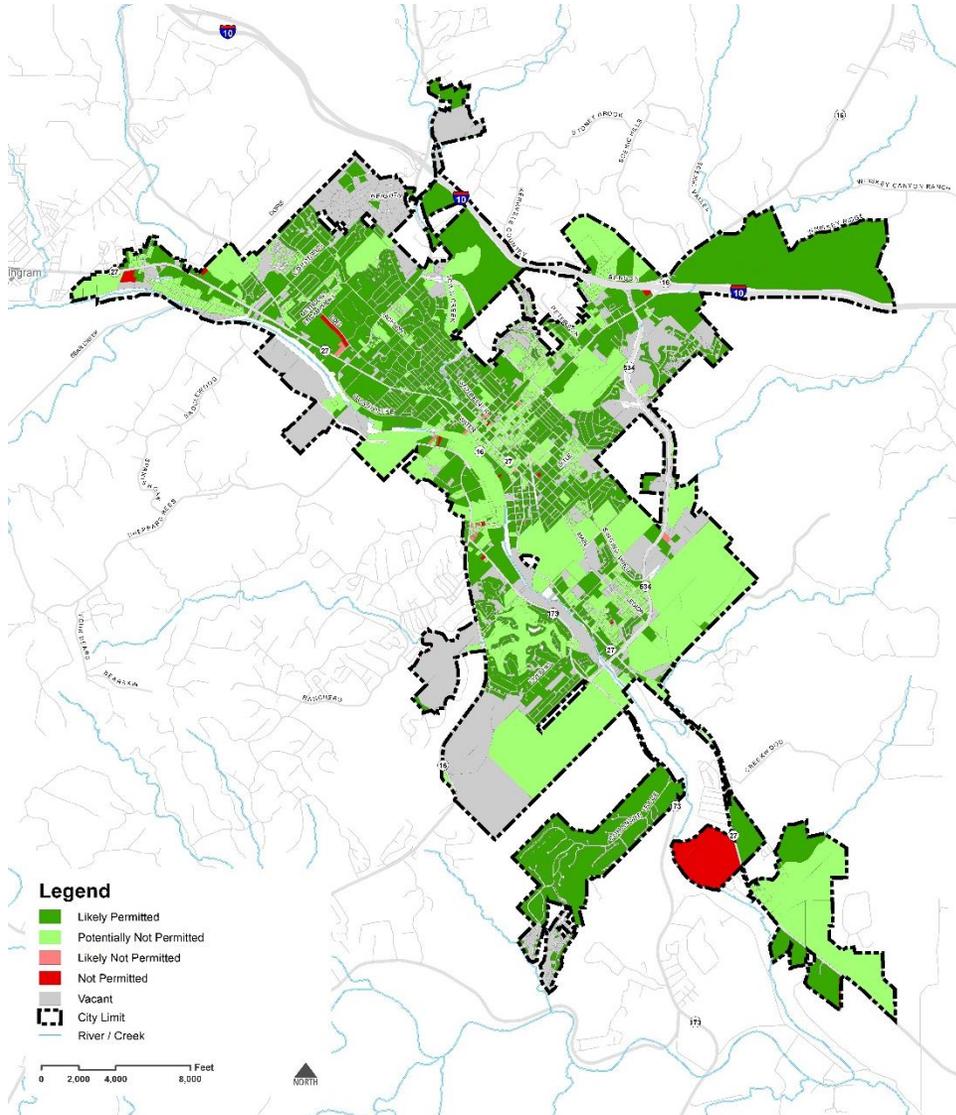
# Draft Zoning Map (Approach)

- Existing residential zoning districts were converted to the proposed residential zoning districts most in alignment with their current zoning
- Future non residential zoning districts were based on existing land use
  - This reduced the amount of existing nonconformities
  - New nonconformities that arose were primarily parcels inside of the Future Investment Areas identified by the community during the Kerrville 2050 comprehensive planning process

# Draft Zoning Map



# Draft Zoning Map–Nonconformities







# Summary - Nonconformities

- Draft Future Zoning\*
  - Not Permitted and Likely Not Permitted: 40
    - 34 (85%) within Strategic Catalyst Areas
    - 6 (15%) outside Strategic Catalyst Areas
- Existing Zoning\*
  - Not Permitted and Likely Not Permitted: 157

\*CBD and DAC parcels excluded from analysis

# Discussion/Direction

## Draft Zoning Map

# Overview

## Updated Sign Ordinance



# Sign Ordinance Background

- Fall 2011- the City began the process for a review of the 1985 Sign Code, which the Council amended at least 12 times
- Council appointed an ad hoc committee to develop new Sign Ordinance made up of interested citizens (property owners, business owners, members of the Kerrville Chamber of Commerce, representatives of businesses engaged in the construction and placement of signs, as well as a Councilmember and a member from the Planning and Zoning Commission)



# Sign Ordinance Background

- Significant issues that the committee addressed included electronic signs, flags/pennants, banners, balloons, beacons, and roof signs
- During this time, Council adopted a moratorium on the permitting of electronic signs, which included traveling lighted message signs
- In June 2012, Council adopted a new, comprehensive sign code



# Impetus for Sign Ordinance Review

- From a legal standpoint, the City needs to address issues resulting from the US Supreme Court's opinion in the Reed case
- The court generally held that if a city must read a sign to regulate, the ordinance is content based, and is thus very likely to violate the constitution
- In the Reed case, a city's sign regulations distinguished between political (electoral), ideological (non-commercial), and directional signs with different rules for time, location, and size
- This meant that the city needed to read these signs to apply regulations, meaning that the regulations violated the constitution



# Goals of Sign Ordinance Review

- Keep the City’s current Code mostly intact, with amendments to address the following goals and new sign regulation trends
- Ordinance amendments to address/conform to the Reed decision (i.e., “content neutrality” – more form-and location-based with focus upon physical characteristics such as size, height, location, how many allowed, illumination, changeability of message, materials, orientation with respect to roadways/public views, frequency and length of time allowed, movement, etc.)
- Incorporate amendments that have been adopted by the City since the Code was adopted in 2012
- Identify, and possibly incorporate, new/updated “best practices” developed and utilized by cities since the Code was adopted in 2012



# Staff Research on Electronic Signs

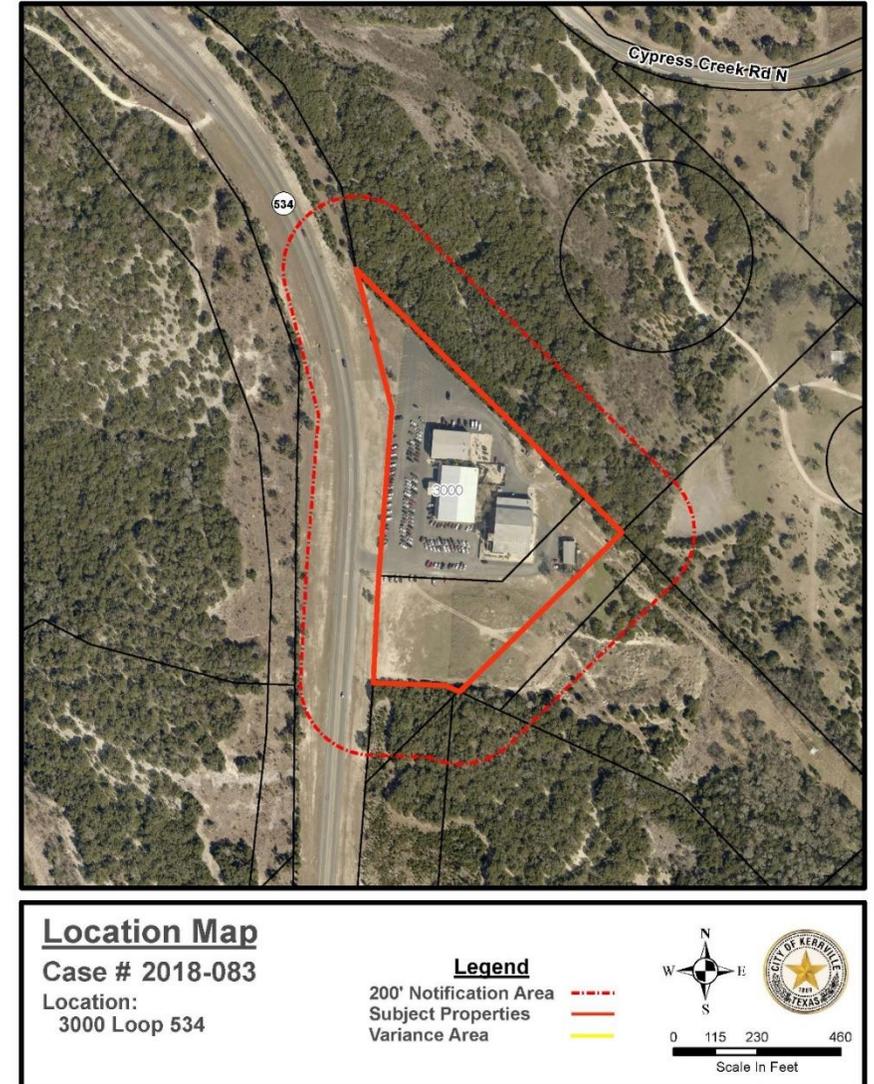
- Many cities do not limit the electronic, or digital, portion of a sign any differently from the total area allowed
- Some cities, like Kerrville, limit the electronic message centers to a specific number of square feet
- Several cities base the electronic message portion on a percentage of the overall total area of a sign
- Staff prepared the following comparison of electronic message sign requirements of Texas cities:

City	Total sign area calculation/maximum area	Limit of Electronic message center	Other Requirements
Bastrop	up to 160 sq. ft. based on frontage	25 % of total area	pole or pylon only
Boerne	16-80 sq. ft. based on zoning district	Monument: 8 sq. ft.	Changeable copy monument sign must contain the primary name of the establishment, as well as, a changeable copy feature. Changeable copy monument signs shall not be permitted in the central area or historic district.
Brownwood	no limit	Max of 100 sq. ft.	
Bryan	up to 300 depending on frontage	100% allowed	
Burnett	One and one-half square feet for each one lineal foot of street frontage, not to exceed 150 square feet.	100% allowed	
Castroville	up to 150 depending on frontage and zone	50% of total area	
Fredericksburg	80 sq. ft. maximum	Prohibited	
Helotes	84/145 sq. ft. individual/multi tenant	Prohibited	monument only
Kerrville	<b>Free Standing:100-200, Monument:32-100</b>	<b>32 sq. ft.</b>	<b>CBD Prohibited, Operating within 200 feet of a residential area must be turned off from 8:00 p.m. to 6:00 a.m.</b>
Lampasas	Monument: 60 sq. ft. Multi-tenant complex sign: 90+12 per tenant max 160 sq. ft. Pole Sign 98 or 150 depeding on roadway.	24 sq. ft. maximum	
Llano	100 sq. ft. maximum	100% allowed	shall be framed or bordered by no less than six inches of metal, rock, wood or other suitable material consistent with buildings in the vicinity of the sign

City	Total sign area calculation/maximum area	Limit of Electronic message center	Other Requirements
Lubbock	.4 sq. ft. per foot of lot frontage, max 250 sq. ft.	75% of total area	
Marble Falls	Monument: 50-200 sq. ft, Pole Sign: 1'/2'bldg front, max 100 sq. ft.	Monument: 20 sq.ft. Detached : 32 sq.ft.	
New Braunfels	max of 400 depending on Zoning District	50% per sign face	
San Angelo	1.5 sq. ft. per fot of lot front, max 250	100% allowed	allowed up to 5 signs, depending on frontage
San Marcos	Monument 80, Freestanding: 260 IH35, 160 other highways, & 120 other roads	25% of total area	25' max height for electronic portion of the sign. Prohibited within 350 of residential, multifamily, mixed use, historic, parkland, river corridor, or Central Business Area.
Seguin	100 sq. ft. maximum	32 sq. ft.	monument only
Temple	Max 300 sq. ft.	150 sq. ft. max	size, height, and setback ratio
Uvalde	200 sq. ft. max	100% allowed	
Weatherford	150 sq. ft. max per sign	100% allowed	additional signs allowed based on gross floor area
Kerrville	<b>Free Standing:100-200, Monument:32-100</b>	<b>32 sq. ft.</b>	<b>CBD Prohibited, Operating within 200 feet of a residential area must be turned off from 8:00 p.m. to 6:00 a.m.</b>
Chamber of Commerce	100 sq. ft. total allowed, 92 sq. ft.	79 sq. ft.	86% digital
Calvary Temple Church	200 sq. ft. total allowed, 189 sq. ft.	72 sq. ft.	38% digital

# Example Digital Sign Zoning Case

Two (2) variance requests in accordance with Article II – Signs of the Code of Ordinance, City of Kerrville, Texas: 1) to allow a freestanding sign to be located on nonresidential property for an establishment that has an existing monument sign; and 2) to allow an electronic sign to exceed the maximum size of 32 square feet by allowing an electronic sign that is 12 feet by 6 feet for a total of 72 square feet, for Calvary Temple Church located at 3000 Loop 534. File No. 2018-083



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# Example Digital Sign Zoning Case



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All sign projects performed by Pro-Tech require a 50% deposit for work to begin or material to be ordered. All signs and structures sold and/or installed by Pro-Tech remain 100% property of Pro-Tech until final balance is paid in full.

\*Regulated by the Texas Dept. of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711 - Tel (512)483-6500, Toll Free (in Texas) 800-805-8222 Online: <http://www.license.state.tx.us/Complaints> (Reg# 1506)

To make this quotation and order please inspect proof for color, spelling, size and shape. If everything is approved please sign below



1834 Junction Hwy, Kerrville, Texas 78728  
T: 800.866.4900 F: 210.576.0826

<b>Client:</b> Calvary Temple Church Kerrville	<b>Date:</b> 10-30-18
<b>Location:</b> Kerrville, TX	<b>Page:</b> 2 of 2
<b>Approval:</b>	<b>Name:</b> Joshua
<b>Total Cost:</b>	<b>Phone:</b> <a href="tel:8008664900">800.866.4900</a>



# Possible Sign Types to be Analyzed

- Electronic/digital signs (automatic dimmers, static message interval, etc.)
- Mobile/traveling signs (lighted and unlighted)
- Banners (temporary vs. permanent)
- Murals (“wall art” vs. advertising)
- Pennants, feather/plumes, balloons/inflatables, air-animated, other temporary promotional signs (possible adjustments, if there are concerns)
- Beacons/search lights (including laser projection)
- Signs on vacant property (where no building/business)
- Signs on utility structures (private vs. within public ROW)
- Signs on non-habitable and accessory structures
- Others?

# Discussion/Input

Updated Sign Ordinance

# Next Steps



# Next Steps

- Community Open House – Draft Zoning Ordinance/Draft Sign Ordinance
  - Thursday May 16, 2019, 5:00 PM – 7:00 PM – Dietert Center
- Code Review Committee Meeting #6
  - Thursday, June 6, 2019 (4:00 pm) – City Hall
- Planning and Zoning Commission Public Hearing– Zoning Ordinance/Sign Ordinance
  - Thursday June 20, 2019 – City Hall
- City Council Public Hearing–Zoning Ordinance/Sign Ordinance
  - Thursday June 27, 2019 – City Hall

# Adjournment

# Kerrville Ordinance Updates

## CRC Meeting #5

*May 9, 2019*

