CITY OF KERRVILLE, TEXAS
ZONING CODE

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CITY OF KERRVILLE, TEXAS

ZONING CODE

I. Art. 11-I-1. TITLE

(a) **Kerrville Zoning Code:** This Chapter shall be known and may be cited as the "City of Kerrville Zoning Code," and unless otherwise stated, the phrase "Zoning Code" or "Code" as used in this Chapter shall mean the City of Kerrville Zoning Code.

(b) **Incorporation and Effect of Appendices:** The appendices referred to and published at the end of this Chapter are incorporated herein as if fully set out in the sections which refer to them and, unless otherwise noted in the text of this Chapter, shall constitute legally enforceable regulations as if fully set forth herein

II. Art. 11-I-2. AUTHORITY

(a) The regulations within the City of Kerrville Zoning Code are authorized under the Constitution and other laws of the State of Texas, including Chapters 211 and 212 of the Texas Local Government Code and the City's home-rule authority. The provisions of this Zoning Code extend to, and are enforceable upon, all areas inside the City limits, as they may exist from time to time and as they may be adjusted through annexation or disannexation.

(b) It is the policy of the City that the standards and procedures applicable to the zoning of property within the City limits are as stated herein, regardless of any representation by any City official summarizing, paraphrasing, or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.

(c) No City official, whether an employee of the City, a contracted consultant or other representative of the City, a member of an appointed board or commission, or a member of the City Council, shall have the authority to make binding representations as to the outcome of that official's decision or the decision of an appointed board, commission, or the City Council:

(1) On any application or legislative action that has yet to be filed or is pending before the City for decision; or

(2) On the likelihood that a change in any legislative classification or a change in the text of this Zoning Code as applied to a specific tract of land will be granted or made; or

(3) That an existing legislative classification or text provision will remain in effect; or

(4) That any petition for relief will be granted.

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(d) No person is entitled to rely upon any representation made by an official in breach of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made contrary to this Subsection.

III. Art. 11-I-3. INTENT AND PURPOSE

(a) **General Intent:** The regulations set forth in this Chapter have been developed in a comprehensive manner in order to guide the planning and growth of the City of Kerrville, Texas, and to promote and protect the health, safety, and general welfare of the citizens of the City. The general intent of this ordinance is:

(1) To promote a harmonious relationship between land uses which promotes and protects the aesthetic quality of the landscape, and enhances the value of land and buildings;

(2) To specifically address those areas of the city which have scenic, historic, and tourist related values such as the Guadalupe River, the major highway entrances, and the central business district, and to encourage the development of these areas in a manner that protects their uniqueness and aesthetic values;

(3) To provide for a variety of land uses at appropriate locations within the city;

(4) To promote a safe and effective transportation system;

(5) To outline the appropriate density controls which will:

(i) Encourage proper population and structural densities

(ii) Avoid undue concentration of population;

(iii) Promote infill development; and

(iv) Discourage development patterns that create sprawl or large undeveloped tracts of land between developed areas within the City.

(6) To encourage quality urban design and creative development techniques;

(7) To provide for adequate open spaces for light, air and livability;

(8) To facilitate and coordinate the adequate provision of public utilities and community services; and

(9) To implement the policies of the Comprehensive Plan.

(b) **Unsafe Buildings:** Nothing in this Zoning Code shall be construed as prohibiting the strengthening of any part of any building or structure to a

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safe condition where such building or structure poses an immediate threat to public health or safety.

IV. Art. 11-I-4. CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PLANS AND ORDINANCES

(a) **Comprehensive Plan & Amendments:** Zoning shall be enacted in accordance with the City's adopted Comprehensive Plan, as amended and updated. Zoning regulations shall be kept current and consistent with the goals and objectives of the Comprehensive Plan.

(1) As an ongoing implementation measure following periodic review of the Comprehensive Plan, the zoning on all undeveloped or other parcels of land shall be reviewed to determine if the zoning in effect on such parcels at the time remains appropriate.

(2) If there are undeveloped or other parcels with zoning that, in the opinion of City staff, the Planning and Zoning Commission, or City Council, is inconsistent with the Comprehensive Plan, a recommendation may be made that a public hearing be called to review and possibly amend the zoning on those parcels according to proceedings specified in Article 11-I-12 of this Chapter.

(3) The Comprehensive Plan's Future Land Use Map shall not be construed as defining zoning district boundaries. A combination of the Future Land Use Map and all applicable Comprehensive Plan policies will be used as a guide in making decisions regarding zoning on individual land parcels.

(4) In determining whether a zoning application is consistent with the Comprehensive Plan, the City shall take into consideration the applicable policies in the Comprehensive Plan and the policies that govern interpretation of the Future Land Use Map, as well as location or property-specific designations on the Map.

(5) All development-related plans, policies and maps (such as, but not limited to, the Comprehensive Plan, Major Thoroughfare Plan, utility and storm drainage master plans, and other public facility master plans), as amended, adopted, or utilized by the City in the review and approval of development projects and rezoning requests shall apply to legislative, quasi-judicial, and administrative development applications, and consistency and conformance with such is required.

(b) **Applications in Conflict with the Comprehensive Plan:** An application for rezoning of a specific tract that is inconsistent with the Comprehensive Plan for that tract may be considered if it is determined that:

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(1) The application represents a new and important opportunity for the community that deserves due consideration and was not known or anticipated at the time of adoption of the plan;

(2) Decisions were made in developing the Comprehensive Plan that were based on incorrect information;

(3) New information not available during preparation of the Comprehensive Plan has arisen or been developed;

(4) Conditions upon which the Comprehensive Plan was based have changed so as to warrant consideration of the application;

(c) **Conflicts with Other Ordinances:**

(1) The Zoning Code shall be deemed to establish minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Except for ordinances creating Planned Development Districts or ordinances which repeal or make exceptions to the Zoning Code, whenever the Zoning Code imposes a greater restriction upon the use or development of buildings or land than are imposed or required by other ordinances, rules, or regulations, the provisions of the Zoning Code shall control.

(2) In no case shall any regulations set forth herein be construed as repealing or in any manner amending applicable building or fire code requirements regarding building separation, which may be more restrictive than the requirements set forth herein.

V. Art. 11-I-5. DEFINITIONS AND INTERPRETATION OF WORDS AND PHRASES

(a) **Purpose:** For purposes of this chapter, the following words and phrases shall have the following meanings unless the context otherwise clearly indicates a different meaning.

(b) **Interpretation of Words and Phrases:**

(1) Unless otherwise defined herein or the context indicates a different meaning, the words and phrases used in this Zoning Code shall have their common meaning.

(i) All words used in the present tense shall include the future.

(ii) All words expressed in the singular number include the plural number and all words expressed in the plural number include the singular number.

(iii) The word “shall” is mandatory and not discretionary.

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(iv) The words “developer”, “owner”, “person”, or “individual” shall include corporations, partnerships, associations, and groups acting together as a single entity.

(2) In the event a word or phrase used in this Zoning Code is unclear or ambiguous, any interpretation shall be made in a manner that uses reasonable judgment to apply the intent and purpose of the Zoning Code to the specific situation in question. The Commission and the Director shall have the authority, upon request of an affected person, to interpret unclear or ambiguous words and phrases, which interpretation may be appealed to the Board of Adjustment in accordance with Article 11-I-7.

(c) **<u>Terms Defined:</u>**

(1) **Accessory Building or Accessory Structure**: A subordinate building or structure not attached to the main building(s) or structure(s), the use of which is incidental and related to the main use, and which is located on the building lot, including storage buildings, satellite dish antennas, carports, and similar structures. Accessory buildings do not include guest and servant quarters, buildings with more than two plumbing fixtures connected to sanitary sewer, buildings that cover more than 50% of any rear yard, or a manufactured home, motor vehicle, trailer, or similar vehicle or structure that is used or converted for use as an accessory building.

(2) **Accessory Use**: A use that is incidental and subordinate to the Principal Use or Primary Use of the land or building(s) located thereon, and located on the same lot therewith.

(3) **Adjacent:** Sharing all, or a part of, a common lot line, property line, or zoning district line.

(4) **Agricultural Services**: A use of land primarily involving the following types of activities:

(i) The operation of establishments engaged in performing a variety of functions involving crops subsequent to their harvest with the intent of preparing them for market or further manufacture, including, but not limited to cleaning, shelling, grinding, milling, ginning, packing, curing;

(ii) The operation of establishments engaged in performing services related to the keeping and raising of livestock, including, but not limited to, livestock breeding and artificial insemination, stables, and facilities for livestock events and shows, but not including 4-H or school exhibits by individuals conducted in accordance with applicable health regulations;

(iii) “Veterinary Services, Large Animal” or “Veterinary Services, Small Animal” as defined herein;

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(iv) Kennels or animal shelters with the capacity of keeping twelve (12) or more animals at one time, with either indoor or outdoor pens as permitted herein.

(5) **Agricultural Structures**: Barns, stables, silos, water towers, farm workshops, greenhouses, and similar buildings and structures commonly used to support an agricultural use.

(6) **Agriculture, General**: A use of land primarily involving the operation of farms engaged in the production of cash grains, field crops, vegetables and melons, fruits and tree nuts, ornamental floriculture, viticulture, and the raising of livestock, but excluding large-scale commercial operations such as animal feedlots or dairy processing plants.

(7) **Airport**: An area of land operating as a public-use, civilian airport with a runway/landing field, generally for small private aircraft of any nature and not having scheduled passenger service or non-scheduled air transport for hire.

(8) **Alcoholic Beverage Sales for Off-premises Consumption**: A business selling beer, wine, and/or liquor to the general public for off-site personal or household consumption and rendering services incidental, to the sale of these goods.

(9) **Alley**: A public space or thoroughfare, not meeting the definition of a public street or roadway, and which affords a secondary means of access to the adjacent property.

(10) **Amateur Radio Antennas (ARA)**: An antenna used for transmitting and/or receiving by a licensed or unlicensed amateur radio operator, including the actual tower, support structure, and related equipment, which shall be regulated in accordance with the relevant City of Kerrville codes.

(11) **Ambulance Service, Private**: A privately-owned business that provides emergency transportation service to the public, and which may include facilities for the storage and maintenance of vehicles, office space, and sleeping quarters for on-call employees.

(12) **Ambulatory Surgical Center**: A facility *as defined* under Chapter 243 of the Texas Health and Safety Code, *as may be amended*, which operates primarily to provide surgical services to patients who do not require overnight hospital care, and which shall have appropriate licensing and/or registration by the Texas Department of Health or its successor agency, where applicable.

(13) **Amenity Center**: A facility within a residential development, which may include a playground, swimming pool, cabana/changing area, tennis or basketball court, clubhouse, or other recreational features, specifically designed and organized to be used for the enjoyment of the residents of the development and their guests, and which is not intended for use by the general public.

(14) **Amusement Center, Indoor**: A facility, the primary purpose of which is to offer, for a fee, a variety of indoor amusement activities, including bowling, video games, laser tag, paint ball, karaoke, rock climbing, trampoline play, playground area, billiards/pool, ice skating/roller skating, racquet clubs, firing ranges, and other similar games and activities, with all activities taking place entirely within a building, and which may include areas for spectators, incidental food and beverage service, and party/meeting rooms.

(15) **Amusement Center, Outdoor**: A facility and grounds, the primary purpose of which is to offer, for a fee, a variety of outdoor amusement activities, including miniature golf, go-kart racing, paint ball, rock climbing, water slide, amusement park, kayaking, paddle boating, swimming pools, tennis courts, basketball courts, and other similar outdoor activities, and which may also include accommodations for spectators, indoor amusement activities, incidental food and beverage service, and party/meeting rooms.

(16) **Antenna:** See “Wireless Telecommunications Facility”

(17) **Antique Store**: A retail establishment offering decorations, furniture, works of art, or other artifacts of an earlier period for sale, excluding the outside storage of any of these items.

(18) **Apartment**: A dwelling unit in a multifamily building, arranged, designed, occupied, or intended to be occupied as a place of residence by a single family.

(19) **Appliance Store**: A business that sells new instruments, equipment, or devices designed for a particular use or function in a home, excluding the outside storage of any of these items.

(20) **Appliance Repair/Sales, Used**: A business that specializes in the sale or repair of used appliances or devices designed for a particular use or function in a home, or the restoration of damaged, broken, or failed appliances to their original intent.

(21) **Area of Lot**: The area of a lot, expressed in terms of square feet, within the bounding property lines exclusive of dedicated streets or alleys.

(22) **Area Regulations**: Regulations which establish minimum lot area, lot width, and lot depth, as well as front, side, and rear setbacks, and which may include regulations pertaining to lot coverage and density (Floor Area Ratio or residential units per acre).

(21) **Art Studio/Gallery**: A place of business for a person specializing in the production of works of art and/or an establishment primarily engaged in the purchase, sale, loan, appraisal, display, or exhibition of original works of art or their limited editions.

(22) **Arterial Street:** A roadway which typically carries high volumes of traffic and provides cross-town connectivity between highways, surrounding

communities, and major activity centers (Primary Arterial) or provides service primarily for local trips of moderate length and enhances connectivity to the Principal Arterials (Secondary Arterial), and which is classified as a Primary Arterial or Secondary Arterial on the Kerrville Thoroughfare Plan.

(23) **Artisan's/Craftsman's Workshop**: A place of business for the on-site production and/or repair by hand of custom products for retail sale, including, but not limited to, ceramics, leather goods, candles, jewelry, woodwork, picture frames, metal works, household or office furniture, and clothing or other sewn or knitted products.

(24) **Assisted Living Facility:** An institution or establishment as defined under Chapter 247 of the Texas Health and Safety Code, as may be amended, also known as the Assisted Living Facility Licensing Act, that is licensed to provide, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and that provides personal care services including assistance with meals, dressing, movement, bathing, or other assistance with personal care, the administration of medication by qualified personnel, or the general supervision or oversight of a resident's physical and mental wellbeing, including coordination of support and care with other agencies and limited skilled nursing treatment for minor illness, injury, or emergency, and which shall have appropriate licensing and/or registration by the Texas Department of Health or its successor agency, where applicable.

(25) **Automobile**: A machine or other means of transporting people or goods from place to place, such as a passenger vehicle, van, or pick-up truck, propelled by mechanical power, excluding recreational vehicles, farm machinery, semi-trucks, construction vehicles, and other heavy-duty vehicles.

(26) **Automobile Dealership, New Auto Sales**: A business primarily engaged in the retail sale or rental of new automobiles and pick-ups, with the sale of used vehicles, the repair and service of both new and used vehicles, and the sale of parts and accessories being secondary uses only. For purposes of this definition, the phrase "new autos/automobiles" includes "program" cars and previously leased vehicles not older than two (2) model years relative to the then current model year for that vehicle.

(27) **Automobile Dealership, Used Auto Sales**: A business primarily engaged in the sale or rental of used automobiles.

(28) **Automobile Parts Stores**: A business specializing in the sale of new parts and accessories for automobiles, excluding on-site repair or repair bays.

(29) **Automobile Rental or Leasing**: A business engaged in renting or short-term leasing of automobiles for personal or business use, excluding the

rental of large vehicles such as farm equipment, recreational vehicles, semi-trucks, construction vehicles, or other heavy-duty vehicles.

(30) **Automobile Service and Repair, Major**: A business in which major service and repair functions are performed on automobiles as defined herein, to include the repair and reconditioning of engines, air conditioning systems and transmissions, and the replacement of brake parts, starters, hoses, and alternators, but excluding emergency towing and road service unless permitted as a primary use by the applicable zoning, and the activities of an “Automotive Body Shop”.

(31) **Automobile Service and Repair, Minor**: A business in which minor repair and service functions are performed on motor vehicles as defined herein, to include tire and battery sales and installation, oil/filter/lubricant changes, engine tune-ups, motor vehicle parts and accessory sales, window tinting and pin striping, the installation of stereo or alarm systems, and the performance of state inspections.

(32) **Automobile Towing/Wrecker Service**: A business that specializes in transporting automobiles from one location to another through the use of another motor vehicle, such as a tow truck, but excluding the storage or impoundment of more than 10 vehicles.

(33) **Automotive Body Shop**: A business engaged in the enhancement or repair of the frame, aesthetics, or body of an automobile, including painting, upholstery, or straightening.

(34) **Automated Teller Machine (ATM)**: A computer or other electronic machine that performs basic banking functions, such as the handling of checks or the issuing of cash withdrawals.

(35) **Bail Bonding Agency**: A business that specializes in the execution of bonds necessary for the release of persons accused of a crime.

(36) **Bank or Financial Institution**: An establishment open to the public for the deposit, custody, loan, exchange, or issue of money, the extension of credit, and/or facilitating the transmission of funds, including automated teller machines, but excluding pawnshops, check cashing businesses, payday loan businesses, and car title loan businesses.

(37) **Bar or Cocktail Lounge**: An establishment, the principal business of which is the retail sale of any type of alcoholic beverage for on-premises consumption.

(38) **Barber or Beauty Shop**: A business that specializes in hairdressing, skin and nail care, therapeutic massage, or the shaving and trimming of facial hair.

(39) **Basement**: That portion of a building which is primarily below grade.

(40) **Bed and Breakfast Inn:** A facility offering short-term lodging for compensation in up to twenty (20) rooms, and which may provide meals to those who receive lodging only.

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(41) **Block**: If used as a term for determining distance, the distance along the side of a street (a) between two consecutive intersecting streets, or (b) if the street is of a dead-end type, between the nearest intersecting street and the end of such dead end street. If used as a term for determining an area, the land area within the boundary created by the intersection of two consecutive streets immediately adjacent to the land, which land is not crossed by any other street.

(42) **Block Face**: One side of a street between two consecutive intersecting streets. (See Appendix, Figure 1)

(43) **Board of Adjustment (or Board)**: See "Zoning Board of Adjustment"

(44) **Boarding Home Facility** An institution or establishment as defined under Chapter 260 of the Texas Health and Safety Code, as may be amended, including a residence or dwelling unit, that furnishes in one or more buildings, to persons under separate rental agreements, whether oral or written, lodging to three or more persons with disabilities or elderly persons unrelated to the owner of the establishment by blood or marriage, and provides community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services as defined under Chapter 247 of the Texas Health and Safety Code, as may be amended, and is not listed as exempt in Sec. 30-12 of the Code of Ordinances, and may be subject to the requirements of Article 1, Chapter 30 of the Code of Ordinances and shall have appropriate licensing and/or registration by the Texas Department of Health or its successor agency, where applicable.

(45) **Boat (Marine) Dealership**: A business primarily engaged in the retail sale or rental of new boats and outboard motors, with the sale, repair, and service of used boats and the sale of parts and accessories being a secondary use only.

(46) **Book Store**: A business that specializes in sale or procurement of books and related items, such as music, movies, games, and may include a small area for the sale of food and beverage items as an accessory use.

(47) **Brewpub:** An establishment that holds a state brewpub license that authorizes the holder to manufacture, brew, bottle, can, package and label malt liquor, ale, and beer; sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt liquor, ale or beer produced by the holder in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; must be held with permit or license authorizing on-premise consumption. Total production cannot exceed 10,000 barrels for each licensed brewpub. Permit holders who also hold a wine and beer retailer's permit and who sell alcoholic beverages manufactured only on the brewpub's premises may sell malt liquor or ale produced under the license to retailers and private clubs and beer to

distributors, retailers, and private clubs or to qualified persons for shipment and consumption outside the state.

(48) **Building**: Any structure, permanently located or affixed to the ground, including structures wholly or partly enclosed with an exterior wall, which are designed, built, or intended for the shelter or enclosure of people, animals, chattels, or movable property of any kind, or for an accessory use. When separated by a four (4) hour fire wall, each portion of a structure so separated shall be deemed a separate building.

(49) **Building Contractor, General:** A use of land by an establishment using in its operations an area of five (5) acres or less, for the same purposes as a "Building Contractor, Trade Specialist", but also including:

(i) Offices and yards for contractors and builders primarily engaged in the construction of residential, farm, industrial, commercial, or other buildings;

(ii) Offices and yards for contractors primarily engaged in road, utility, or similar construction activities which have storage and/or prefabrication yards;

(iii) General building contractors who combine a special trade with their operations as described herein under "Building Contractor, Trade Specialist".

(50) **Building Contractor, Maintenance and Repair**: A business that specializes in providing services such as exterminating, lawn care, painting, plumbing, the repair of electrical, heating, air conditioning or irrigation systems, renovation/remodeling services, or janitorial and building cleaning, to existing residential and commercial buildings and properties rather than engaging in new construction, or which provides property maintenance services such as landscaping and lawn mowing, septic tank maintenance, swimming pool cleaning and maintenance, or similar uses.

(51) **Building Contractor, Temporary Field Office**: A temporary structure, usually a trailer, for which a permit is required, and which serves as the on-site administrative headquarters or offices for a development project, providing shelter for employees and possibly housing for equipment, and which shall be permitted only while construction is underway.

(52) **Building Contractor, Trade Specialist**: The use of land by an establishment for the office or shop of an operation primarily involving special trade contracting work in construction and property maintenance, including, but not limited to, plumbing, electrical, painting, plastering, carpentry, heating/air conditioning, custom rock masonry (excluding rock quarrying and stockpiling), welding, fencing, overhead doors, excluding establishments that include the additional operations described above under "Building Contractor, General" and those requiring an outdoor storage yard.

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(53) **Building Contractor's Storage Yard**: A use of land primarily serving as storage for materials, equipment, and vehicles for transport at a later date to another location for the purposes of maintenance, repair, installation, or construction by a contractor.

(54) **Building Height**: See "Height"

(55) **Building Permit**: A permit issued by the Building Official for the City authorizing the erection, construction, reconstruction, alteration, of a building or portion thereof, which certifies and acknowledges that such activities or uses with respect to the building or structure complies with the provisions of the City's building codes, Zoning Code, or an authorized variance therefrom.

(56) **Building Wall**: See "Wall, Exterior"

(57) **Cabinetmaking Shop**: A business engaged in the on-site production or repair by hand of custom cabinets.

(58) **Car Title Loan Business**: An establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral, where the title to the vehicle is owned free and clear by the borrower and any existing liens on the car or vehicle cancel the application, and which loans are typically made for short periods of time, such as 30 days, and failure to repay the loan or make interest payments to extend it allows the lender to take possession of the car or vehicle.

(59) **Car Wash**: A facility with special equipment used to clean the exterior and, in some cases, the interior, of motor vehicles, and which may employ persons to perform these functions (full-service) or may make the facilities and equipment available so that the driver of the vehicle performs the work (self-service).

(60) **Caretaker's Residence**: A residence, located on property with a main residential or nonresidential structure, occupied by a caretaker, security guard, or other similarly employed person.

(61) **Carport**: A structure, completely open to the free flow of air from floor to roof on at least two sides, which may be attached to or detached from the main building, designed primarily for the parking and storage of vehicles.

(62) **Cemetery**: Land used or intended to be used for the interment of the dead and dedicated for cemetery purposes, and which may include a columbarium, crematorium, mausoleum, and/or mortuary when operated in conjunction with and within the boundary of such cemetery.

(63) **Certificate of Occupancy**: A document issued by the Building Official for the City certifying that a newly constructed structure, addition to an existing structure, or an existing structure undergoing a change in use complies with the provisions of the City's building codes, Zoning Code, or an authorized variance therefrom, and that the building or structure is habitable.

(64) **Check Cashing Business**: An establishment that provides to a customer an amount of money equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, and where the business of cashing checks, warrants, drafts, money orders, or similar commercial paper is a primary function of the business. A retail establishment such as a "Grocery Store" that cashes checks or money orders, or issues money orders or money transfers, for a minimum flat fee as a service that is incidental to its main purpose or business is excluded from this definition. Also excluded is any state or federally chartered bank, savings and loan association, credit union, pawnshop, or grocery store.

(65) **Church, Temple, Mosque, or Place of Worship**: Any structure used principally for regular assembly for religious worship and those uses or activities which are customarily associated with the worship facility, such as a rectory/parsonage or living quarters for the principal religious leader at the facility, social centers, fellowship halls, classrooms for religious instruction, and including schools, day care, and other uses affiliated with the place of worship, provided they are on the same lot as the main sanctuary.

(66) **City Council:** The City Council of the City of Kerrville, Texas, also referred to herein as the "Council".

(67) **Civic, Fraternal, Philanthropic, Charitable, or Nonprofit Organization**: An organization whose existence is oriented around achievement or furthering of a particular social cause rather than the maximization of profit for shareholders, owners, members, employees, or other private actors and/or one that engages in civic, social, or community service, or fraternal activities for educational or charitable purposes and which may have a restricted membership.

(68) **Clothing and Apparel Store**: A business that specializes in the making or sale of clothes, shoes, or other items of clothing.

(69) **Collector Street**: A roadway that distributes traffic from the local streets to the arterial network and which is classified as a Collector on the Kerrville Thoroughfare Plan.

(70) **College or University**: A tertiary educational institution that is recognized by the state as such and accredited by either the Southern Association of Colleges and Schools or a national accrediting body recognized by the U.S. Department of Education.

(71) **Commission**: See "Planning and Zoning Commission"

(72) **Community Garden**: A use of land, which may be publicly or privately owned, on which individual or shared plots containing a garden or gardens

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are attended to, nurtured, and supported collectively by a group of participants who share in the maintenance and products of the garden.

(73) **Community Homes for Persons with Disabilities**: A community home for persons with disabilities as defined under Chapter 123 of the Texas Human Resources Code having the appropriate licensing and/or registration by the State of Texas and meeting all licensing and other applicable requirements.

(74) **Concept Plan**: A scaled drawing of a tract of land indicating the preliminary layout of proposed uses, proposed structures, parking, utilities, and, if applicable, project phasing.

(75) **Concrete/Asphalt Batch Plant**: A permanent facility or structure that primarily manufactures or produces concrete or asphalt.

(76) **Condominium**: A dwelling unit in a multifamily building, arranged, designed, occupied, or intended to be occupied as a place of residence by a single family, and which is individually owned and where land and common property are owned jointly with the owners of other units and where the expenses for upkeep on the common-property are shared by all the owners.

(77) **Construction, New**: Any construction of a building (whether it is the main building or an accessory building), parking area, or other structure that is either:

(i) Located on a vacant tract; or

(ii) An addition to an existing building, parking area, or other structure which increases the gross area of the facility as it existed on DATE OF ADOPTION or changes the footprint or area of the lot occupied by the building, parking or other structure.

(78) **Convenience Store**: A retail establishment, smaller in size than a "Grocery Store", engaged in the selling of a limited selection of food, beverages, tobacco, personal items, and which may include the retail sale of gasoline or other fuels at fuel pumps as permitted herein.

(79) **Corner Lot**: A lot situated at the intersection of two streets and having street frontage along both the front and the side of the lot. (See Appendix, Figure 2)

(80) **Council:** See "City Council"

(81) **Country Club**: Land and buildings that may include a golf course, clubhouse, restaurant, swimming pool, tennis courts, pro shop, and similar recreational activities or services available only to members and their guests.

(82) **Dance Hall or Event Center**: A venue, facility, or business primarily involving a large, open room suitable for holding events such as meetings, conferences, weddings, and large dances.

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(83) **Day Care Services, Adult**: The use of land and the building(s) thereon, or a portion thereof, providing care, supervision, and guidance to unaccompanied older adults for a period of less than twenty-four (24) hours per day, and which typically includes the offering of social activities, meals, and recreation.

(84) **Day Care Services, Children**: The use of land and the building(s) thereon, or a portion thereof, to provide care, training, and supervision for seven (7) or more children for less than 24 hours per day, including, but not limited to nursery schools, preschools, and similar uses, but not including overnight lodging, or elementary or secondary education.

(85) **Department or General Merchandise Store**: A retail business that specializes in the sale of a wide variety of goods, excluding a "Grocery Store", especially those with separate sections for different categories of merchandise.

(86) **Design Guidelines**: A set of recommendations intended to provide guidance to property owners, developers, and their design professionals as to how to implement suggested design principles, sometimes within a specific geographical area, without mandating specific standards or requirements. (See also "Overlay District Design Guidelines")

(87) **Detention Facility**: The use of land for the incarceration of people arrested pursuant to law as a result of a charge of a criminal offense being levied, or the institutionalization within a secure area of people who, if not confined, may pose a danger to themselves or others.

(88) **Development Activity**: A change to improved or unimproved property that requires a permit or approval, which includes the construction or alteration of buildings or structures, grading or filling, the deposit of fill, or building materials, and the clearing of natural vegetative cover. Routine repair and maintenance activities and agricultural activities are exempted.

(89) **Development Review Committee (DRC)**: A committee of persons, participating at the invitation of the Director, which may consist of representatives of local governmental entities and utility providers, to include the City of Kerrville, Kerr County, franchise utility companies, and the Texas Department of Transportation; and appointed or invited by the Director or designee, which Committee may review plats, site plans, and building plans submitted for review prior to construction and/or development.

(90) **Development Standards**: Regulations adopted by the City of Kerrville regarding certain development-related improvements, such as lighting, signage, landscaping, and other similar elements.

(91) **Dinner Theater**: A restaurant at which a staged production is performed during or after dinner.

(92) **Director (or Designee):** See "Director of Development Services"

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(93) **Director of Development Services:** The Director of Development Services of the City of Kerrville, Texas, or designee, also referred to herein as the "Director" or "Director or designee".

(94) **Distillery**: A business where alcoholic liquor is produced using a distilling process.

(95) **Double Frontage Lot**: An interior lot with frontage on more than one street or a corner lot having frontage on more than two streets. (See Appendix, Figure 2)

(96) **Downtown Core:** The portion of the Downtown area generally bounded by the Guadalupe River on the south, extending north on Clay Street, east on Main Street, north on Earl Garrett Street, east on Jefferson Street, and south on Washington Street.

(97) **Drive-Thru Service**: A feature of a business, such as a restaurant, bank, drug store, or dry cleaner, which allows a product or service to be delivered to a customer, usually through a window or other opening in a building wall while the customer remains in an automobile.

(98) **Driving Instruction School**: A school specializing in the teaching of skills necessary to safely and legally operate a motor vehicle, including both classroom instruction and supervised driving practice.

(99) **Drug Store**: A retail establishment specializing in the production, distribution, or sale of substances typically used as legal medication, and which may include the incidental sale of tobacco products, greeting cards, personal care products, a limited selection of household cleaning supplies and food and beverage items, and may offer photofinishing services.

(100) **Duplex:** See "Dwelling, Duplex"

(101) **Dwelling, Duplex**: A free-standing building on one lot, having separate accommodations for, and occupied by, not more than two (2) families, one (1) family in each unit (each half of the building).

(102) **Dwelling, Live/Work**: A single building or space within a building, often, though not always, a result of a conversion of an existing nonresidential building, designed for joint use of commercial/office and residential activities, where the primary use of the space is for the commercial/office activity of the occupant, and the secondary use is as the occupant's primary residence.

(103) **Dwelling, Multifamily**: A building, group of buildings, or apartments on a single lot containing separate dwelling units for three (3) or more families.

(104) **Dwelling, Patio Home (Zero Lot Line Home)**: A single-family detached dwelling on a separate lot, with setbacks in the front and rear, the wall of the dwelling placed coincident with the property line on one side (the zero side), and setback provided on the remaining side.

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(105) **Dwelling, Single-Family Detached**: A building containing only one (1) dwelling unit and located on a single building site so as to allow for customary yards to serve as buffers along all sides of the building.

(106) **Dwelling, Single-Family with Accessory Dwelling Unit**: Buildings containing one (1) main dwelling unit and one (1) accessory dwelling unit as defined herein on the same lot, which accessory dwelling unit may be contained within the main dwelling unit or in a detached structure, and subject to the height and regulations of this Zoning Code.

(107) **Dwelling, Townhome**: A single-family dwelling in a row of at least two attached units, each on its own platted lot, and having its own front and rear access to the outside. No unit shall be located over another unit, and each unit shall be separated from other adjacent units by one or more vertical common firewalls.

(108) **Dwelling Unit**: A building or portion of a building that is arranged, occupied, or intended to be occupied, as single-family living quarters and includes facilities for food preparation and sleeping.

(109) **Dwelling Unit, Accessory**: A room or set of rooms in a single-family dwelling or in a detached structure on the same lot as a single-family dwelling, established by permit and including a functioning kitchen and bathroom, which operates as a separate but secondary dwelling unit.

(110) **Easement**: A property right granted within a tract of land by a property owner to another entity or property owner for purposes specified therein, such as for access, right-of-way, utilities, or drainage.

(111) **Electronics Sales and Service**: A store engaged in the retail sale of consumer electronics, such as televisions and audio equipment, computer hardware and software, telephones, cameras and photographic equipment, games and gaming systems, as well as other related products and services.

(112) **Equipment Rental, Heavy**: The use of land for the rental and storage for rental purposes, but not the manufacture or sale of the following:

(i) Commercial buses with a rated capacity of more than ten (10) passengers;

(ii) Trucks with a manufacturer's rated carrying capacity exceeding 2,000 pounds;

(iii) Truck-tractors, road tractors, semi-trailers and trailers, as defined in Section 502 of the Texas Transportation Code, not including recreational vehicles or travel trailers;

(iv) Heavy construction equipment and other similar heavy equipment, not including personal vehicles, trailers not used for commercial purposes or as recreational vehicles, and the on-site repair and maintenance of such vehicles or equipment.

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(113) **Equipment Rental, Light**: A business that sells or rents small-scale machinery, equipment, and tools, such as chain saws and woodworking equipment, hoists and jacks, buffers and carpet cleaners, ladders and scaffolding, gardening equipment, household generators, fans and heaters, air compressors and air tools, and camping equipment, to consumers or contractors for a limited period of time, but excluding the rental of vehicles, construction equipment such as earth movers or forklifts, or other heavy equipment.

(114) **Fabrication Processes**: A process by which components or parts are produced for use in the construction of other goods, with all mechanical processes and related tasks taking place inside the principal structure or complex.

(115) **Façade**: The portion of any exterior wall of a building that extends upward from the adjacent ground grade to the top of the parapet, wall, or eaves and covers the entire width of the building elevation.

(116) **Fair/Rodeo Grounds, Exhibition Hall, or Arena**: A use of land for the temporary erection or display of a festival, event, product, or other items or activities of interest particular to a specific topic, and which may include a building or other permanent facilities or structures.

(117) **Family**: Any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.

(118) **Farm Supply Store, Retail**: A retail establishment specializing in the sale of agricultural business or lifestyle products, including farm tools, food for pets and livestock, outdoor recreational gear, lumber, fencing, lawn and garden supplies, or farm attire and related goods, including outside storage complying with the requirements of this Zoning Code.

(119) **Farmers' Market**: A market or temporary use of land where farmers or merchants sell food or other agricultural and related products directly to the public, usually from trucks, booths, stalls, or inside a permanent structure.

(120) **Feed, Grain, or Hay Storage, Bulk/Wholesale**: The use of land and buildings and/or structures for the purpose of storing feed, grain, or hay post-harvest for producers or to store feed, grain, or hay acquired from producers for resale.

(121) **Fine Arts Classes**: Organizations that specialize in the administration of instructional or informational classes related to painting, sculpture, dance, music, drama, or other fine arts.

(122) **Fitness Center**: A business that specializes in health, exercise, and wellbeing, which may provide, in addition to specialized equipment for exercise and weight-training, rooms for fitness classes, indoor courts for sports such as racquetball and basketball, locker rooms and bathing areas, and an indoor swimming pool, and which may include services

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such as massage therapy, child care for patrons during their use of the facility, a shop for the sale of fitness-related products and equipment, or a snack bar as ancillary activities.

(123) **Flea Market**: A venue, which may be indoors or outdoors as permitted herein, where multiple, independent vendors offer food, clothing, or other new or used goods for sale.

(124) **Floor Area**: The total square foot area of all floors in the building measured to the inside faces of the exterior walls.

(125) **Floor Area Ratio**: A ratio of the gross floor area of a building or buildings in relation to the gross land area of the site, expressed as a ratio such as 2:1, where the gross floor area is the first number in the ratio and the gross land area is the second, and, in this example, where the gross floor area of the building(s) is twice as large as the gross land area of the site.

(126) **Florist**: A business specializing in the selling or growing for sale of flowers and ornamental plants, but excluding commercial nurseries or greenhouses.

(127) **Food Processing (Craft)**: The artisanal or handcrafted transformation of raw ingredients, such as clean, harvested crops or dairy or butchered animal products, into food, or the transformation of food into other forms for human consumption, produced in small batches or limited quantities, but excluding slaughter or dairy processes involving live animals or the production of food or feed for animal consumption. The primary purpose of production is intended for on premise consumption or local distribution, and is not intended for mass distribution.

(128) **Food Processing (Manufacturing)**: The transformation of raw ingredients, such as clean, harvested crops or dairy or butchered animal products, into food, or the transformation of food into other forms for human consumption, but excluding slaughter or dairy processes involving live animals or the production of food or feed for animal consumption.

(129) **Food Truck**: See “Mobile Food Unit”

(130) **Food Truck Park**: An area of land that hosts at least one Mobile Food Unit (food truck) as defined herein, and which may include tables, chairs, shade structures, and other accommodations along with parking areas for patrons of the vendors.

(131) **Frontage, Street**: The length of property measured along the right-of-way line of the street.

(132) **Fuel Sales, Bulk**: The use of land for the primary purpose of engaging in the sale of large quantities of gasoline, motor oil, heating oils, butane, and other, similar fuels and petroleum products, generally to businesses or other entities, and excluding retail fuel sales as defined herein.

(133) **Fuel (Gasoline/Propane) Sales, Retail**: The use of land for the primary purpose of engaging in the on-site retail sale of gasoline, motor oil,

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heating oils, butane, and other, similar fuels and petroleum products, generally to an individual or end user, and excluding the sale of large quantities of fuel as defined in “Fuel Sales, Bulk”.

(134) **Funeral Services**: An establishment that specializes in the preparation of the human dead for interment, and including the arranging, hosting, and managing of viewings, funerals, memorial services, and burials, and the provision of on-site cremation services.

(135) **Furniture, Home Furnishings, and Home Decorating and Decor Store**: A business that specializes in the sale of items used in the readying of buildings for occupancy, such as furniture, upholstery, window and floor coverings, and home décor items.

(136) **Furniture Repair/Sales, Used**: A business that specializes in the sale, repair, or re-upholstery of used household or office furniture, or the restoration of damaged, broken, or failed furniture to its original intent.

(137) **Garage, Attached**: The enclosed portion of a residential structure, attached to the principal building by a common wall and roof, that is designed for the parking and storage of vehicles belonging to the building’s residents.

(138) **Garage, Detached**: An enclosed structure, separate from the principal residential structure, designed for the parking and storage of vehicles belonging to the occupants of the residence.

(139) **Garden Center/Nursery**: A business that specializes in the retail sale of plants, equipment, and supplies for landscaping, gardening, or the cultivation or growing of plants for transplanting, budding, or grafting, which may include the indoor or outdoor storage of plants, gardening products, lawn/garden equipment, or other lawn and garden supplies as permitted herein, but excluding commercial nursery operations such as the wholesaling or distribution of plants, trees, or supplies.

(140) **Golf Course**: An area of land laid out for playing at least 9 holes of the game of golf and improved with tees, greens, fairways, and hazards, and which may include ancillary uses such as a clubhouse, pro shop, and/or restaurant, and which may be open to the public or available by membership. (See also “Country Club”)

(141) **Grocery Store**: A retail establishment, other than a “Convenience Store”, for the procurement, display, and sale of meat, fruit, vegetables, fresh and packaged foods, dairy and bakery products, as well as cleaning supplies, paper goods, pet supplies, health and beauty products, and similar items for off-site consumption, and may include an on-site bakery, delicatessen, drug store, and/or coffee shop.

(142) **Gross Floor Area**: The total area of a building, measured from the exterior surface of all exterior walls, including basements, elevator shafts or stairwells at each floor, interior balconies or mezzanines, and floor space in accessory buildings, excluding off-street parking structures.

(143) **Gross Land Area**: The total land area of a lot, tract, or parcel, including street or alley rights-of-way that are internal to the site.

(144) **Group Medical Care Facility**: A type of dwelling unit in which a continuum of nursing or medical care or services is provided to people with terminal or incapacitating illness, or with conditions which require regular nursing services or attending physician services, regardless of whether people who do not require such care also reside in the dwelling unit. A Group Medical Care Facility shall include any facility which requires a license issued by the Texas Department of Health or its successor agency as a Special Care Facility, where applicable.

(145) **Guest House**: A room or set of rooms in a single-family dwelling or in a detached structure on the same lot as a single-family dwelling, established by permit and including a functioning bathroom but excluding a kitchen, which is intended for temporary use by guests of the residents of the primary single-family dwelling unit.

(146) **Guidance Services**: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, previous incarceration, drug addiction, or similar condition, either on a residential or daytime care basis.

(147) **Gunsmith and Locksmith Shop**: A business specializing in the sale, acquisition, repair, or building of firearms or locks.

(148) **Hardware Store**: A business that sells paint, glass, wallpaper, plumbing and electrical supplies, tools, or other hardware.

(149) **Height**: The vertical distance measured from grade to the highest roof surface, or to the highest point of any structure erected on a roof of a building; whichever is greater; provided, however, church spires, belfries, communication antennae, and water towers shall not be considered when determining the maximum height of a structure, and excluding parapet walls less than four feet in height, chimneys, cooling towers, elevator equipment, mechanical equipment rooms, ornamental cupolas, standpipes, elevator bulkheads, or domes. (See Appendix, Figures 3 and 4)

(150) **Highway**: A roadway designed and constructed to connect major urban areas, accommodating long trips with limited access and a high degree of mobility, and which is designated as an Interstate Highway on the Kerrville Thoroughfare Plan.

(151) **Home Improvement Center**: A retail business offering products for sale found in a “Hardware Store”, “Lumber Yard”, or “Garden Center/Nursery”, including lumber and roofing materials, plumbing and electrical supplies, doors and windows, floor and window coverings, paint and wallpaper, lighting and ceiling fans, household appliances, plants and garden

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supplies, in addition to products for the repair, maintenance, and cleaning of buildings and which provides services to building contractors.

(152) **Home Occupation**: Any activity carried out for gain by a resident which results in the provision or manufacturing of services and/or goods and is conducted as an accessory use in a dwelling unit.

(153) **Hospital**: An establishment licensed by the Texas Department of Health or its successor agency that offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals and which maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities, and other definitive medical treatment, and which may be classified as a General Hospital or a Special Hospital as defined under Chapter 241 of the Texas Health and Safety Code, as *may be* amended, and which may provide medical, psychiatric, surgical, or obstetrical services for sick or injured persons ~~, including convalescent services, primarily on an inpatient basis,~~ as well as treatment for illness, injury, deformity, abnormality, or pregnancy, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and related services to patients, employees, or visitors

(154) **Hotel or Motel**: An establishment that provides short-term lodging to guests for compensation and which may include amenities such as food and beverage service, meeting rooms, entertainment, recreational/fitness/spa facilities, and various personal services for guests and potentially the public.

(155) **Independent Living Facility for Seniors**: A facility containing dwelling units, accessory uses, and support services restricted for occupancy and use by persons 55 years of age or older who are fully ambulatory or who require no medical or personal assistance or supervision in conformance with the Fair Housing Act.

(156) **Industrialized Home:** See “Modular Home”

(157) **Jewelry Store**: A retail store specializing in the sale of precious metals and gemstones in the form of jewelry for personal adornment.

(158) **Job and Vocational Training Centers**: A business or educational entity that offers instruction in the acquisition of employable skills, knowledge, or other competencies.

(159) **Junkyard:** Any place used or maintained by any person as a junkyard or dumping ground, or for the wrecking or dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked, or abandoned, immobile or unregistered automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the maintenance or operation of such places for the accumulation of rubbish of any description.

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(160) **Kennel**: A facility providing shelter and food for pets and having a maximum boarding capacity of eleven (11) animals except as otherwise permitted herein.

(161) **Landscape Buffer**: A strip or other configuration of land improved with live plant material, natural or manmade hardscape material such as rock, stone, or concrete pavers, or natural elements such as drainage ways or land features to provide open space, environmental or aesthetic enhancement, and/or screening or separation (1) from the potentially adverse effects of incompatible land uses between adjoining properties or (2) to shield the view of these effects from public rights-of-way.

(162) **Landscape Nursery, Commercial/Wholesale**: A facility used to house and grow shrubs, trees, plants, and related products for commercial purposes.

(163) **Laundromat**: A facility providing equipment for the washing, drying, and cleaning of laundry made available for serving oneself.

(164) **Laundry/Dry Cleaning Drop-off/Pick-up Station**: A facility for the pick-up and delivery of clothing for individual consumers, to be laundered or dry cleaned at another location, and with no laundry or dry cleaning equipment or operations on-site.

(165) **Laundry/Dry Cleaning Plant**: A plant or other facility where articles of clothing, linens, and other textiles are laundered, pressed, or dry cleaned on-site.

(166) **Life Care Development**: A residential community for the housing and care of retired, elderly, or disabled people. The uses described below are included within this definition, provided that each is a part of or associated with the operation of the Life Care Development community:

(i) Independent living in single-family units;

(ii) Apartment living;

(iii) Congregate living with common meals and/or community facilities for social events;

(iv) Community recreation;

(v) Convalescent services;

(vi) Guidance services;

(vii) Hospital services;

(viii) Residential care services;

(ix) Offices associated with the sales, rental, and organization of the community;

(x) Personal services and personal improvement services.

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(167) **Limousine/Taxi Service**: A business engaged in the transporting of passengers in exchange for a fare or fee, typically owning and operating a fleet of more than one vehicle and subject to the requirements of Chapter 114 of the Municipal Code.

(168) **Live/Work Unit:** See "Dwelling, Live/Work"

(169) **Livestock Sales, Wholesale**: A use of land primarily involving or facilitating the sale of livestock to retailers for selling either directly to consumers or to another segment of the supply chain.

(170) **Loading Space**: An off-street space or berth on the same lot with the business for the temporary parking of a commercial vehicle while loading or unloading the contents to/from said vehicle.

(171) **Local Street**: A roadway which provides direct access to adjacent property and brings neighborhood traffic to Collector roadways, but is not intended to carry significant amounts of through traffic, and which is not characterized as a Collector, Secondary Arterial, Primary Arterial, or Highway as indicated on the Kerrville Thoroughfare Plan.

(172) **Lot**: Land which is occupied or intended to be occupied by a building or group of buildings and their accessory buildings, together with such yards and open spaces as are required by this Zoning Code and having frontage upon a street or other access approved by the Commission.

(173) **Lot Area**: The total horizontal area within the lot lines of a lot.

(174) **Lot Coverage**: The area or percentage of the lot that may be covered by the principal building and all accessory buildings or structures, excluding breezeways and covered patios.

(175) **Lot Depth**: The horizontal distance between the front and rear lot lines, with at least one of the side lot lines meeting the minimum depth requirement of the applicable zoning district.

(176) **Lot Line, Front**: The lot line:

(i) Adjacent to a dedicated street right-of-way, if the lot is an interior lot; or

(ii) Separating the narrowest street frontage of the lot from the street, if the lot is a corner lot.

(177) **Lot Line, Rear**: The lot line which is opposite and most distant from the front lot line. In case of a lot with more than four lot lines, the rear lot line shall be the lot line most in line with the rear lot lines of adjacent lots.

(178) **Lot Line, Side**: Any lot line not a front lot line or a rear lot line. In case of a three sided lot, the two interior lot lines shall both be side lot lines.

(179) **Lot Width**: The width of a lot, measured at the required front setback line.

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(180) Lumber Yard: A use of land in which a large supply of lumber is kept for later sale or use, and which may include the sale of associated materials and supplies such as nails, fasteners, roofing materials, and related items.

(181) Machine Shop: A workshop where power-driven tools are used for making, finishing, repairing, or cutting materials such as metal, plastic, ceramic, wood, or composites to create parts of the desired size and shape.

(182) Mailing Service: A privately-owned business that specializes in the handling of physical mail and the sale

(183) Main Building: The building on a lot which is occupied by the primary use.

(184) Manufactured Home or Manufactured Housing: A "HUD-code manufactured home" as defined in the Texas Manufactured Housing Standards Act, as amended (Tex. Rev. Civ. Stat. art. 522If, as amended) which are structures, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include mobile homes or recreational vehicles except when located on property used as a planned rental community.

(185) Manufactured Housing Sales: Property used for the retail sale and display of manufactured housing or modular homes.

(186) Manufacturing, Assembly: A process by which components or parts are added to an unfinished or semi-finished product in sequential steps to yield a finished product, with all mechanical processes and related tasks taking place inside the principal structure or complex.

(187) Manufacturing, General: The processing of raw materials or component parts by hand or machine into finished goods, usually on a large-scale production line using materials, skilled labor, tools, and processes, with all activities taking place inside the principal building or complex.

(188) Microbrewery: A business primarily engaged in the on-site brewing and sale of small quantities of craft beer, generally owned by a local parent organization, ownership structure, or person that resides or is headquartered in the city or region, with revenues that are much smaller than those of large-scale corporate breweries, and which may include a “Tasting Room” as defined herein.

(189) Minor Emergency/Urgent Care Medical Clinic: A facility staffed by at least one attending physician for the examination, diagnosis, and

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treatment of ill, diseased, or otherwise afflicted human patients who are not in grave danger and who are not typically kept overnight except when required by emergency circumstances.

(190) **Mining and Mineral Extraction**: A use of land primarily dedicated to the excavation or extraction of minerals or other geological materials from the earth, including natural gas, oil, coal, metals, or other similar materials.

(191) **Mini-Storage**: Land and buildings wherein individual units may be rented for the purposes of self-storage of personal or household effects, usually on a short-term basis, in individual, compartmentalized, controlled access stalls or lockers, and which may include the storage of personal vehicles, recreational vehicles, and travel trailers in designated open areas on the site.

(192) **Mobile Food Unit (MFU)**:A vehicle mounted, self-, or otherwise propelled, self-contained food service operation, designed to be readily movable, including catering trucks, trailers, push carts, and roadside vendors, and used to store, prepare, display, serve, or sell food. A Mobile Food Unit must completely retain its mobility at all times; it does not include a stand or a booth. A roadside food vendor is classified as a MFU.

(193) **Mobile Home**: A structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes

(194) **Modular Home**: A structure designed for the occupancy of one or more families as a permanent residential structure that is constructed in modules or modular components built at a location other than the permanent site where the structure will be inhabited, transported to the permanent site, and erected or installed on a permanent foundation system.

(195) **Motel**: See “Hotel or Motel”

(196) **Motor Freight/Trucking Company**: A business primarily engaged in using trucks or other heavy-load vehicles designed to transport cargo for shipping, moving, or transporting goods, including the moving of residential or commercial property to another location.

(197) **Motorcycle, All Terrain Vehicle, Personal Watercraft Dealership**: A business primarily engaged in selling or leasing motorcycles, all-terrain vehicles, jet skis, or similar types of vehicles.

(198) **Movie Theater**: An indoor venue primarily dedicated to the display of films for the viewing of paying members of the public, typically including the sale of food and drink items to patrons, excluding Sexually-Oriented Businesses.

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(199) Multifamily: See "Dwelling, Multifamily"

(200) Musical Instrument Sales and Repair: A shop that specializes in the sale and repair of musical instruments, including the sale of parts, accessories, sheet music, and other relevant products.

(201) Newspaper: An organization that publishes a paper or website with news, articles of opinion, features, and advertising, generally having a daily or weekly circulation.

(202) Nursing/Convalescent Home: An institution or establishment meeting the definition of a Convalescent or Nursing Facility or Related Institution under Chapter 242 of the Texas Health and Safety Code, as may be amended, which furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment, and which provides minor treatment under the direction and supervision of a physician licensed by the Texas Medical Board, or other services that meet some need beyond the basic provision of food, shelter, and laundry, such as personal care or rehabilitative services, to persons chronically ill, aged, or disabled who need ongoing health supervision over a period of time generally exceeding 30 days, but not including hospitals, and which shall have appropriate licensing and/or registration by the Texas Department of Health or its successor agency, where applicable.

(203) Occupancy: The purpose for which a building is used or intended to be used.

(204) Office Furniture, Equipment, and Supply Store: A business engaged in the sale of furniture, electronics, and the materials consumed in the daily operations of an office, such as paper, ink/toner, paper, pens, record-keeping supplies, janitorial and cleaning materials, as well as office furniture and business machines and equipment.

(205) Office, General (Business or Professional): A use providing professional or consulting services in various fields including, but not limited to, law, architecture, environmental and interior design, computer software programming and design, engineering, employment services, accounting, appraising (real and personal property), tax service, financial services, real estate, management services, personnel services, including government offices, and where no goods are offered for sale on the premises. No office shall include or involve the manufacture, fabrication, production, processing, assembly, cleaning, testing, or storage for sale of materials, goods, or products.

(206) Office, Medical: A use providing professional or consulting services in various medical/healthcare fields, including but not limited to, general and specialty medicine, vision and dental care, mental healthcare, and where no goods are offered for sale on the premises except the incidental sale of medical or optical goods in a medical office. No office shall include or

involve the manufacture, fabrication, production, processing, assembly, cleaning, testing, or storage for sale of materials, goods, or products.

(207) **Open Space**: An area of land, open and/or accessible to the public, which (1) remains in a natural and undeveloped state, such as a stream corridor, vegetative habitat, floodplain, slope, or similar natural feature, or (2) is improved for uses such as parks, trails, playgrounds, public plazas, or green space landscaped with grass, trees, shrubs, etc.

(208) **Outdoor Storage of Equipment or Materials**: The placement of goods, materials, merchandise, or vehicles in an unenclosed area in a nonresidential zoning district for a continuous period in excess of 24 hours, said storage being an accessory use to the principal use and not a principal use of the property unless permitted herein. For purposes of this ordinance, the storage of inventory at an automobile, boat, recreational vehicle, motorcycle, or similar dealership shall be excluded from this definition.

(209) **Overlay District Design Guidelines:** A set of recommendations created for application in a defined geographical area (here, the "Overlay District"), which are intended to provide guidance to property owners, developers and their design professionals as to how to implement suggested design principles, regardless of the underlying base zoning district, without mandating specific standards or requirements, with the goal of achieving a specific purpose, for example to maintain the character of a special district such as a historic downtown, or to preserve the integrity of an area such as a river corridor, viewshed, or community gateway.

(210) **Parking Lot or Structure, Accessory**: A parking surface or series of surfaces, or a building or series of buildings, used or intended to be used for the parking or circulation of vehicles, for which a fee may or may not be charged, and that is located on the same premises as the primary use being served. (See Appendix, Figure 5)

(211) **Parking Lot, Stand Alone**: A parking surface or series of surfaces used or intended to be used for the parking or circulation of vehicles, for which a fee may or may not be charged, and that is located on a site that is independent of the use or uses it serves. Specifically not included are parking lots located on the same premises as the primary use they serve. (See Appendix, Figure 5)

(212) **Parking Structure**: A building or interconnected series of buildings used or intended to be used for the parking or circulation of vehicles, for which a fee may or may not be charged, and that is located on a site that is independent of the use or uses it serves. Specifically not included are parking structures located on the same premises as the primary use they serve. (See Appendix, Figure 5)

(213) **Patio Home:** See "Dwelling, Patio Home (Zero Lot Line Home)"

(214) **Pawnshop**: A retail establishment engaged in the lending of money on the security of personal property pledged in the keeping of the pawnshop owner (pawnbroker) or the purchase of goods on the condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period, and the retail sale of such goods and personal property as used merchandise subject to the ordinances of the city.

(215) **Payday Loan Business**: An establishment that makes small consumer loans, usually backed by a post-dated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term or until an applicant's next payday, and then cashed, unless the customer repays the loan to reclaim such person's check.

(216) **Personal Care Facility**: A dwelling unit in which food, shelter, and minor medical treatment under the direction and supervision of a physician, or services which meet some need beyond boarding or lodging are provided to residents of that dwelling unit, including care provided to more than four (4) unrelated foster children, but not including such care provided to any family member residing with his family in a one-family dwelling. Residents of a personal care facility depend on staff to provide them with varying degrees of assistance in everyday living, but are not considered dangerous to themselves or others and require only occasional or temporary services by professional medical or nursing personnel, and which may be subject to the requirements of Article 1, Chapter 30 of the Code of Ordinances. A personal care facility includes any facility that requires a license issued by the Texas Department of Health or its successor agency, but does not include a facility which requires a license as a Special Care Facility under Chapter 248 of the Texas Health and Safety Code, as may be amended.

(217) **Pet and Pet Supply Sales**: A business or entity that provides services related to the ownership of domestic, companion animals, including the sale of pets and pet supplies and which may offer grooming services as an accessory use in conjunction with the pet store.

(218) **Pet Grooming**: An establishment offering hygienic care and cleaning of pets, in particular dogs, and which engages in the shampooing and trimming of the animal and other services aimed at enhancing its physical appearance.

(219) **Photography Studio and Photography/Camera Supply Store**: A place of business for a photographer specializing in the production of photographs and/or a business that specializes in the sale, construction, or distribution of cameras or photographic supplies, the repair of cameras and photographic equipment, and the developing and printing of images from photographs.

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(220) Planning and Zoning Commission: The City of Kerrville, Texas, Planning and Zoning Commission, also referred to herein as the "Commission".

(221) Planning Division: The Planning Division of the City of Kerrville, Texas.

(222) Plat: A legal document, including a replat or an amending plat, which is an exact map of a tract of land that depicts the arrangement of lots by metes and bounds and may dedicate rights-of-way and easements.

(223) Porch: A covered entrance to a building.

(224) Portable Building Sales: An establishment specializing in the exhibition and sale of structures not intended for habitation that are designed for transportation to another location, excluding Manufactured, Mobile, or Modular Homes.

(225) Primary Use: See "Principal Use"

(226) Principal Building: See "Main Building"

(227) Principal Use: The primary or predominant use of any land or building.

(228) Print Shop: An establishment specializing in printing operations using a variety of copiers and presses for both small runs and high-volume jobs, and which may include blue printing, the sending and receiving of facsimiles, the sale of printing and mailing supplies, and the provision of shipping and mailing services.

(229) Public Facility or Use: The use of land or a building or structure by an entity or agency of the local, county, state, or federal government or the independent school district for the provision of public services, such as a government/school district office, library, police station, fire station, school, post office, recreation center, parking lot or structure, museum, park or playground, animal shelter, public plaza, auditorium, convention or performance center, or similar use.

(230) Radio or Television Station or Broadcasting Studio: A business involving the transmission of radio, television, or film media, and which may or may include a broadcast tower as permitted herein.

(231) Recreational Skills Classes: A business engaged in the administration of instructional or informational classes related to gymnastics, cheerleading, trampoline, tumbling, or martial arts.

(232) Recreational Vehicle: A classification of vehicles that includes self-propelled motorhomes as well as travel trailers, fifth-wheelers, pop-up trailers, and truck campers which are attached to another vehicle for hauling.

(233) Recreational Vehicle Dealership: A business primarily engaged in selling or leasing of recreational vehicles as defined herein.

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(234) **Recreational Vehicle or Trailer Park**: The use of land as a place where multiple recreational vehicles may reside, park, rent, or lease space which may also be developed with a campground as part of a planned complex but not as part of a manufactured home development as described in the RM Residential Mix District.

(235) **Rectory/Parsonage**: A home provided by a church or other religious organization that is used as a primary residence for the principal religious leader of the organization.

(236) **Repair Shop, Household Items**: A business specializing primarily in the repair and service of household items, such as appliances, electrical and electronic equipment, and lawn equipment, but excluding the repair of motor vehicles and the outside storage of these items.

(237) **Repair Shop, Personal Items**: A business that specializes in the restoration of damaged, broken or failed personal items, such as shoes, watches, jewelry, or luggage to their original intent.

(238) **Research and Development Lab**: A laboratory or organization engaged in the research, assembly, or development of a new product in the fields of medicine, science, or technology, with all activities and storage of equipment and materials taking place inside the principal structure or complex.

(239) **Residential Care Services**: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or care for extended periods, including, but not limited to, shelters for abused spouses, children, and halfway houses for individuals after convalescent care, and which may be subject to the requirements of Article 1, Chapter 30 of the Code of Ordinances and shall have appropriate licensing and/or registration by the State of Texas, where applicable.

(240) **Restaurant, Food/Beverage Shop**: A small retail business, such as a coffee shop, bakery, confectionery, ice cream shop, sandwich shop, or similar establishment, which specializes in the sale of food and/or beverage items typically prepared individually for on-premises or off-premise consumption, excluding the sale of alcoholic beverages and restaurants with drive-through service.

(241) **Restaurant, General**: A building or part thereof used in the preparation and retail sale for on-premises consumption of food and beverages, which may include alcoholic beverages provided the revenue from the sale of alcoholic beverages constitutes less than fifty percent (50%) of the gross revenue of the restaurant, and which may provide live entertainment and may include drive-through or drive-in service as permitted herein. (See also “Drive-Thru or Drive-In Service”)

(242) **Salvage, Reclamation, Recycling of Materials**: The extraction of usable substances found in refuse materials for sale or reuse.

(243) Sand, Gravel, or Stone Extraction: A business or other entity engaged in the process of extracting sand, gravel, stone, topsoil, compost, or other earth products.

(244) Sand, Gravel, or Stone Storage and Sales: A business or other entity engaged in the process of storing or selling sand, gravel, stone, topsoil, compost, or other earth products.

(245) School, Private, Elementary: A private institution engaged in the education of full-time students at or below the fifth grade (or sixth grade, if the institution is so organized), including kindergarten, but excluding “Day Care Centers” and private home schools.

(246) School, Private, Intermediate or Secondary: A private institution engaged in the education of full-time students in the sixth grade and beyond (or seventh grade and beyond, if the school district is so organized), including middle schools, junior high schools, and high schools, but excluding private home schools.

(247) School, Public, Elementary: A public institution engaged in the education of full-time students at or below the fifth grade (or sixth grade, if the school is so organized), including kindergarten, but excluding “Day Care Centers” and private home schools.

(248) School, Public, Intermediate or Secondary: A public institution engaged in the education of full-time students in the sixth grade and beyond (or seventh grade and beyond, if the school district is so organized), including middle schools, junior high schools, and high schools, but excluding private home schools.

(249) Second-hand/Used Goods Store: A retail establishment that specializes in the sale of used goods, often including articles of clothing or household wares, and which may include an outdoor area dedicated to the display of goods or the storing of donations or other acquired goods as permitted herein.

(250) Security Service: A private-sector entity that specializes in armed or unarmed security and the protection of individuals and businesses from harm and intrusion.

(251) Security Systems Installation and Monitoring Company: A business engaged in the sale, installation, administration, or monitoring of security systems designed to detect the unauthorized entry of a property, the goal of which is to protect real estate, physical assets, or persons inside the property.

(252) Setback: A line parallel or approximately parallel to the street line at a specified distance therefrom, marking the minimum distance from the property line that a building may be erected.

(253) Setback, Front: The setback that extends the full width of the lot between side lot lines measuring the minimum required distance between the front

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lot line and the closest point allowed for any structure. (See Appendix, Figures 6 and 7)

(254) **Setback, Rear**: The setback that extends the full width of the lot between side lot lines, measuring the minimum required distance between the rear lot line and the closest point allowed for any structure. (See Appendix, Figures 6 and 7)

(255) **Setback, Side**: The setback that extends from the required front setback line to the required rear setback line, measuring the minimum required distance between the side lot line and the closest point allowed for any structure. (See Appendix, Figures 6 and 7)

(256) **Sexually Oriented Business**: Uses and activities as defined and regulated in accordance with the relevant City of Kerrville codes.

(257) **Shipping Container**: A standardized reusable steel box with strength suitable to withstand shipment and handling used for the storage and movement of materials and products within a freight transport system.

(258) **Short-Term Rental Unit:** A facility, used for the purpose of providing short-term lodging for compensation, architecturally designed to look like a single-family dwelling, occupied concurrently as the residence for the owner, operator, or manager of the property, or providing separate lodging units such as cabins, guest homes, or similar residential-scale structures, with no more than six (6) bedrooms total on the property, and offering meals only to those who receive lodging, and providing that all bedrooms used as a permanent residence shall count toward the maximum six (6) bedrooms of the short-term rental unit.

(259) **Showroom**: A facility or portion of a building where merchandise, equipment, or products are displayed or placed on view for exhibition and/or sale.

(260) **Single-Family Detached Dwelling:** See “Dwelling, Single-Family Detached”

(261) **Single-Family Detached Dwelling with Accessory Dwelling Unit:** See “Dwelling, Single-Family with Accessory Dwelling Unit”

(262) **Site Plan**: A scaled drawing showing the intended development for a particular tract of land, that typically depicts existing or proposed building footprints, parking, building setbacks, land uses, landscaping, buffering, easements, floodplain, utility lines, and phasing plan, if applicable.

(263) **Slat**: A thin, narrow piece of wood, plastic, or metal, especially one of a series which overlap or fit into each other or into a frame, as in a fence or a Venetian blind.

(264) **Smoke Shop**: A retail store engaging in the sale of tobacco products and materials and accessories for smoking or the use of electronic cigarettes and vaping.

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(265) **Solar Energy Facility**: A system of lenses, mirrors, and tracking systems arranged into a panel or an array of panels that collects light from the sun and converts it into renewable energy (electricity) transporting it to consumers or utility companies or agencies that supply consumers.

(266) **Special Care Facility:** An institution or establishment meeting the definition of a Special Care Facility under Chapter 248 of the Texas Health and Safety Code, as may be amended, also known as the Texas Special Care Facility Licensing Act, that provides a continuum of nursing or medical care or services, primarily to persons with acquired immune deficiency syndrome or other terminal illnesses, and which shall have appropriate licensing and/or registration by the State of Texas, where applicable. The term includes a Special Residential Care Facility.

(267) **Stables, Commercial**: A stable for the rental of stall space, the sale or rental of horses or mules, and which may include the offering of riding lessons as an ancillary activity.

(268) **Stables, Private**: A stable for the keeping of only the horses or mules of the owner of the property on which the stables are located.

(269) **Stationery Store**: A retail store that specializes in the sale of materials, such as paper, pens, and ink, for writing or typing, as well as greeting cards, wrapping paper, gift items, and other similar products.

(270) **Story**: That portion of a building included between the surface of any floor and the surface of the floor next above it, then the space between such floor and the ceiling next above it, but not including a basement.

(271) **Street, Public**: Any roadway other than an alley which has been dedicated to the public use and which affords primary access to the adjacent property.

(272) **Street, Private**: Any roadway other than an alley which has not been dedicated for public use and which affords interior circulation and/or access to the adjacent property.

(273) **Structure**: A structure shall be interpreted the same as a building, but shall also include improvements such as a freestanding sign and pylon when erected on a base and not made integral with a building, roofed structures which are unenclosed, and similar structures, and items not affixed to the ground, but which are attached to something having a fixed location on the ground.

(274) **Tasting Room**: A facility, typically located on the grounds of a winery, brewery, or distillery, where the public can taste samples of the products produced there, and allowing the ancillary retail sales of wine, beer, or items related thereto.

(275) **Tattoo or Permanent Cosmetics Shop, Body Piercing**: A retail establishment specializing in the sale or application of tattoos, body art,

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permanent cosmetics, piercings, or other aesthetic items intended for indefinite display on one's body.

(276) **Taxidermy Shop**: A business specializing in the art of preparing, stuffing, or mounting the skins of animals, that (a) does not conduct the evisceration and processing of animal carcasses on-site, or (b) whose on-site evisceration and processing operations have been determined by the Commission not to have a heavier impact on surrounding properties than other uses permitted in the C-1 Commercial district.

(277) **Townhome:** See "Dwelling, Townhome"

(278) **Traffic Impact Analysis (TIA):** An evaluation of the effect that the projected traffic from a proposed development will have on the transportation system in the area surrounding that development, prepared by a licensed professional engineer, and including methodology, conclusions, and recommendations.

(279) **Transportation Terminal, Bus/Aviation**: A facility for loading, unloading, and the interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus and airport terminals.

(280) **Truck Stop and Fueling Station**: A facility primarily used for parking, refueling, repairing, and otherwise servicing tractor-trailer trucks, often with a restaurant or food items available for purchase and restrooms or showers available for the use of truck drivers.

(281) **Utility, Local**: Utility services which are necessary to support subdivisions and other property within close proximity to the delivery point of the services and involve the installation or construction of only minor structures, such as lines, poles, transformer stations, and telecommunications distribution locations.

(282) **Utility, Private or Franchise**: A non-governmental, commercial entity that provides services, such as electricity, natural gas, water distribution, water and wastewater treatment, telecommunications, or solid waste collection and disposal, often under a franchise agreement with the city which permits the use of right-of-way for the provision of these services.

(283) **Utility, Public**: A governmental entity that provides services, such as electricity, natural gas, water distribution, water and wastewater treatment, telecommunications, or solid waste collection and disposal.

(284) **Vested Rights**: A property right that has been legally established by submittal of an administratively complete development permit and/or the initiation of development and which cannot be revoked by subsequent conditions or changes in law without due process of law."

(285) **Veterinary Services, Large Animal**: An establishment operated by a licensed practitioner primarily engaged in the practice of veterinary medicine, dentistry, or surgery for farm animals and livestock, such as

cattle, hogs, sheep, goats, and poultry, as well as domestic animals and pets, and including the short-term boarding of animals in indoor or outdoor kennels that support the veterinary practice.

(286) **Veterinary Services, Small Animal**: An establishment operated by a licensed practitioner engaged in the practice of prevention, cure, or alleviation of disease and injury in animals, especially domestic animals or pets, including the short-term boarding of animals in indoor kennels that support the veterinary practice.

(287) **Wall, Exterior**: The exposed or outermost wall of a structure.

(288) **Warehousing and Distribution**: A business that stores, handles, distributes, or exports materials, products, and equipment, typically from a relatively large building, with special areas outside the building set aside for loading and unloading.

(289) **Welding Shop**: A business that specializes in the uniting of metallic parts by heating and allowing the metals to flow together, or by hammering or compressing, with or without previous heating.

(290) **Wholesaling**: A business that buys and stores goods in bulk and sells to resellers rather than to end users.

(291) **Wind Energy System, Small**: A small-scale mechanical system, whether connected to an electrical utility grid or not, consisting primarily of a tower or roof-mounted anchoring system, rotor, blades, and a generator that is designed for the purpose of converting and then storing or transferring energy from the wind into usable forms of energy, as regulated in accordance with the relevant City of Kerrville codes.

(292) **Winery**: An establishment primarily involved in the production of wine for sale and consumption, and which may include a “Tasting Room” as defined herein.

(293) **Wireless Telecommunication Facilities (WTF)**: A structure designed and constructed to support one or more antennas used by commercial wireless telecommunication or broadcasting facilities and including all appurtenant devices attached to it, and which may be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), or lattice or monopole construction. This definition includes satellite dishes, microwave-transmitting towers, and WTFs attached to or supported by buildings. Wireless telecommunication facilities (Cellular Antennas) shall be regulated in accordance with the relevant City of Kerrville codes.

(294) **Yard**: An area on a lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, and other exceptions allowed herein.

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(295) Zoning Board of Adjustment: The City of Kerrville, Texas, Zoning Board of Adjustment, also referred to herein as the "Board of Adjustment" or the "Board".

VI. Art. 11-I-6. PLANNING AND ZONING COMMISSION

(a) Creation: The City Council shall provide for the creation and appointment of the City of Kerrville Planning and Zoning Commission, also referred to herein as the "Planning and Zoning Commission" or the "Commission."

(b) Membership and Appointment:

(1) Members: The Commission shall be composed of seven (7) members. At least five (5) of these members shall be residents and eligible voters of the City of Kerrville, Texas; two (2) members may reside in the City's extraterritorial jurisdiction (ETJ), and must be eligible voters of Kerr County. Planning and Zoning Commission members shall be appointed by a majority vote of the City Council.

(2) Term of Appointment: All members of the Commission shall be appointed to serve two (2) year terms beginning and ending on January 1 of the appropriate years. The terms of three (3) of the members appointed shall expire in odd-numbered years. The terms of the remaining four (4) members shall expire in even-numbered years. The City Council may appoint members to the Commission for terms of lesser duration than two (2) years when making the initial appointments of individuals or when otherwise necessary to comply with the provisions of this Article, such as to fill a vacancy.

(3) Term Limits: No member shall serve more than three (3) consecutive full terms on the Commission without having at least one (1) full year off the Commission between terms.

(4) Attendance, Vacancies, Removal from Commission: Policies on attendance at Commission meetings, the filling of vacancies on the Commission, removal from the Commission prior to the end of a term, and other similar matters shall be applied as stated in the Procedural Rules for Kerrville City Boards.

(c) Organization and Rules:

(1) Meetings: The Commission shall hold its meetings at a regularly scheduled time and place. If it is not practical for the Commission to meet at its regular time or place, a meeting may be cancelled or rescheduled provided that notice is posted. The Commission may adopt rules to govern its meetings; provided, however, such rules shall be consistent with this Chapter, the City Charter, the Procedural Rules for Kerrville City Boards, and applicable state law. All meetings of the Planning and Zoning Commission shall be open to the public.

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(2) **Quorum:** Four (4) members shall constitute a quorum to transact business.

(3) **Officers and Elections:** The Commission shall elect a chair and vice-chair from among the members at its first regular meeting of each new year for a term of one year. The Commission may elect such other officers as it deems necessary from the membership. The Board secretary shall be an employee appointed by the city.

(4) **Authority of Chairperson and Vice Chairperson:** It shall be the duty of the chairperson (or in the absence of the chairperson, the vice chairperson) to preside at all meetings of the Commission.

(5) **Open Meetings Act:** The Planning and Zoning Commission and its Members shall comply with the Texas Open Meetings Act and the Procedural Rules for Kerrville City Boards. No member shall communicate or deliberate outside of a posted meeting about a matter coming before the Commission or over which the Commission has authority in an attempt to evade the Open Meetings Act. Such prohibited conduct shall also be applied to email or telephonic conversations.

(6) **Ex Parte Contacts:** The requirements of procedural due process necessitate a fair hearing before an impartial body with the goal of ensuring that all sides, including the public, are provided an opportunity to present their views in public meetings. Thus, all decisions made by the Commission shall be based upon information contained in the official public record, consisting of back-up material and discussion during the meeting. No Commission member shall intentionally or knowingly communicate with a person outside of a meeting, known as ex-parte communication, if reasonable grounds exist for believing that a) the person is a party to a matter being considered by the Commission; and b) if such communication is designed to influence the member's consideration of, or action on, the matter. A "party" includes an applicant or anyone who has received mailed notice of the matter. If any such ex parte communication should occur, it shall be the responsibility of the member to:

(i) Not engage in such communications involving unsolicited inquiries or other forms of communication, personally or through electronic means; and

(ii) Advise the person or sender that such information should be presented at a Commission meeting.

(7) **Meeting Records:** The secretary shall keep a record of all proceedings of the Planning and Zoning Commission, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations

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and other official actions, all of which shall be filed in the office of the City Secretary and shall be a public record.

(d) **<u>Duties and Powers</u>:**

(1) **Comprehensive Plan:** The Commission shall recommend to the City Council for adoption a Comprehensive Plan for the orderly growth and development of the City and its environs. The Commission may review and, if necessary, recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the City.

(2) **Zoning Ordinance:** The Commission shall:

(i) Formulate a zoning ordinance as may be deemed best to carry out the goals of the Comprehensive Plan;

(ii) Hold public hearings; and

(iii) Make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in state law.

(3) **Plans and Plats:** The Commission shall exercise all powers of a Commission as to approval or disapproval of plans, plats, or replats as set out by state law and the City's subdivision regulations.

(4) **Zoning Changes:** The Commission shall consider and make recommendations on applications for changes in zoning and may initiate for consideration at public hearings proposals for the original zoning of annexed areas or for the change of zoning district boundaries.

(5) **Variances:** The Commission shall consider and take appropriate action, upon written request, on variances to the City's subdivision ordinance, development standards and other ordinances as prescribed by those ordinances and the City Council. Variances to the terms of the Zoning Code, excluding the list of permitted land uses, shall be reviewed by the Board of Adjustment as authorized by Chapter 211 of the Local Government Code as amended.

(6) **Ordinance Review:** The Commission shall from time to time recommend such changes to the Zoning Code, subdivision regulations, development standards, and any other ordinance the City Council assigns to their review, that will facilitate the general health, safety, and welfare of the citizens of the City.

VII. <u>Art. 11-I-7. BOARD OF ADJUSTMENT</u>

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(a) **<u>Creation</u>:** There is hereby created the City of Kerrville Zoning Board of Adjustment, otherwise known in this Zoning Code as the "Board of Adjustment" or the "Board".

(b) **<u>Membership and Appointment:</u>**

(1) **Regular Members**: The Board of Adjustment shall be composed of five (5) regular members, all of whom shall be residents and qualified voters of the City of Kerrville, Texas. The members of the Board of Adjustment shall be appointed by a majority vote of the members of the City Council.

(2) **Alternate Members:** In addition to the five (5) regular members, the City Council shall also appoint two (2) alternate members of the Board of Adjustment, who shall be qualified voters of the City of Kerrville, to serve concurrent terms as the regular members. During their term, alternate members will serve on the Board in place of an absent member when requested to do so by the chairperson of the Board so that all cases before the Board of Adjustment shall always be heard by a minimum of four (4) members. Alternate members shall attend all meetings of the Board and participate in all discussions, but shall vote on an item only when called upon by the chairman to do so in place of an absent regular member. All applicable sections of these regulations shall apply to alternate members of the Board of Adjustment, including Sections (c)(5) and (c)(6) below.

(3) **Term of Appointment:** Members of the Board of Adjustment shall be appointed to serve two (2) year terms beginning and ending on September 30 of the appropriate years. The terms of two (2) of the regular members appointed shall expire in odd-numbered years. The terms of three (3) of the regular members shall expire in even-numbered years. One alternate member shall serve a term ending in an odd-numbered year and one alternate member shall serve a term ending in an even-numbered year. The City Council may appoint members of the Board of Adjustment for terms of lesser duration than two (2) years when making the initial appointments to the Board or when otherwise necessary to comply with the provisions of this Article, such as to fill a vacancy.

(4) **Term Limits:** No member or alternate member shall serve more than three (3) consecutive full terms on the Board of Adjustment without having at least one (1) full year off of the board between terms.

(5) **Attendance, Vacancies, Removal from Commission:** Policies on attendance at Commission meetings, the filling of vacancies on the Commission, removal from the Commission prior to the end of a term, and other similar matters shall be applied as stated in the Procedural Rules for Kerrville City Boards.

(c) <u>Organization and Rules:</u>

(1) Meetings: Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such others times as the members of the Board determine. The Board of Adjustment may adopt rules to govern its meetings; provided, however, such rules shall be consistent with this Chapter, the City Charter, the Procedural Rules for Kerrville City Boards, and applicable state law. All meetings of the Board of Adjustment shall be open to the public.

(2) Quorum: Seventy-five percent (75%), or four (4), of the members of the Board must be present to hear each case, in accordance with Tex. Loc. Govt. Code Chapter 211.008.

(3) Officers: Officers of the Board of Adjustment shall be a chairperson and vice-chairperson, who shall be appointed by the members of the Board from among its regular members. These officers shall be appointed at the first meeting of the Board, and thereafter such appointments shall be made at the first meeting held after October 1 of each year. Officers of the Board of Adjustment shall serve a term of one year, said term ending on September 30 after the date of election. An officer of the Board may not serve in the office elected for more than two consecutive terms. The Board secretary shall be an employee appointed by the City.

(4) Authority of Chairperson and Vice Chairperson: It shall be the duty of the chairperson (or in the absence of the chairperson, the vice chairperson) to preside at all meetings of the Board.

(5) Open Meetings Act: The Board of Adjustment and its members, shall comply with the Texas Open Meetings Act and the Procedural Rules (for) Kerrville City Boards. No member shall communicate or deliberate about a matter coming before the Board or over which the Board has authority outside of a posted meeting in an attempt to evade the Open Meetings Act. Such prohibited conduct shall also be applied to email or telephonic conversations.

(6) Ex Parte Contacts: The requirements of procedural due process necessitate a fair hearing before an impartial body with the goal of ensuring that all sides, including the public**,** are provided an opportunity to present their views in public meetings. Thus, all decisions made by the Board shall be based upon information contained in the official public record, consisting of back-up material and discussion during the meeting. No Board member shall intentionally or knowingly communicate with a person outside of a meeting, known as ex-parte communication, if reasonable grounds exist for believing that a) the person is a party to a matter being considered by the Board; and b) if such communication is designed to influence the member's consideration of, or action on, the matter.

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A "party" includes an applicant or anyone who has received mailed notice of the matter. If any such ex parte communication should occur, it shall be the responsibility of the member to:

(i) Not engage in such communications involving unsolicited inquiries or other forms of communication, personally or through electronic means; and

(ii) Advise the person or sender that such information should be presented at a Board meeting.

(7) **Meeting Records:** The secretary shall keep a record of all proceedings of the Board of Adjustment, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City and shall be a public record.

(d) **Duties and Powers:**

(1) **Authority of the Board of Adjustment:** In addition to such other powers as may be granted from time to time by ordinance, the Board of Adjustment shall have the following authority:

(i) **Appeal from Administrative Official:** Pursuant to Article 11-I-8(a), the Board of Adjustment shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the City in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or this Chapter, including an appeal to the nonconforming regulations in Article 11-I-15 of this code; and

(ii) **Grant Variances:** Pursuant to Article11-I-8(b), to grant upon written request variances to the terms of the zoning ordinance, excluding variances to the list of permitted land uses, provided these variances are not contrary to the public interest, and where the applicant can demonstrate that because of special land-related conditions unique to the property, a literal enforcement of the ordinance would result in unnecessary hardship that is neither financial nor self-imposed, and so that the spirit of the ordinance will be observed and substantial justice done.

VIII. Art. 11-I-8. APPEALS TO ADMINISTRATIVE DECISIONS; GRANTING OF VARIANCES

(a) **Appeals to Administrative Decisions:** An appeal to the Board of Adjustment that alleges an error in any order, decision, or determination made by an administrative official of the City in the interpretation or

enforcement of Chapter 211 of the Texas Local Government Code, as amended, or this Chapter must be made in accordance with the following procedure:

(1) **Who May Appeal:** Any of the following persons may appeal to the Board of Adjustment a decision made by an administrative official of the City in enforcing this Chapter or Chapter 211 of the Texas Local Government Code; as amended:

(i) A person aggrieved by the decision; or

(ii) Any officer, department, or board of the City affected by the decision.

(2) **Form of Appeal:** To be effective, the appeal must be made in writing and must contain at least the following:

(i) A citation to the specific statute(s) and/or ordinance(s) which is(are) the subject of the appeal;

(ii) The earliest date on which the City administrative official communicated the decision which is the subject of the appeal to the appellant, or, if more than one decision is alleged to be in error, the date each decision was communicated;

(iii) A summary of the decision(s) made by the City administrative official which is the basis for the appeal;

(iv) If the administrative official's decision was made in writing, a copy of the document in which the decision is stated;

(v) The specific grounds upon which the appeal is based;

(vi) A description of the property affected by the administrative official's decision sufficient to identify the location and the boundaries of the property;

(vii) The reason the person filing the appeal should be considered a person aggrieved by the decision;

(viii) The signature of the person filing the appeal; and

(ix) When the appeal involves the development of a specific tract of land, the number of copies of a site plan as requested by the Planning Division, drawn to scale showing existing and proposed development of the property in question.

(3) **Perfection of Appeal:** An appeal pursuant to this Section (a) shall be deemed timely filed and perfected only if the notice of appeal:

(i) Is filed not later than ten (10) business days, excluding Saturdays, Sundays, and City holidays, after the date on which the decision of the City administrative official was communicated to the appellant with:

(a) The secretary of the Board of Adjustment; and

(b) The administrative officer who rendered the decision which is the subject of the appeal; and

(ii) Is accompanied by the filing fee established by the City Council; and

(iii) Contains all the information set forth in Subsection (a)(2), above

(4) **Preparation of Record:** Upon receiving the notice of appeal, the City administrative official from whom the appeal is taken must immediately forward to the secretary of the Board of Adjustment all of the papers constituting the record of the action that is appealed.

(5) **Stay of Proceedings:** A notice of appeal properly and timely filed as provided in this Section (a)(2) and (a)(3) above shall stay all proceedings in furtherance of the action appealed from until after the decision of the Board has been rendered unless the official from whom the appeal is taken certifies in writing, to the Board of Adjustment, facts supporting the official's opinion that a stay would cause imminent peril to life or property. In the case where the official makes such a certification, proceedings may be stayed only by a restraining order granted by the Board of Adjustment or a court of record on application, after notice to the official, if due cause is shown.

(6) **Date of Public Hearing:** Unless a later date is set upon written request of the appellant, the Board of Adjustment shall hold a public hearing on an appeal under this Section (a) not later than twenty (20) days after the filing and perfection of the notice of appeal, excluding Saturdays, Sundays, and City holidays; provided, however, the hearing shall not take place earlier than ten (10) days after notice of the time and place of the public hearing has been:

(i) Published in the City's official newspaper; and

(ii) Sent to the appellant and the owners of all property located within 200 feet of the property which is the subject of the appeal by depositing a copy of the notice in the United States mail, postage prepaid, and pre-addressed according to the address indicated on the last approved City tax rolls.

(7) **Decision of the Board:** After receiving all evidence and hearing all arguments, the Board of Adjustment may:

(i) Reverse or affirm, in whole or in part, or

(ii) Modify the City administrative official's order, requirement, decision, or determination from which the appeal was taken and

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(iii) Make the correct order, requirement, decision, or determination, and, for this purpose, has the same authority as the administrative official.

(8) **Required Vote:** The concurring vote of three-fourths (3/4) of the members of the Board of Adjustment is required to modify or reverse an order, requirement, decision, or determination of a City administrative official.

(b) **Variances:** The Board of Adjustment may grant a variance to the Zoning Code in accordance with the following procedures:

(1) **Application:** An application for a variance shall be made in writing on forms provided by the Planning Division and filed with the secretary of the Board of Adjustment. An application for a variance shall be deemed complete when all information on the application form is provided and the application is accompanied by the following:

(i) All fees established by the City Council for such matters; and

(ii) A description of the property to which the variance would apply sufficient to identify the location and the boundaries of the property; and

(iii) The reason the person is requesting the variance;

(iv) The signature, acknowledged by a notary public of:

(a) The owner of the property; and

(b) If different than the owner, the signature of the person requesting the variance; and

(v) When the variance relates to the development of a specific tract of land, the number of copies of a site plan as requested by the Planning Division, drawn to scale showing existing and proposed development of the property in question.

(2) **Public Hearing and Notice:** Upon filing of an application for a variance, the Director or designee shall set a date for a public hearing thereon as soon as may be practicable; provided, however, the Board of Adjustment shall hold a public hearing on a request for a variance under this Section (b) only after the filing of a completed application with the secretary of the Board of Adjustment and in no case earlier than ten (10) days after notice of the time and place of the public hearing has been:

(i) Published in the City's official newspaper; and

(ii) Sent to the applicant and the owners of all property located within 200 feet of the property which is the subject of the variance by depositing a copy of the notice in the United

States Mail, postage prepaid, and pre-addressed according to the address indicated on the last approved City tax rolls.

(3) **Required Findings of Fact:** No variance shall be granted by the Board of Adjustment until it makes the following findings:

(i) That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition, or location that do not apply generally to other property in the same area and the same zoning district;

(ii) That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter;

(iii) That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;

(iv) That the granting of such variance will not be contrary to the objectives and principles contained in the Comprehensive Plan, as amended;

(v) That the variance to be granted is the minimum variance that will relieve the proven hardship;

(vi) That the variance is not being granted to relieve the applicant of conditions or circumstances:

(a) Which are not inherent in the property itself, but are the result of the use or development of the property, or

(b) Which are caused by a division of land on or after DATE OF ADOPTION, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or

(c) Which were otherwise self-imposed by the present or a previous owner;

(vii) That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;

(viii) That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a

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Development Site Plan or establishing a Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Chapter;

(ix) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-I-12 herein.

(4) **Record of Findings:** In addition to the record of the vote of the members regarding the application, the minutes of the Board of Adjustment shall contain the findings of facts on which its decision was based including, but not limited to, its findings as to the matters set forth in Subsection (b)(3) above, and a description of the extraordinary circumstances found to be affecting the property in question.

(5) **Decision of the Board:** After receiving all evidence, hearing all argument, and making its findings of fact regarding an application for a variance, the Board of Adjustment may:

(i) Grant the variance as requested, limited to the specifics of the application;

(ii) Grant a variance modified in accordance with the findings of the Board of Adjustment; or

(iii) Deny the variance.

(6) **Required Vote:** The concurring vote of three-fourths (3/4) of the members of the Board of Adjustment is required to grant a variance.

(7) **Effective Date of Variance:** A variance granted by the Board of Adjustment shall become effective after the expiration of ten (10) days from the date of filing its decision with the Planning Division unless the Board specifically establishes a different effective date. The effective date of a variance can be based on the satisfaction of a condition.

(c) **Filing of Decisions:** Not later than three business days, excluding Saturdays, Sundays, and City holidays, after the adjournment of the meeting at which the Board of Adjustment votes pursuant to this Article on an appeal of the act of a City administrative official or on an application for a variance, the secretary of the Board of Adjustment shall file the decision with the Planning Division.

(d) **Appeals of Board of Adjustment Decisions:** An appeal of a decision of the Board of Adjustment must be prosecuted in district court in accordance with Texas Local Government Code §211.010, as amended.

IX. Art. 11-I-9. ZONING DISTRICTS GENERALLY; OFFICIAL ZONING MAP

(a) **District Regulations:** All property within the City shall meet and conform to all requirements of such districts as may from time to time be adopted by the Commission and/or the City Council as set forth in the Zoning Code. Except as otherwise specified in the Zoning Code, no land, building, structure, or premises in the City shall be used, and no structure or any part thereof, shall be located, erected, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations set forth in this Zoning Code for the district in which the property is located.

(b) **Zoning Districts:** The City of Kerrville, Texas, is hereby divided into the following zoning districts, which shall specify the use, height, and area regulations, and other requirements, including a Planned Development District, whereby the uses, height, area regulations, and other requirements shall be specified for each individual PD tract within the ordinance governing the property.

(1) Residential Districts

(i) "R-E" Estate Residential

(ii) "R-1" Single-Family Residential

(iii) "R-1A" Single-Family Residential with Accessory Dwelling Unit

(iv) "R-2" Medium Density Residential

(v) "R-3" Multifamily Residential

(vi) "R-M" Residential Mix

(vii) "R-T" Residential Transition

(2) Nonresidential Districts

(i) "C-1" Neighborhood Commercial

(ii) "C-2" Light Commercial

(iii) "C-3" General Commercial

(iv) "IM" Industrial and Manufacturing

(3) Special Districts

(i) "DAC" Downtown Arts and Culture

(ii) "MU" Mixed Use

(iii) "PD" Planned Development

(iv) "PI" Public and Institutional

(v) "AD" Airport

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(vi) "AG" Agriculture

(c) **<u>Zoning of Newly Annexed Areas</u>:**

(1) If the request for annexation does not include a request for zoning pursuant to a development agreement or other application, all property newly annexed to the City and any property not permanently zoned upon the date of passage of this ordinance shall be temporarily classified for "AG" Agriculture district uses until such time as permanent zoning is established.

(2) Concurrently with the adoption of the annexation ordinance the City Council shall adopt the zoning of the area or tract being annexed, whether classified for "AG" Agriculture district uses or zoned permanently in response to a request for annexation, or upon recommendation by the Planning and Zoning Commission after a hearing to consider the appropriate zoning for the tract to be annexed consistent with the purposes of the Zoning Code.

(3) No person shall erect, construct, proceed, or continue with the erection or construction of any building or structure, or cause the same to be done on property classified "AG" Agriculture district without benefit of a building permit or certificate of occupancy issued by the City Building Official, and such permit shall be issued for buildings and uses which comply with the regulations of the "AG" Agriculture district until permanent zoning is established.

(4) The procedure for establishing permanent zoning for newly annexed property shall be the same as the procedure for a zoning change.

(d) **<u>Official Zoning Map:</u>** The boundaries of the various zoning districts of the City shall be as shown on the official zoning map.

(1) The "official zoning map" shall be maintained as part of the City of Kerrville geographic information system (GIS). This map, including all notations, references, data, and other information shown on the map, is adopted and incorporated into this Zoning Code.

(2) If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be incorporated into the official zoning map promptly after the amendment has been approved by the City Council, and it shall be the responsibility of the Director to see that the map is updated in a timely manner. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance, and no unauthorized person shall alter or amend the map. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map located in the office of the

Planning Division shall be the final authority as to the current zoning status of land in the City.

(3) **Determination of Zoning District Boundaries:** The following rules shall apply in determining the location of zoning district boundaries on the official zoning map,:

(i) Where district boundaries are indicated as approximately following property or lot lines, street rights-of-way, existing or abandoned railroad rights-of-way, waterway lines, or significant terrain features, such lines, ways, or features shall be construed to be such boundaries;

(ii) All district boundary lines indicated on or within street rights-of-way shall be construed to be at the centerline of such right-of-way;

(iii) Whenever any street or alley right-of-way is vacated, a district boundary indicated as being in the center of the right-of-way shall remain at the center of the vacated right-of-way, unless the district boundary is specifically amended by the City Council in the same manner as for any other zone change;

(iv) Where the official zoning map indicates that a district boundary is approximately parallel to a property or lot line, street right-of-way, existing or abandoned railroad rights-of-way, waterway line, or significant terrain feature, the boundary shall be construed to be parallel thereto and at the distance indicated on the official zoning map. If a distance is not given, the distance shall be determined by the use of the scale on the official zoning map. If the scale on the official map cannot be determined or verified in view of actual, on-the-ground improvements, the Director shall interpret the location of the district boundary;

(v) Where a district boundary line is located on undivided property such that the property is located in two or more zoning districts, the Director shall determine the location of the boundary of the zoning district(s) using the best information available.

(vi) Where the boundary indicated on the official zoning map crosses unplatted property and the district boundary is found to, in fact, not follow property lines as recorded in the Real Property Record of Kerr County, Texas, if the district boundary appears to the Director to be sufficiently close and parallel to the property line that the intent reasonably appears to have been to follow the property line indicated in

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the Real Property Records, then the boundary shall be construed to be following said property line.

(vii) The Director shall be responsible for making a determination as to the location of a zoning district boundary when none of the above conditions apply and the boundary map is not clear. The owner or representative of any property involved in such determination who is not in agreement with the Director's decision may:

(a) Appeal the determination to the Planning and Zoning Commission; or

(b) Request a change in zoning to establish the boundary in question.

X. Art. 11-I-10. ZONING DISTRICTS

(a) RESIDENTIAL ZONING DISTRICTS

(1) **"R-E" Estate Residential District:** Property located in a(n) "R-E" Estate Residential District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The purpose of the "R-E" Estate Residential District is to preserve the opportunity for the development of single-family detached homes in a large-lot, semi-rural setting.

(ii) **Uses:** In general, single-family detached dwellings, lawful accessory structures, home occupations meeting the requirements of this zoning code, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-E" district.

(iii) **Building Regulations:** No more than one main building may be constructed on a lot in the "R-E" Estate Residential District. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure as defined herein.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-E" Estate Residential District except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT
	SINGLE-FAMILY DWELLING
Minimum Lot Size	1 acre

Minimum Lot Width	50 feet
Minimum Front Setback	25 feet

Minimum Side Setback	• Interior lot: ~~6~~ 5 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the centerline of an adjacent alley

Maximum Building Height	35 feet
Minimum Parking	2 spaces per dwelling unit

(v) **Access to Arterial Street Prohibited:** No lot shall be platted with direct access to an arterial street except where limited access is permitted by the Subdivision Code.

(vi) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0') into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0') into the required setback.

(vii) **Location of Accessory Buildings or Structures Beyond Setback:**

(a) There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that

no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0') of the property line, but may not extend into the front setback or be located between the front wall of the main building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0') in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0')~~ five feet (5.0') from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side property lines, the rear wall of the main building, and the rear property line.

~~***(e)*** An accessory building or structure located on property zoned as residential with a floor area of less than one hundred fifty (150) square feet and not exceeding fifteen feet (15.0') in height may extend into the required side or rear setback, but in no case shall be located closer than three feet (3.0') from any property line.~~

~~***(f)*** An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0') in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0') from any property line.~~

(g) If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential

property, but not closer than three feet (3.0') to any property line.

(2) **<u>"R-1" Single-Family Residential District:</u>** Property located in a(n) "R-1" Single-Family Residential District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The purpose of the "R-1" Single-Family Residential District is: (1) to encourage the development of primarily single-family detached homes, and (2) to protect developed and vacant properties that are determined to be appropriate for such homes from uses that will produce inappropriate levels of traffic, noise, and pollutants, and other conditions not conducive to a residential environment.

(ii) **Uses:** In general, single-family detached dwellings, lawful accessory structures, home occupations meeting the requirements of this zoning code, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-1" district.

(iii) **Building Regulations:** No more than one main building may be constructed on a lot in the "R-1" Single-Family Residential District. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure as defined herein.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-1" Single-Family Residential District except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT
	SINGLE-FAMILY DWELLING
Minimum Lot Size	5,000 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet

Minimum Side Setback	• Interior lot: ~~6~~ 5 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles

	• Setback may be measured from the centerline of an adjacent alley
Maximum Building Height	35 feet
Minimum Parking	2 spaces per dwelling unit

(v) **Access to Arterial or Collector Street Prohibited:** No lot shall be platted with direct access to a collector or arterial street except where limited access is permitted by the Subdivision Code.

(vi) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0') into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0') into the required setback.

(vii) **Location of Accessory Buildings or Structures Beyond Setback:**

(a) There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0') of the property line, but may not extend into the front setback or be located between the front wall of the building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on~~

~~property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0') in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0')~~ five feet (5.0') from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side property lines, the rear wall of the main building, and the rear property line.

~~***(e)*** An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0') in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0') from any property line.~~

~~***(f)*** If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential property, but not closer than three feet (3.0') to any property line.~~

(3) **<u>"R-1A" Single-Family Residential District with Accessory Dwelling Unit:</u>** Property located in a(n) "R-1A" Single-Family Residential District with Accessory Dwelling Unit shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "R-1A" Residential District with Accessory Dwelling Unit is similar to the "R-1" district, allowing for single-family detached homes, but also permitting an accessory dwelling unit in addition to the primary residence. The accessory dwelling unit may be located within the main building or in a detached structure on the same lot as the main building. The "R-1A" district regulations are intended to: (1) encourage the continuation of residential uses in older neighborhoods within or near the Downtown Arts and Culture area; (2) incentivize home ownership and property improvement by encouraging an owner to invest in an older

home with the potential for producing income from the investment; (3) increase the supply of multifamily units, possibly at more affordable rental rates, and situated in a traditional neighborhood environment; and (4) increase the number of residents, and thus the potential customer base, close to the Downtown area.

(ii) **Uses:** In general, single-family detached dwellings, no more than one accessory dwelling unit within the main building or in a detached building, lawful accessory structures as defined herein, home occupations meeting the requirements of this zoning code, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-1A" district.

(iii) **Building Regulations:** No more than one main building may be constructed on a lot in the "R-1A" district. Exceptions include a detached garage, servant or guest quarters, detached structure containing an accessory dwelling unit, or other lawful accessory structure.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-1A" district except in conformance with the following requirements:

CHARACTERISTIC	**REQUIREMENT**
	SINGLE-FAMILY DWELLING
Minimum Lot Size	5,000 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet

Minimum Side Setback	• Interior lot: ~~6~~ 5 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the centerline of an adjacent alley

Maximum Building Height	35 feet
Minimum Parking	2 spaces per dwelling unit
ADDITIONAL REQUIREMENTS FOR SINGLE-FAMILY DWELLING WITH ACCESSORY DWELLING UNIT	

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	ACCESSORY DWELLING UNIT WITHIN MAIN BUILDING	ACCESSORY DWELLING UNIT IN A DETACHED STRUCTURE
Maximum Building Height	35 feet for main building including accessory dwelling unit	35 feet for detached structure containing accessory dwelling unit
Maximum Area of Accessory Dwelling Unit	One-half of the total floor area of the main dwelling unit, excluding the area occupied by the accessory dwelling unit; total floor area of the ~~house~~ main dwelling unit excludes the area of any attached garage	• One-half of the total floor area of the main dwelling unit, excluding the area occupied by the accessory dwelling unit; total floor area of the ~~house~~ main dwelling unit excludes the area of any attached garage; and • Maximum 50% of the rear yard area, bounded by the side property lines, the rear wall of the main building, and the rear property line
Minimum Parking for Dwelling with Accessory Unit	2 parking spaces per dwelling unit (4 spaces total for the main dwelling and an accessory dwelling unit)	2 parking spaces per dwelling unit (4 spaces total for the main dwelling and an accessory dwelling unit)

(v) **Access to Arterial or Collector Street Prohibited:** No lot shall be platted with direct access to a collector or arterial street except where limited access is permitted by the Subdivision Code.

(vi) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0') into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0') into the required setback.

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(vii) Location of Accessory Buildings or Structures Beyond Setback:

(a) There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0’) of the property line, but may not extend into the front setback or be located between the front wall of the building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0’) in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0’)~~ five feet (5.0’) from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side property lines, the rear wall of the main building, and the rear property line.

~~***(e)***~~ An accessory building or structure located on property ~~zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0’) in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0’) from any property line.~~

~~***(f)***~~ ~~If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential~~

~~property, but not closer than three feet (3.0') to any property line.~~

(4) **"R-2" Medium Density Residential District:** Property located in a(n) "R-2" Medium Density Residential District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** This district is designed to provide for a variety of housing options, such as patio homes, townhomes, and duplexes in addition to single-family detached homes either (1) as stand-alone housing types or, (2) if properly planned, in a development that features a denser mix of housing types compared to other single-family neighborhoods, subject to the use of proper buffering, transition, and design measures to ensure better compatibility. In an "R-2" Medium Density Residential District, homes can also be arranged into clusters to create unique neighborhoods, when (1) the topography does not reasonably allow development of the entire tract or (2) preservation of important open space, views, critical environmental features (including significant trees), or recreational areas is desired.

(ii) **Uses:** In general, single-family detached homes, patio homes, townhomes, duplexes, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-2" district.

(iii) **Building Regulations:** No more than one main building may be constructed on a lot in the "R-2" district. Exceptions include one detached garage, servant or guest quarters, or allowable accessory building per dwelling unit per single-family or duplex dwelling.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-2" Residential Medium Density District except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT	
	DUPLEX	TOWNHOME
Minimum Lot Size	6,000 square feet	3,000 square feet
Minimum Lot Width	60 feet	25 feet
Minimum Front Setback	• 15 feet • 19 feet to a garage door or carport eave	• 15 feet • 19 feet to a garage door or carport eave

CHARACTERISTIC	REQUIREMENT	

Minimum Side Setback, Interior Lot	• Interior lot: 6 feet
	• Corner lot:
	  • 15 feet on the unattached side
	  • 19 feet to a garage door or carport eave
		• Interior lot:
		  • 0 feet
		  • 10 foot separation between townhome buildings
		• Corner lot:
		  • 0 feet on any attached side
		  • 15 feet on any unattached side
		  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 15 feet • 19 feet to a garage door or carport eave	• 15 feet • 19 feet to a garage door or carport eave

Maximum Building Height	35 feet	• 35 feet
		• 45 feet when 100 feet or more from:
		  • R-E, R-1, R-1A, or R-2 zoning
		  • RM zoning if developed for other than manufactured housing;
		  • Land zoned MU or PD for single-family, patio home, or duplex uses

Minimum Parking	2 spaces per dwelling unit	• 2.25 spaces per dwelling unit
		  • 2 spaces for each dwelling unit
		  • .25 spaces per dwelling unit for guest parking, to be provided in groupings distributed throughout the development

	PATIO HOME	**SINGLE-FAMILY DWELLING**
Minimum Lot Size	4,000 square feet	5,000 square feet
Minimum Lot Width	40 feet	50 feet
Minimum Front Setback	• 15 feet • 19 feet to a garage door or carport eave	• 15 feet • 19 feet to a garage door or carport eave

Minimum Side Setback, Interior Lot	• Mandatory 0 feet on one side
	• 10 feet on the remaining side
	• Corner lot, street side:
	  • 15 feet
		• Interior lot: 5 feet
		• Corner lot, street side:
		  • 15 feet

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CHARACTERISTIC	REQUIREMENT	
	• 19 feet to a garage door or carport eave	• 19 feet to a garage door or carport eave

Minimum Rear Setback	• 15 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the alley centerline
		• 15 feet
		• For a garage or carport adjacent to an alley:
		  • 19 feet to a garage door or carport eave; or
		  • 6 feet if the garage or carport is built for two or more motor vehicles
		  • Setback may be measured from the alley centerline

Maximum Building Height	35 feet	35 feet
Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
ADDITIONAL REQUIREMENTS FOR PATIO HOMES		
Wall Openings on Zero Setback Side	Solid wall with no openings (windows, doors, etc.) required, except a wall constructed of opaque materials which allow the infiltration of light that is diffused so that objects on the other side cannot be seen clearly, is permitted	
Wall Openings Near Zero Lot Line	Unless a screening fence has been constructed along the zero setback side of the property, no porch, door, or window may be constructed on any other wall of the dwelling at a distance less than five feet (5.0’) from the zero setback side of the lot	
Atrium Openings	No edge of the rooftop opening of an atrium constructed on the zero setback side of a dwelling shall be less than eight feet (8.0’) from ground level	
Maintenance, Overhang, and Drainage Easement	• A maintenance, overhang, and drainage easement not less than five feet (5.0') in width must be platted on the adjacent lot running parallel to the zero setback lot line • A roof eave may extend 16 inches (16.0”) into the easement • A gutter and down spout shall be required along the zero setback side of the dwelling to ensure that drainage is handled on the owner’s property, and said gutter system is not included in the calculation of the eave encroachment	
Structures in Required Side Setback	Structures shall be prohibited in the required 10-foot side setback	

(v) Access to Arterial or Collector Street Prohibited: No lot shall be platted with direct access to a collector or arterial

street except where limited access is permitted by the Subdivision Code.

(vi) **Rear or Alley Access Required for Certain Lots:** For a lot with a width of less than 50 feet (50.0'), rear or alley driveway access shall be required in order to maintain sufficient area for viable on-street parking.

(vii) **Consistent Block Face:**

(a) In the "R-2" Medium Density Residential District, no more than one type of housing shall be developed on the same street between intersecting streets on the same block.

(b) Notwithstanding paragraph (a), above, no more than one type of housing may be developed on loop streets or cul-de-sacs.

(viii) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0') into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0') into the required setback.

(ix) **Location of Accessory Buildings or Structures Beyond Setback:**

(a) There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0') of the property line, but may not extend into the required front

setback or be located between the front wall of the main building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0') in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0')~~ five feet (5.0') from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side property lines, the rear wall of the main building, and the rear property line.

~~***(e)*** An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0') in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0') from any property line.~~

~~***(f)*** If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential property, but not closer than three feet (3.0') to any property line.~~

(g) Accessory buildings shall be prohibited on lots containing patio homes or townhomes.

(6) **<u>"R-3" Multifamily Residential District</u>:** Property located in a(n) "R-3" Multifamily Residential District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "R-3" Multifamily Residential District allows the development of multiple apartments or condominiums on a single lot. Property zoned "R-3" should have direct access to and/or frontage on a major thoroughfare or collector

street. Development in the "R-3" zoning district may provide a suitable transition between lower density residential uses and higher-intensity commercial areas.

(ii) **Uses:** In general, apartments and condominiums, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-3" district.

(iii) **Building Regulations:** For multifamily uses (apartments or condominiums), there may be more than one building on a single lot in addition to lawful accessory buildings and structures.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-3" Multifamily Residential District except in conformance with the following requirements. "Residential Zoning District", as referenced in the regulations below, shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
	APARTMENTS OR CONDOMINIUMS WITH THREE OR MORE UNITS
Minimum Lot Area Per Dwelling Unit	• 1,600 square feet for each one-bedroom unit • 1,800 square feet for each two-bedroom unit • 2,000 square feet for each unit with three or more bedrooms
Minimum Lot Width	N/A
Minimum Front Setback	25 feet
Minimum Side Setback	• Interior lot: 10 feet • Corner lot, street side: 15 feet

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the centerline of an adjacent alley

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CHARACTERISTIC	REQUIREMENT
Maximum Building Height	• No limit except adjacent to a residential district as described in paragraph (4) above, as follows: • Two stories of up to 35 feet when 25 to 50 feet from a residential property line • Three stories of up to 45 feet when more than 50 feet but less than 100 feet from a residential property line • 45 feet when 100 feet or more from a residential property line, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet
Minimum Parking	• 1.5 spaces for each 1-bedroom unit • 2.0 spaces for each 2-bedroom unit • 2.5 spaces for each unit with 3 or more bedrooms

N/A = Not Applicable (no specific requirement applies)

(v) **Access to Arterial or Collector Street:** Primary access for a lot platted for multifamily development shall be provided from one or more collector or arterial streets and shall not be provided by a local residential street.

(vi) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0’) into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on at least two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0’) into the required setback.

(vii) **Location of Accessory Buildings or Structures Beyond Setback:**

(a) There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

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(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0') of the property line, but may not extend into the required front setback or be located between the front wall of any building facing a street and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure located on property zoned as residential with a floor area of less than one hundred fifty (150) square feet and not exceeding fifteen feet (15.0') in height may extend into the required side or rear setback, but in no case shall be located closer than three feet (3.0') from any property line.

(d) An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0') in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0') from any property line.

(e) If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential property, but not closer than three feet (3.0') to any property line.

(viii) Development Regulations for Accessory Uses: Accessory uses such as a clubhouse, laundry room, leasing office, or similar, when located on property zoned "R-3" Multifamily Residential and serving the multifamily uses thereon, shall be developed in accordance with the following additional regulations:

(a) **Building Area:** The gross floor area of a building used for accessory activities for an apartment development may not exceed three thousand (3,000) square feet;

(b) **Building Appearance:** The building containing the accessory use shall be designed to appear as a residence, with:

(1) A wood, rock, or brick exterior;

(2) A roof constructed of materials and with a similar pitch to other residences in the adjoining neighborhood; and

(3) A front door and window(s) on the wall of the building facing the lot front or street.

(ix) **Screening:** Where property zoned "R-3" Multifamily Residential is adjacent to a residential zoning district as described in paragraph (iv) above and not separated by a public street, the "R-3" property shall construct and maintain a screening wall or fence along the common property line between the "R-3" tract and the less intense residential use.

(6) **<u>"R-M" RESIDENTIAL MIX DISTRICT:</u>** Property located in a(n) "R-M" Residential Mix District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "R-M" Residential Mix District broadens the range of available housing types by allowing all uses permitted in the "R-2" Residential Medium Density District in addition to subdivisions and rental communities that include manufactured housing, provided such developments comply with the special requirements for such uses as specified in this ordinance, such as limitations on recreational vehicle storage and requirements for a roadway system, open space, buffering/screening, and skirting.

(ii) **Uses:** In general, single-family detached homes, patio homes, townhomes, duplexes, manufactured homes, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-M" district.

(iii) **Building Regulations:** No more than one main building may be located on a lot in the "R-M" Residential Mix District. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure as defined herein on a lot with a single-family or duplex dwelling.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-M" Residential Mix district except in conformance with the following requirements. "Residential Zoning District", as referenced in the regulations below, shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

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(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	**REQUIREMENT**	
	MANUFACTURED HOME RENTAL COMMUNITY	**MANUFACTURED HOME SUBDIVISION**
Minimum Lot Size	N/A	5,000 square feet
Maximum Density	7.5 units per acre inclusive of the area of any private roadways and common areas, but exclusive of areas designed for the location of recreational vehicles	N/A
Minimum Lot Width	N/A	50 feet
Minimum Front Setback	20 feet	20 feet

Minimum Side Setback	• Interior lot: 5 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave
	• Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer
		• Interior lot: 5 feet
		• Corner lot, street side:
		  • 15 feet
		  • 19 feet to a garage door or carport eave
		• Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer

Minimum Rear Setback	• 10 feet if placed perpendicular to the road • 20 feet if placed parallel to the road • Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer	• 10 feet if placed perpendicular to the road • 20 feet if placed parallel to the road • Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer
Maximum Building Height	35 feet	35 feet
Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
Minimum Open Space	5% of the total area of the development reserved and improved as park or community facility space for the use of residents of the development	N/A
Maximum Area for Storage of	10% of total area of the development	N/A

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CHARACTERISTIC	REQUIREMENT	
Recreational Vehicles		
	DUPLEX	**TOWNHOME**
Minimum Lot Size	6,000 square feet	3,000 square feet
Minimum Lot Width	60 feet	25 feet
Minimum Front Setback	25 feet	• 15 feet • 19 feet to a garage door or carport eave

Minimum Side Setback, Interior Lot	• Interior lot: 6 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave
		• Interior lot: 0 feet on any attached side
		• Corner lot, street side:
		  • 15 feet
		  • 19 feet to a garage door or carport eave
		• 10 foot separation between townhome buildings

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the alley centerline
		• 15 feet
		• 19 feet to a garage door or carport eave

Maximum Building Height	35 feet	• 35 feet
		• 45 feet when 100 feet or more from:
		  • R-E, R-1, R-1A, or R-2 zoning
		  • RM zoning if developed for other than manufactured housing;
		  • Land zoned MU or PD for single-family, patio home, or duplex uses

Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
	PATIO HOME	**SINGLE-FAMILY RESIDENTIAL**
Minimum Lot Size	4,000 square feet	5,000 square feet
Minimum Lot Width	40 feet	50 feet

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CHARACTERISTIC	REQUIREMENT	
Minimum Front Setback	• 15 feet • 19 feet to a garage door or carport eave	• 15 feet • 19 feet to a garage door or carport eave

Minimum Side Setback	• Interior lot:
	  • Mandatory 0 feet on one side
	  • 10 feet on the remaining side
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door or carport eave
		• Interior lot: 5 feet
		• Corner lot, street side:
		  • 15 feet
		  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 15 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the alley centerline
		• 15 feet
		• For a garage or carport adjacent to an alley:
		  • 19 feet to a garage door or carport eave; or
		  • 6 feet if the garage or carport is built for two or more motor vehicles
		  • Setback may be measured from the alley centerline

Maximum Building Height	35 feet	35 feet
Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
ADDITIONAL REQUIREMENTS FOR PATIO HOMES		
Wall Openings on Zero Setback Side	Solid wall with no openings (no windows, doors, etc.) required, except a wall constructed of opaque materials which allow the infiltration of light that is diffused so that objects on the other side cannot be seen clearly is permitted	
Wall Openings Near Zero Lot Line	Unless a screening fence has been constructed along the zero setback side of the property, no porch, door, or window may be constructed on any other wall of the dwelling at a distance less than five feet (5.0') from the zero setback property line	
Atrium Openings	No edge of the rooftop opening of an atrium constructed on the zero setback side of a dwelling shall be less than eight feet (8.0') from ground level	

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CHARACTERISTIC	REQUIREMENT
Maintenance, Overhang, and Drainage Easement	• A maintenance and drainage easement not less than five feet (5.0') in width must be platted on the adjacent lot running parallel to the zero setback property line • A roof eave may extend 16 inches (16.0”) into the easement • A gutter and down spout shall be required along the zero setback side of the dwelling to ensure that drainage is handled on the owner’s property, and said gutter system is not included in the calculation of the eave encroachment
Structures in Required Side Setback	Structures shall be prohibited in the required 10-foot side setback

N/A = Not Applicable (no specific requirement applies)

(v) **Access to Arterial or Collector Street Prohibited for Some Uses:** No property in the “R-M” Residential Mix District which is developed for uses other than a Manufactured Housing Rental Community (MHRC), or a Manufactured Housing Subdivision (MHS) subject to approval of the Director, shall be platted with direct access to a collector or arterial street, except where limited access is permitted by the Subdivision Code.

(vi) **Rear or Alley Access Required for Certain Lots:** For a lot with a width of less than 50 feet (50.0’), rear or alley driveway access shall be required in order to maintain sufficient area for viable on-street parking.

(vii) **Consistent Block Face:** A Development Site Plan for property zoned “R-M” must provide that no more than one type of housing shall be developed on the same street between intersecting streets on the same block, except where it can be demonstrated that terrain, the construction of an appropriate buffer, or open areas create a condition in which a mix of housing on the same street will be compatible.

(viii) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0’) into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper

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floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0’) into the required setback.

(ix) Location of Accessory Buildings or Structures Beyond Setback:

(a) There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluded chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0’) of the property line, but may not extend into the required front setback or be located between the front wall of the main building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0’) in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0’)~~ five feet (5.0’) from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side property lines, the rear wall of the main building, and the rear property line.

~~***(e)*** An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0’) in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0’) from any property line.~~

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(f) ~~If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential property, but not closer than three feet (3.0') to any property line.~~

(g) Accessory buildings shall be prohibited on lots containing patio homes or townhomes.

(7) **<u>"R-T" Residential Transition District:</u>** Property located in a(n) "R-T" Residential Transition District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "R-T" Residential Transition District is designed to be a transition zone between single-family residential areas and commercial properties in certain portions of the city. Because of development regulations requiring the appearance of a business located in an "R-T" district to be that of a single-family residence, this district is appropriate in particular areas of the city where some lots are occupied by single-family houses, but where limited business uses may be suitable under certain conditions and with specific compatibility measures.

(ii) **Uses:** In general, single-family detached homes, limited/small-scale business uses subject to specific standards, certain public and institutional uses, and activities allowed with the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "R-T" district.

(iii) **Building Regulations:** No more than one main building may be constructed on a lot in the "R-T" Residential Transition District. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure per dwelling unit as defined herein.

(iv) **Area and Height Regulations:** No building shall be constructed in the "R-T" Residential Transition district except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT	
	SINGLE-FAMILY DWELLING	NONRESIDENTIAL USE
Minimum Lot Size	5,000 square feet	6,000 square feet

Minimum Lot Width	50 feet	60 feet
Minimum Front Setback	25 feet	• 25 feet • Front yard to remain unpaved except for a driveway; parking in the front yard prohibited

Minimum Side Setback	• Interior lot: ~~6~~ 5 feet
	• Corner lot, side street:
	  • 15 feet
	  • 19 feet to a garage door or carport eave
		• Interior lot: ~~6~~ 5 feet
		• Corner lot, side street:
		  • 15 feet
		  • 19 feet to a garage door or carport eave

Minimum Rear Setback	• 25 feet
	• For a garage or carport adjacent to an alley:
	  • 19 feet to a garage door or carport eave; or
	  • 6 feet if the garage or carport is built for two or more motor vehicles
	  • Setback may be measured from the alley centerline
		• 25 feet
		• For a garage or carport adjacent to an alley:
		  • 19 feet to a garage door or carport eave; or
		  • 6 feet if the garage or carport is built for two or more motor vehicles
		  • Setback may be measured from the alley centerline

Maximum Building Height	35 feet	35 feet
Minimum Parking	2 spaces per dwelling unit	Varies by use; see Article XX-I-14
ADDITIONAL REQUIREMENTS FOR NONRESIDENTIAL USES		
Maximum Building Area	3,000 square feet for nonresidential uses allowed herein except public and institutional uses	

Building Appearance	• Building designed to appear as a residence with:
	  • Wood, rock, or brick exterior materials
	  • Roof of materials and pitch similar to other residences in the adjoining neighborhood
	  • Front door and window(s) required on the wall of any building facing the lot front or street	

Signage	See sign regulations, Development Standards	
Location of Parking, Nonresidential Uses	Parking to be located in the side or rear yard area	

(v) **Access to Arterial or Collector Street Prohibited:** No lot shall be platted with direct access to a collector or arterial street except where limited access is permitted by the Subdivision Code.

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(vi) Exceptions to Required Setbacks: All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Application to Ground Floors:** Cornices, eaves, belt courses, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0') into any required setback.

(b) **Application to Upper Floors:** The upper floors of a multi-story building must comply with all setback requirements provided an uncovered deck, upper floor balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features may extend three feet (3.0') into the required setback.

(vii) Location of Accessory Buildings or Structures Beyond Setback:

(a) There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fence, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation. Chain link fence shall not be permitted.

(b) Satellite dishes may extend into the required side or rear setback to within three feet (3.0') of the property line, but may not extend into the required front setback or be located between the front wall of the building and the front property line, or in any side yard adjacent to a street.

(c) An accessory building or structure, including, but not limited to, a detached carport or garage, ~~located on property zoned as residential~~ with a floor area ~~of less than one hundred fifty (150)~~ not exceeding 1,000 square feet and not exceeding fifteen feet (15.0') in height, may extend into the required side or rear setback, but in no case shall be located closer than ~~three feet (3.0')~~ five feet (5.0') from any property line.

(d) The total square footage of all accessory buildings or structures on a lot shall not exceed 50% of the rear yard area, defined as the space bounded by the side

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property lines, the rear wall of the main building, and the rear property line.

~~***(e)*** An accessory building or structure located on property zoned as residential with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0') in height, may extend into the rear setback but in no case shall the building be located closer than six feet (6.0') from any property line.~~

~~***(f)*** If the side or rear lot line of a property zoned as residential abuts the property line of a property not zoned as residential, an accessory building or structure located on property zoned as residential, including, but not limited to, a detached carport or garage, may extend beyond the rear setback of the lot line adjacent to the property zoned as nonresidential property, but not closer than three feet (3.0') to any property line.~~

(b) **NONRESIDENTIAL DISTRICTS**

(1) **"C-1" Neighborhood Commercial District:** Property located in a "C-1" Neighborhood Commercial District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** Land zoned "C-1" Neighborhood Commercial District allows the offering of goods and services of a limited, low-intensity nature to both individuals and businesses. These activities, which include shopping for daily needs and professional services typically provided in an office setting, are typically sought on a frequent or recurring basis and tend to be located in small buildings, with one or only a few businesses, and on small lots. "C-1" zoning should be located along or at the intersection(s) of thoroughfares and collector streets to provide access to customers and to accommodate the traffic associated with these uses. If properly designed, development and uses in the "C-1" district can buffer residential areas from higher-volume roadways or more intense nonresidential uses.

(ii) **Uses:** Neighborhood-oriented retail, business and personal service, banks and financial institutions, and office uses such as barber and beauty shops, grocery stores, restaurants, and clothing stores in buildings of a limited size, certain public and institutional uses, and activities allowed subject to

the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "C-1" district.

(iii) **Building and Area Regulations:** No building shall be constructed in the "C-1" Neighborhood Commercial District except in conformance with the following requirements. "Residential Zoning District" as referenced in the regulations below shall have the following meaning and shall apply whether the residential property is developed or vacant.

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Width	N/A
Maximum Building Size	• Individual building: 5,000 square feet • Total for all buildings on the lot: 10,000 square feet
Minimum Front Setback	15 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figure 8	
Minimum Side Setback	• Interior lot: N/A • Corner lot, street side: 15 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet
Minimum Rear Setback	• 10 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet • For a double frontage lot, same as front setback
Maximum Building Height	• Two stories up to a maximum of 35 feetNo windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii) above to prevent views from nonresidential to residential property
Minimum Parking	Varies by use; see Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) **Location of Structures Beyond Setback:** There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that

no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(v) Outdoor Storage:

(a) The outdoor storage of goods, wares, and merchandise is prohibited except as specifically authorized herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

(1) Within any required front, side, or rear setback, or between the front building wall and the front property line, or between the side building wall and the street on a corner lot, unless:

(i) Placed in an area that does not extend more than ten feet (10.0') from the building face on which the main customer entrance is located, and

(ii) The items being stored do not exceed four feet (4.0') in total height as stored or displayed, except as authorized in (iii) below.

(2) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(3) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(4) On any roof structure.

(c) The above prohibition shall not be construed to prohibit the following:

(1) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(2) The placement of newspaper racks.

(d) No shipping container as defined herein shall be located on any property zoned "C-1" for the purpose of providing outdoor storage.

(vi) Screening Adjacent to Residential Zoning:

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(a) The owner or developer of property zoned “C-1” shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property located in a residential zoning district as described in paragraph (iii) above and not separated by a public street; or

(2) The building or storage area on the property is newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0’), and no more than eight feet (8.0’), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city’s Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0’) in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(6) **Alternate Screening Permitted**: A developer may make application to the Commission to use alternate screening methods which may

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include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(2) **"C-2" Light Commercial District:** Property located in a "C-2" Light Commercial District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "C-2" Light Commercial District accommodates a wider array of retail, office, and service uses than property zoned "C-1", and will therefore attract customers from across the community and in the area outside the city. Lots on property zoned "C-2" may be somewhat larger than those in the "C-1" district and buildings may be up to 100,000 square feet in size. This zoning category should be applied along major collectors or thoroughfares to provide convenient access to patrons and to accommodate higher traffic volumes.

(ii) **Uses:** Neighborhood-oriented retail, office and service uses allowed in C-1 zoning, low-intensity automobile uses such as parts sales, gasoline sales, car washes, and minor service and repair, restaurants (including those with drive-thru service), microbreweries and wineries, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "C-2" district.

(iii) **Building and Area Regulations:** No building shall be constructed in a "C-2" Light Commercial District except in conformance with the following requirements. "Residential Zoning District" as referenced in the regulations below shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Width	N/A
Maximum Building Size	100,000 square feet of gross building area on the lot
Minimum Front Setback	25 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10	
Minimum Side Setback	• Interior lot: N/A • Corner lot, street side: 15 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet
Minimum Rear Setback	• N/A • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet • For a double frontage lot, same as front setback

Maximum Building Height	• No limit except adjacent to a residential zoning district as defined in paragraph (iii) above, as follows:
	  • Two stories of up to 35 feet when 25 feet to 100 feet from a residential property line;
	  • 45 feet when more than100 feet from a residential zoning district, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet
	  • No windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii) above to prevent views from nonresidential to residential property

Minimum Parking	Varies by use; see Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) **Location of Structures Beyond Setback:** There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(v) **Outdoor Storage:**

(a) Outdoor storage shall be permitted in the "C-2" district subject to the requirements herein.

(b) No materials, supplies, inventory, or and equipment may be kept or stored:

(1) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(2) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(3) On any roof structure.

(c) Notwithstanding anything to the contrary in paragraphs (a) and (b) above, self-propelled vehicles used by the owner or lessee of the property in the operation of the business located on the property, may be stored outdoors, provided such vehicles are not made available for retail or wholesale purchase by said owner or lessee.

(d) The above prohibition shall not be construed to prohibit the following:

(1) The storage, display, and sale of Christmas trees for the period between November 5 and December 31 of each year;

(2) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(3) The placement of newspaper racks.

(e) No shipping container as defined herein shall be located on any property zoned “C-2” for the purpose of providing outdoor storage.

(vi) Screening Adjacent to Residential Zoning:

(a) The owner or developer of property zoned “C-2” shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property located in a residential zoning district as described in paragraph (iii) above and not separated by a public street; or

(2) The building or storage area on the property is newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

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(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing, behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(c) **Alternate Screening Permitted:** A developer may make application to the Commission to use alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(3) **<u>"C-3" General Commercial District:</u>** Property located in a "C-3" General Commercial District shall be developed in accordance with

the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "C-3" General Commercial District is designed to accommodate: (1) retail, service, and office uses as well as (2) activities of an entertainment, recreation, or tourism nature, and (3) heavier motor vehicle-related uses and other more intense businesses. Properties zoned "C-3" should be located along major transportation corridors. The variety and cumulative nature of the list of "C-3" uses reflects the high traffic volumes and visibility of the transportation facilities serving these locations, and thus the potential for these properties to attract customers from a broader region than the "C-1"and "C-2" districts might, including drawing from areas outside of Kerrville and Kerr County.

(ii) **Uses:** Neighborhood-oriented uses allowed in C-1 zoning, light commercial uses permitted in C-2 zoning, plus community-oriented and regional retail and service uses, such as hotels and motels, home improvement centers, mini-storage, heavier automobile uses including dealerships and major service and repair, most building contractor activities, and movie theaters in buildings that may exceed 100,000 square feet in size, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "C-3" district.

(iii) **Building and Area Regulations:** No building shall be constructed in a "C-3" General Commercial District except in conformance with the following requirements. "Residential Zoning District" as referenced in the regulations below shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;
(b) "R-M" zoning if developed for other than manufactured housing; or
(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Width	N/A
Minimum Front Setback	25 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10	
Minimum Side Setback	• Interior lot: N/A • Corner lot, street side: 15 feet

	• Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet
Minimum Rear Setback	• N/A • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet • For a double frontage lot, same as front setback

Maximum Building Height	• No limit except adjacent to a residential zoning district as defined in paragraph (iii) above as follows:
	  • Two stories up to a maximum of 35 feet when 25 feet to 100 feet from a residential zoning district;
	  • 45 feet when more than 100 feet from a residential zoning district, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet
	  • No windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii) above to prevent views from nonresidential to residential property

Minimum Parking	Varies by use; see Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) Location of Structures Beyond Setback: There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(v) Outdoor Storage:

(a) Outdoor storage shall be permitted in the “C-3” district subject to the requirements herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

(1) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(2) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(3) On any roof structure.

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(c) Notwithstanding anything to the contrary in paragraphs (a) and (b) above, self-propelled vehicles used by the owner or lessee of the property in the operation of the business located on the property, may be stored outdoors, provided such vehicles are not made available for retail or wholesale purchase by said owner or lessee.

(1)

(d) The above prohibition shall not be construed to prohibit the following:

(1) The storage, display, and sale of Christmas trees for the period between November 5 and December 31 of each year;

(2) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(3) The placement of newspaper racks.

(e) Notwithstanding anything to the contrary in paragraphs (a) through (d), above, no screening shall be required of new and used motor vehicles that constitute inventory on property used for automobile dealerships, automobile leasing and rental facilities, or for rental trucks and trailers at heavy equipment rental facilities as defined herein.

(f) No shipping container as defined herein shall be located on any property zoned “C-3” for the purpose of providing outdoor storage.

(vi) Screening Adjacent to Residential Zoning:

(a) The owner or developer of property zoned “C-3” shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property located in a residential zoning district as described in paragraph (iii) above and not separated by a public street; or

(2) The building or storage area on the property is newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(vii) **Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, a developer may make application to the Commission to use alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(4) **<u>"IM" Industrial and Manufacturing District</u>:** Property located in an "IM" Industrial and Manufacturing District shall be developed in

accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The purpose of the "IM" Industrial and Manufacturing District is to provide locations for more intensive commercial and light industrial business activities, such as manufacturing, assembly, processing, fabrication, wholesaling, distribution, and warehousing, as well as research and development laboratories, limited building contracting businesses, heavier motor vehicle-related uses than those in the "C-3" Commercial District, household equipment repair, and other similar, more intense uses. Open storage may be permitted in conjunction with some of these businesses when screened from public view. Convenient access to thoroughfares and collector streets is a primary consideration for these uses, the operational characteristics of which are generally not compatible with residential areas.

(ii) **Uses:** Light industrial and manufacturing activities, such as fabrication, assembly, warehousing, distribution, and showrooms, as well as a number of activities of a commercial nature that are compatible with industrial and manufacturing uses, in addition to certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "IM" district.

(iii) **Building and Area Regulations:** No building shall be constructed in an "IM" Industrial and Manufacturing District except in conformance with the following requirements. "Residential Zoning District" as referenced in the regulations below shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Width	N/A
Minimum Front Setback	25 feet

For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10	
Minimum Side Setback	• Interior lot: N/A • Corner lot, street side: 15 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 50 feet
Minimum Rear Setback	• N/A • Adjacent to a residential zoning district as defined in paragraph (iii) above: 50 feet • For a double frontage lot, same as front setback

Maximum Building Height	• No limit except adjacent to a residential zoning district as defined in paragraph (iii) above as follows:
	  • Two stories up to a maximum of 35 feet when 50 feet to 100 feet from a residential zoning district
	  • 45 feet when more than 100 feet from a residential zoning district, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet
	  • No windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii) above to prevent views from nonresidential to residential property

Minimum Parking	Varies by use; see Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) Location of Structures Beyond Setback: There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(v) Outdoor Storage:

(a) Outdoor storage shall be permitted in the “IM” district subject to the requirements herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

(1) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(2) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(3) On any roof structure.

(c) Notwithstanding anything to the contrary in paragraphs (a) and (b) above, self-propelled vehicles used by the owner or lessee of the property in the operation of the business located on the property, may be stored outdoors, provided such vehicles are not made available for retail or wholesale purchase by said owner or lessee.

(d) The above prohibition shall not be construed to prohibit the following:

(1) The storage, display, and sale of Christmas trees for the period between November 5 and December 31 of each year;

(2) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(3) The placement of newspaper racks.

(e) Notwithstanding anything to the contrary in paragraphs (i) through (vi), above, no screening shall be required of new and used motor vehicles that constitute inventory on property used for automobile dealerships, automobile leasing and rental facilities, or for rental trucks and trailers at heavy equipment rental facilities as defined herein.

(f) Shipping containers as defined herein may be located on property zoned “IM” for the purpose of providing outdoor storage subject to the following conditions:

(1) No container shall be located in any required setback or between the front wall of the building being served and the front property line, or between the side building wall and the street on a corner lot; and

(2) The container shall be painted to match the color of the building for which the storage is being provided.

(vi) Screening Requirements Adjacent to Residential Zoning:

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(a) The owner or developer of property zoned "IM" Industrial and Manufacturing District shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property in a residential zoning district as described in paragraph (iii) above and not separated by a public street; or

(2) The building or storage area on the property is newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(vii) **Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, a developer may make application to the Commission to use

alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(c) <u>SPECIAL DISTRICTS</u>

(1) "DAC" Downtown Arts and Culture District: Property located in a "DAC" Downtown Arts and Culture District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) Purpose: The goal of the "DAC" Downtown Arts and Culture District is to provide for a pedestrian-oriented center for business, government, culture, and entertainment, supported by residential, retail, and restaurant uses, all of which combine to create a vibrant downtown environment in the city's historic business district. Development in this district will be denser than in other parts of the community because of minimal building setback requirements, special parking standards, and allowances for the use of public sidewalks for outdoor dining, streetscape improvements, and other pedestrian-oriented amenities. The goal of the "DAC" district is to complement and preserve the culture, heritage, and small-town character of the city's Downtown area and to promote downtown as a center for the arts. The selection of permitted uses for the district is designed to allow an appropriate transition from the more commercial-oriented uses in the core of the district to the residential uses in the surrounding area. Protection of the integrity of the Guadalupe River, but better recognition of this important community asset, is also a goal of the "DAC" district.

(ii) Uses: Generally, a combination of residential and nonresidential uses, including retail, business and personal services, restaurants, offices, home occupations meeting the requirements of this zoning code, townhomes, multifamily residences, live/work units, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "DAC" district.

(iii) Building and Area Regulations: No building shall be constructed in the "DAC" Downtown Arts and Culture district

except in conformance with the following requirements, which allow the combination of residential and nonresidential uses in a single building.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Size	N/A
Minimum Lot Width	N/A
Front Setback, Downtown Core	• 0 to 10 feet • Up to 10 feet of additional setback, for a maximum of 20 feet, to accommodate enhanced entryways and windows, changes in building plane, outdoor dining areas, and other architectural features, provided that the additional setback shall not occupy more than 40% of the linear distance of the frontage along any single building façade
Front Setback, Outside of Downtown Core	• Local and Collector street: 10 feet • Arterial street: 15 feet
Side Setback	• N/A, except for: • Corner lot, side street: Side setback same as front setback, including accommodations for outdoor dining and architectural features
Rear Setback	• N/A • For double frontage lots, same as front setback
Maximum Building Height	65 feet
Minimum Parking	• Residential uses: 2 spaces per dwelling unit • Nonresidential uses: On-site parking requirement waived within the Downtown Core as defined herein (generally bounded by the Guadalupe River on the south, extending north on Clay Street, east on Main Street, north on Earl Garrett Street, east on Jefferson Street, and south on Washington Street)

N/A = Not Applicable (no specific requirement applies)

(iv) **Overlay District Design Guidelines**: All new construction or modifications to existing buildings is encouraged to follow the Downtown Arts and Culture Overlay District Design guidelines and/or the Guadalupe River Overlay District design guidelines, as applicable.

(v) **Right-of-Way Encroachments:** All floors of all buildings at grade level and above must comply with all setback requirements, except that:

(a) **Floors at Grade**: Streetscape elements such as planters, window boxes, street furniture, patio dining areas, and similar pedestrian amenities may be located within the public sidewalk area provided that

five feet (5.0') of unobstructed sidewalk remains.

(b) **Upper Floors**: An uncovered deck, balcony which is open on no less than two sides with walls not higher than three feet (3.0') from an adjacent finished floor level, chimney, or similar architectural features on the upper floors of a multi-story building may extend three feet (3.0') into the right-of-way above a public sidewalk provided a minimum clearance of eight feet (8.0') is maintained between the lowest portion of the architectural feature and the ground below and provided that state right-of-way requirements are met.

(vi) **Location of Structures Beyond Setback:** There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(vii) **Outdoor Storage and Display:**

(a) Outdoor storage and display shall be permitted in the "DAC" district subject to the following requirements:

(1) Five feet (5.0') of unobstructed sidewalk is maintained outside of the display area.

(2) The storage or display does not interfere with any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes; and

(3) The items stored or displayed do not create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation;

(4) The storage or display does not take place on any roof structure.

(b) The above prohibition shall not be construed to apply to merchandise dispensing units (limited to not more than three for any one business establishment) when such merchandise dispensing units are operated in connection with the operation of a convenience store.

(c) The above prohibition shall not be construed to prohibit the placement of newspaper racks.

(d) No shipping container as defined herein shall be

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located on any property zoned “DAC” for the purpose of primarily providing outdoor storage.

(2) **“MU” Mixed Use District:** Property located in a(n) “MU” Mixed Use District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The “MU” Mixed Use District allows residential and nonresidential uses to be combined (1) in a single building, typically with public-oriented uses such as retail, and restaurant on the ground floor, and office, hotel, or residential living on the upper stories (sometimes referred to as vertical mixed use), and/or (2) as a range of activities in one or more buildings, built in a cohesively-designed, walkable environment on the same lot and/or within the same development (sometimes referred to as horizontal mixed use). A single development may also incorporate both vertical and horizontal mixed use techniques. This district offers flexible zoning standards in exchange for high-quality design and pedestrian-oriented amenities with the goal of creating active, attractive, sustainable live/work/shop/play districts. Uses within the “MU” district have been selected to create synergy and efficiency between the residential and nonresidential components of a development, and to reduce the need for parking based on the integration of uses so that multiple needs can be satisfied with a single stop, or services needed by residents can be provided within walking distance of their home. Because of the unique design and creative combination of uses typically found in mixed use environments, these districts may attract users from around the community and the region as well. “MU” zoning should only be assigned to property that is situated along major roadways; if located adjacent to single-family residential neighborhoods, careful attention must be paid to buffering and transitions.

(ii) **Uses:** Commercial, office, and residential uses that work together to create a development that satisfies multiple needs, such as residential uses near retail, business and personal services, restaurants, and/or offices, as well as home occupations meeting the requirements of this zoning code, certain public and institutional uses, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the “MU” district.

(iii) **Building and Area Regulations:** No building shall be constructed in a(n) “MU” Mixed Use District except in

conformance with the following requirements. “Residential Zoning District”, as referenced in the regulations below, shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) “R-E”, “R-1”, “R-1A”, or “R-2” zoning;

(b) “R-M” zoning if developed for other than manufactured housing; or

(c) Land zoned “MU” or “PD” for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
	• **MIXED-USE BUILDINGS INCLUDING BOTH RESIDENTIAL AND NONRESIDENTIAL USES** • **SINGLE-USE BUILDINGS (BUILDINGS CONTAINING ONLY NONRESIDENTIAL OR ONLY MULTIFAMILY USES) ON THE SAME LOT WITHIN AN INTEGRATED DEVELOPMENT**
Minimum Lot Area	N/A
Minimum Lot Width	N/A
Minimum Front Setback	• Local and Collector street: 10 feet • Arterial street: 15 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10	

Minimum Side Setback	• Interior lot: N/A
	• Corner lot, street side:
	  • Local, Collector, or Arterial street: 15 feet
	  • Highway: 25 feet
	• Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet

Minimum Rear Setback	• 10 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet • For a double frontage lot, same as front setback

Maximum Building Height	• No limit except adjacent to a residential zoning district as described in paragraph (iii) above, as follows:
	  • Two stories of up to 35 feet when 25 feet to 100 feet from a residential property line;
	  • 45 feet when more than100 feet from a residential property line, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet
	  • No windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii)

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	above to prevent views from nonresidential to residential property
Open Space	For a mixed-use building containing dwelling units, in lieu of meeting parkland dedication requirements in accordance with other relevant city codes, 8% of the site or portion of the site upon which residential units are located shall be developed for publicly-accessible open space, said open space to be located on the same lot with the dwelling units and designed and improved in accordance with the requirements in paragraph (viii) below

Minimum Parking	• Residential uses:
	  • 1.5 spaces for each 1-bedroom unit
	  • 2.0 spaces for each 2-bedroom unit
	  • 2.5 spaces for each unit with 3 or more bedrooms
	• Nonresidential uses in a mixed-use building including residential uses: 1 space for each 250 square feet
	• Mixed use credit: 10% reduction in the total number of spaces required for the nonresidential portion of a mixed-use building containing both residential and nonresidential uses
	• Nonresidential uses in a single-use building: Varies by use; see Article 11-I-14

Concept Plan	Required with application for MU zoning

N/A = Not Applicable (no specific requirement applies)

(iv) **Concept Plan:** An application for "MU" zoning shall include a concept plan drawing as defined herein, indicating the preliminary layout of proposed uses, proposed structures, parking utilities, and, if applicable, project phasing. The concept plan shall be construed as an illustration of the development concepts and not an exact representation of all specific details.

(v) **Location of Structures Beyond Setback:** There shall be no structure in excess of 30 inches (30.0") in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(vi) **Outdoor Storage and Display:**

(a) The outdoor storage of goods, wares, and merchandise is prohibited except as specifically authorized herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

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(1) Within any required front, side, or rear setback, or between the front building wall and the front property line, or between the side building wall and the street on a corner lot, unless:

(i) Placed in an area that does not extend more than ten feet (10.0') from the building face on which the main customer entrance is located, and

(ii) The items being stored do not exceed four feet (4.0') in total height as stored or displayed, except as authorized in (iii) below.

(2) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(3) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(4) On any roof structure

(c) The above prohibition shall not be construed to prohibit the following:

(1) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(2) The placement of newspaper racks.

(d) No shipping container as defined herein shall be located on any property zoned "MU" for the purpose of providing outdoor storage.

(vii) Screening Adjacent to Residential Zoning:

(a) The owner or developer of property zoned "MU" shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property in a residential zoning district as described in paragraph (iii) above and not separated by a public street, but not including single-family development within the boundaries of the "MU" district under consideration; or

(2) Building or storage area on the property is

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newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(c) **Alternate Screening Permitted:** A developer may make application to the Commission to use alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later

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than five (5) business days following the date of the action of the Commission.

(viii) The publicly accessible open space required herein shall be located, designed, improved, and maintained as follows:

(a) The open space shall be designed to allow natural surveillance from adjacent properties and/or roadways;

(b) Fencing shall provide through vision on all sides;

(c) The area shall be lit appropriately, using approved fixture types and lighting levels;

(d) The property owner shall be responsible for maintaining the open space in a proper manner, including keeping landscaping trimmed and in a healthy growing condition, maintaining fencing and lighting, and keeping any street furniture or play equipment in a safe condition.

(3) **"PD" Planned Development District:** Property located in a "PD" Planned Development District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "PD" Planned Development District is a zoning category that allows the use of unique and innovative land use and design techniques to further the city's development goals. "PD" zoning allows an applicant to: (1) create combinations of uses, structures, and open spaces not otherwise permitted under established regulations; (2) utilize flexible design techniques that take into account the use of adjacent properties, the needs of future occupants and users of the Planned Development, and the emergence of new development trends, such as tiny homes; (3) mitigate the impacts of new construction on traffic, the environment, public facilities, and services; (4) protect existing natural assets, such as the Guadalupe River and the Hill Country views; and (5) promote the efficient use of land and public facilities and services; (6) further the vision of the Kerrville 2050 Comprehensive Plan as amended. It is intended to ensure compliance with good zoning practices while allowing specific desirable departures from the strict provisions of current zoning classifications. It is not intended to be used to circumvent the standard requirements of the Zoning Code. In general, "PD" zoning may be requested anywhere in the city on tracts of land of five (5) acres or more.

(ii) **Application and Review Process, Generally:** An

application for a “PD” Planned Development District shall be processed in accordance with this article. The City shall not consider an application for a “PD” to be administratively complete until all required information is delivered to the City and the application fee paid. All information required by the City and the amount of the appropriate fee shall be specified on the City’s application form.

(iii) **Mandatory Pre-Application Conference:** Prior to submitting a “PD” application, the applicant or the applicant’s representative shall meet with the Director or designee to receive information regarding application procedures and requirements. The applicant is encouraged to bring any preliminary development concepts or other relevant materials to the meeting to facilitate the discussion.

(iv) **Minimum Development Size:** The minimum tract size for any request for “PD” Planned Development zoning shall be not less than five (5) acres. No request for “PD” zoning on a tract that does not meet the five (5) acre minimum requirement may be considered, unless the applicant has requested a waiver of this requirement by filing an appeal with the City Council. The appeal must be reviewed and approved by the Council in advance of the filing of the application for “PD” zoning with the Planning Division.

(v) **Uses:** The uses approved for a Planned Development shall be those listed in the application and approved in the ordinance governing the property. In a “PD” zoning request, the applicant shall propose a list of uses, typically from among those already permitted under this Zoning Code, to achieve a unique development that would enhance the community and is consistent with the Comprehensive Plan as amended. For efficiency, the application may refer to one of the existing zoning districts and add or eliminate uses from the standard list. Residential and nonresidential uses may be combined on a single property or in a single development within a Planned Development district.

(vi) **Area and Height Regulations:** An application for “PD” zoning may refer to the area and height regulations of an existing zoning district as the basis for the request or may propose area and height regulations that are not the same as those under any other district in this Zoning Code. An application for a Planned Development shall include the proposed area and height requirements for each tract of land within the “PD”.

(vii) **Parking**: Parking for all uses in the “PD” district shall comply

with the requirements in Article 11-I-14 herein, unless otherwise stated in the "PD" application and approved ordinance. Reduced parking requirements may be requested if the applicant can demonstrate that some portion of the parking typically demanded by a development can be reduced with the mixing of uses within a single integrated project.

(viii) **Application:** An application for "PD" Planned Development zoning shall be accompanied by the following information:

(a) **Applicant's Statement:** Each application for "PD" zoning shall include a statement from the applicant describing the vision, general intent and characteristics of the proposed development, including information such as a summary of uses, building types and sizes, plans for landscaping and open space, screening, the buffering of adjacent properties, and other key features of the proposed development.

(b) **"PD" Conditions:** The conditions for the proposed Planned Development shall be specified in the application as follows:

(1) Total land area for the "PD" district;

(2) Land area per tract, if applicable;

(3) Proposed uses; if there are multiple tracts within the area of the "PD" and different uses are proposed for the various tracts, the uses for each tract shall be specified;

(4) Minimum lot size (minimum width, depth, and lot area) by residential type for single-family units and/or density (number of units per acre) for multifamily units;

(5) Minimum front setback;

(6) Minimum side setback;

(7) Minimum rear setback;

(8) Area reserved for landscaping and/or open space;

(9) Minimum building height, if applicable;

(10) Maximum building height;

(11) Proposed parking standard for each use;

(12) Brief description of provisions for the

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maintenance of any common areas by an association of homeowners or property owners, if applicable, not including the legal documents establishing the association;

(13) Other conditions as appropriate for the application.

(c) **Concept Plan:** An application for "PD" zoning shall include a concept plan drawing as defined herein, indicating the preliminary layout of proposed uses, proposed structures, parking utilities, and, if applicable, project phasing. The concept plan shall be construed as an illustration of the development concepts and not an exact representation of all specific details.

(ix) **Phasing Schedule:** If the proposed development will not be constructed as a single project, a phasing schedule for the development depicting the different construction timelines shall be included in the application.

(x) **Application Review Fee:** The required application review fee, as established by the City Council, shall accompany the application.

(xi) **Review Process:** Upon receipt of an administratively complete application as determined by the City for the creation of a "PD", the application shall be reviewed under the process governing the review of an application for rezoning as described in Article 11-I-12 and Tex. Loc. Govt. Code §211.007, as amended, including notification of surrounding property owners and public hearings before the Planning and Zoning Commission and City Council, and testimony from the applicant, Planning Division staff, and others who have an interest in the matter, facts, and opinions concerning the proposed use and the proposed conditions to which such use would be subject.

(xii) **Zoning Map Reference:** A "PD" approved in accordance with the provisions of this article, following two readings of the ordinance, shall be referenced on the Official Zoning Map of the City of Kerrville. A list of approved Planned Developments, together with the category of uses permitted within them and the concept plan, shall be maintained in the Planning Division Office.

(xiii) **Amendment to a Planned Development District:** Any changes in the ordinance adopting a "PD" or the concept

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plan for a "PD" shall be in accordance with the same process used to establish the original "PD", except that:

(a) **Minor Amendments:** Minor amendments to a "PD" concept plan shall be defined as a change which does not:

(1) Increase the total building square footage by more than 30% or increase the number of residential units by more than 30%;

(2) Change the list of permitted uses;

(3) Increase the building height;

(4) Decrease the area regulations or parking ratios specified;

(5) Substantially change the access or circulation on or adjacent to the "PD" site; or

(6) Alter the basic relationship of the proposed development to adjacent property.

~~***(b)***~~ **Approval of Minor Amendments:** The City Manager or designee may, upon written application and explanation of the change by the owner of the property and review and recommendation by the Planning Division, approve minor amendments to a "PD" concept plan as described in Subsection (a) above without a public hearing.

(c) **Major Amendments:** Any other change to a "PD" concept plan shall be considered a change in zoning and shall be considered using the same process as for the original application, including the payment of an application fee, notification and public hearings before the Planning and Zoning Commission and City Council as required by the Chapter 211.007 of the Tex. Local Govt. Code and Article 11-I-12 herein.

(xiv) **Reapplication:** If an application for the creation of a "PD" is denied by the City Council, another application for reclassification of the same property or any portion thereof shall not be filed within a period of one (1) year from the date of final denial, except upon written appeal of the applicant, reviewed and approved by the City Council.

(4) **"PI" Public and Institutional District:** Property located in a "PI" Public and Institutional District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

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(i) **Purpose:** The purpose of the Public and Institutional District is to identify locations especially suited for uses that serve the entire community, such as public buildings and facilities, parks, hospitals, churches, schools, and similar uses.

(ii) **Uses:** City, county, state, and federal offices, public safety facilities, churches, schools, parks and libraries, utility facilities, and similar uses that provide service to the entire population. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "PI" district.

(iii) **Building and Area Regulations:** No building shall be constructed in a "PI" Public and Institutional District except in conformance with the following requirements. "Residential Zoning District", as referenced in the regulations below, shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
Minimum Lot Width	N/A
Minimum Front Setback	N/A
For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10	
Minimum Side Setback	• Interior lot: N/A • Corner lot, street side: 15 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet
Minimum Rear Setback	• 0 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet • For a double frontage lot, same as front setback
Maximum Building Height	• 35 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above, one foot (1.0') of additional building height permitted for each 1 foot (1.0') of setback from the residential zoning district • An installation of a public or private utility exempt from this requirement
Minimum Parking	Varies by use; see Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) Location of Accessory Buildings or Structures Beyond Setback:

(a) There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(b) Satellite dishes may extend to within three feet (3.0’) of the property line, but may not be located between the front building wall and the front property line, or between the side building wall and the street on a corner lot.

(c) No side or rear setback shall be required for an accessory building or structure located on property zoned “PI” with a floor area of less than one hundred fifty (150) square feet and not exceeding fifteen feet (15.0’) in height, except that no such building shall be located between the side building wall and the street on a corner lot.

(d) No side or rear setback shall be required for an accessory building or structure located on property zoned “PI” with a floor area greater than one hundred fifty (150) square feet, but not exceeding five hundred twenty-eight (528) square feet, and not exceeding fifteen feet (15.0’) in height, except that no such building shall be located between the side building wall and the street on a corner lot.

(e) No side or rear setback shall be required for an accessory building or structure on a property zoned “PI” adjacent to property not zoned for single-family residential uses, including, but not limited to, a detached carport or garage.

(v) Outdoor Storage:

(a) Outdoor storage shall be permitted in the “PI” district subject to the requirements herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

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(1) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(2) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(3) On any roof structure.

(c) Notwithstanding anything to the contrary in paragraphs (a) and (b) above, self-propelled vehicles used in the operation of the activity located on the property, may be stored outdoors.

(d) The above prohibition shall not be construed to prohibit the placement of newspaper racks.

(e) No shipping container as defined herein shall be located on any property zoned "PI" for the purpose of providing outdoor storage.

(vi) Screening Adjacent to Residential Zoning:

(a) The owner or developer of property zoned "PI", unless owned and used for school purposes by an independent school district or as a place of worship by church, temple, mosque, or other religious institution, shall construct and maintain a screening wall or fence along the border of the property when adjacent to a residential zoning district as described in paragraph (iii) above.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(2) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(3) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be

maintained by the property owner in a healthy, growing condition.

(4) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(5) Landscaping may be used in combination with any of the above screening and fencing techniques.

(6) Chain link fencing with slats shall be an acceptable method of screening, with or without landscaping.

(7) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(vii) **Alternate Screening Permitted:** A developer may make application to the Commission to use alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(5) **"AD "Airport District:** Property located in an "AD" Airport District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "AD" Airport District includes the Kerrville-Kerr County Municipal Airport and property in the nearby area in close proximity to the airport. This district is designed to accommodate the airport plus uses associated and/or compatible with its operation.

(ii) **Uses:** Aviation uses, manufacturers, suppliers, businesses that use airport services, activities to accommodate persons traveling to and from Kerrville by private aircraft, industrial and manufacturing uses that are compatible with an airport environment. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the "AD" district.

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(iii) **Building and Area Regulations:** No building shall be constructed in an "AD" Airport District except in conformance with the following requirements. "Residential Zoning District", as referenced in the regulations below, shall have the following meaning and shall apply whether the residential property is developed or vacant:

(a) "R-E", "R-1", "R-1A", or "R-2" zoning;

(b) "R-M" zoning if developed for other than manufactured housing; or

(c) Land zoned "MU" or "PD" for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT	
	USES ON AIRPORT PROPERTY	**NONRESIDENTIAL USES NOT LOCATED ON AIRPORT PROPERTY**
Minimum Lot Width	N/A	N/A
Minimum Front Setback	25 feet	25 feet
		For illustrations of side and rear setback requirements and building height adjacent to residential, see Appendix, Figures 8 through 10
Minimum Side Setback	15 feet	• Interior lot: N/A • Corner lot, street side: 15 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: 50 feet
Minimum Rear Setback	25 feet	• N/A • Adjacent to a residential zoning district as defined in paragraph (iii) above: 50 feet • For a double frontage lot, same as front setback
Maximum Building Height	N/A except that buildings shall comply with Federal Aviation Administration (FAA) requirements	• 45 feet • Adjacent to a residential zoning district as defined in paragraph (iii) above: • Two stories up to a maximum of 35 feet when 25 feet to 100 feet from a residential property line;

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		• 45 feet when more than 100 feet from a residential property line, • No windows serving second story building area within 50 feet of the property line on any building wall facing a residential zoning district, as defined in paragraph (iii) above to prevent views from nonresidential to residential property • Buildings shall also comply with Federal Aviation Administration (FAA) requirements
Minimum Parking	N/A	Varies by use; See Article 11-I-14

N/A = Not Applicable (no specific requirement applies)

(iv) Location of Structures Beyond Setback: There shall be no structure in excess of 30 inches (30.0”) in height between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0’) in height shall be permitted, excluding chain link fencing, provided that no element of the fence creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation.

(v) Outdoor Storage:

(a) For land zoned “AD” excluding airport property, outdoor storage shall be permitted subject to the requirements herein.

(b) No materials, supplies, inventory, or equipment may be kept or stored:

(1) Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;

(2) Within any area that creates a visibility obstruction or otherwise interferes with pedestrian or vehicular circulation;

(3) On any roof structure.

(c) The above prohibition shall not be construed to prohibit the following:

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(1) A maximum of three merchandise dispensing units per establishment when such merchandise dispensing units are operated in connection with the operation of a convenience store;

(2) The placement of newspaper racks.

(d) Shipping containers as defined herein may be located on property zoned "AD" for the purpose of providing outdoor storage subject to the following conditions

(1). No container shall be located in any required setback or between the front wall of the building being served and the front property line, or between the side building wall and the street on a corner lot; and

(2) The container shall be painted to match the color of the building for which the storage is being provided.

(vi) Screening Adjacent to Residential Zoning:

(a) The owner or developer of property zoned "AD" Airport District shall construct and maintain a screening wall or fence along the border of the property when:

(1) Adjacent to property in a residential zoning district as described in paragraph (iii) above; or

(2) Building or storage area on the property is newly built, constructed, or expanded.

(b) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to

create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(5) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(c) **Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, a developer may make application to the Commission to use alternate screening methods which may include, but not be limited to, use of existing natural terrain and/or landscaping, or installation of new landscaping and terrain features. The Commission may approve, disapprove, or approve with modifications, the proposal presented by the developer. In the event of disapproval, the developer may appeal to the City Council by requesting such appeal in writing not later than five (5) business days following the date of the action of the Commission.

(6) **"AG" Agricultural District:** Property located in an "AG" Agriculture District shall be developed in accordance with the following regulations and all applicable requirements of the Zoning Code and other relevant ordinances.

(i) **Purpose:** The "AG" Agriculture District allows uses consistent with the rural heritage of Kerr County, such as the cultivation of crops, the raising of livestock, and other activities and improvements incidental to these as primary uses. Single-family uses on large lots are allowed in the "AG" Agriculture District; however, at such time as the land is proposed to be divided for the sale of lots, the requirements

of the Subdivision Ordinance will apply. “AG” zoning can also be used as a tool for preserving open space, special topographic features, and mitigating water quality and flooding hazards, as well as to accommodate outdoor tourism activities. This district also serves as a temporary zoning category for land annexed without a development agreement or other zoning plan in place until permanent zoning can be established.

(ii) **Uses:** In general, agricultural uses, including the raising of crops and livestock, the preservation of open space and important environmental features, certain public and institutional uses, home occupations meeting the requirements of this Zoning Code, and activities allowed subject to the approval of a Conditional Use Permit. Refer to Table 1, Land Use Table, for a specific list of uses allowed in the “AG” district.

(iii) **Area and Height Regulations:** No building shall be constructed in an “AG” Agriculture District except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT
Minimum Lot Size	5 acres
Minimum Lot Width	N/A
Minimum Front Setback	• 25 feet • Agricultural fields shall be located a minimum of 10 feet from the exterior boundary of the tract along an existing right-of-way measured from the curb or, in absence of a curb, the edge of the traveled portion of the right-of-way

Minimum Side Setback	• Interior lot: ~~6~~ 5 feet
	• Corner lot, street side:
	  • 15 feet
	  • 19 feet to a garage door

Minimum Rear Setback	• 25’ • For a double frontage lot, same as front setback
Maximum Building Height	• Main building used for residential purposes: 35 feet • Agricultural buildings: 45 feet
Minimum Parking	2 spaces per dwelling unit

N/A = Not Applicable (no specific requirement applies)

(iv) **Access to Arterial or Collector Street Prohibited:** No lot shall be platted with direct access to a collector or arterial street except where limited access is permitted by the Subdivision Code.

(d) **<u>New and Unlisted Uses</u>:** The Director or designee shall make a determination if a specific land use is listed as a permitted or conditional use in a specific zoning district. Furthermore, the Director shall determine if a use is sufficiently similar to a use listed as permitted or conditional for a particular zoning district such that it may also be included as a permitted or conditional use within a zoning district. In the event the Director determines that the requested use is not otherwise listed or defined in the Zoning Code, the developer or owner may request, in consultation with the Director:

(e) An amendment to this Zoning Code to include a definition for such previously unlisted use and to determine the zoning district(s) in which such use shall be permitted or conditional; or

(f) A Conditional Use Permit for the use in question.

(e) **<u>Use of Property Located in One Zoning District to Benefit of the Other</u>:** No person shall use property located in one zoning district to provide parking for, or access to, a use located on property located in another zoning district unless:

(1) **Parking:**

(i) The property being used for said parking is also zoned to permit the use for which such parking is desired; and

(ii) A variance is granted under the provisions of this Code or the Development Standards ordinance, whichever applies, to allow the off-site parking; or,

(iii) A Conditional Use Permit is secured for the off-site parking in accordance with Article 11-I-13 of this Zoning Code.

(2) **Mutual Access:**

(i) The property being used for said access is also zoned to permit the use for which such access is desired; and

(ii) A variance is granted under the provisions of this Code or the Development Standards ordinance, whichever applies, to allow the mutual access; or,

(iii) A Conditional Use Permit is secured for the mutual access in accordance with Article 11-I-13I of this Zoning Code.

(f) **<u>Special Regulations Regarding, Lot Width, Area, and Setbacks:</u>**

(1) **Alignment with Adjacent Buildings:** The setback of a building may be decreased to less than the minimum setback as follows:

(i) When more than one-half (1/2) of the lots in a block have been developed with buildings, the front and/or rear setback of an undeveloped lot, including the setbacks on both street

fronts of a corner lot, may be reduced to the equivalent of the average front setback and/or rear setback, respectively, of developed lots on the same side of the same block which are within four hundred feet (400') of the property on which the reduction is sought; however, in no case shall any front setback be reduced to less than ten feet (10.0') nor any garage entrance be setback less than nineteen feet (19.0');

(ii) The side setback of a lot to be developed with a building for non-residential use may be reduced to the same as the side setback of the lot abutting that side of the lot if the lot abutting that side has been developed with a building with a side setback less than the minimum set forth in the Area Regulations in the zoning district requirements set forth herein, above; provided, however, the reduction may in no case result in a building separation less than that required by the City Building Code and/or Fire Code.

(2) **Approved Landscape Plans:** The setback requirements for a particular property may be modified by the Commission and/or City Council, as appropriate, as an element of an approved landscape plan and/or development site plan which requires the location of buildings in such a manner as to preserve existing trees and/or terrain features.

(3) **Application of Ordinance Not to Make Lot Unbuildable:** If the buildable area of a lot of record is reduced in either width or depth to less than thirty feet (30.0') after application of the Area Regulations in the zoning district requirements set forth herein, the side and rear setbacks may be reduced to permit a buildable area of not less than thirty feet (30.0') in width and/or depth; provided, however, in no case shall the building encroach on any easements or be constructed closer to an existing building that permitted by the Building Code and/or Fire Code.

(4) **Existing Buildings and Setback Violations:** Buildings constructed prior to the DATE OF ADOPTION that complied with the setback regulations existing prior to DATE OF ADOPTION, shall not be deemed to be in violation of this Article; provided, however, the construction of a new building on the site of an existing building or addition to an existing building occurring on or after DATE OF ADOPTION, must comply the requirements of this Article.

(5) **Change in Use of Existing Building:** The use of a building constructed prior to DATE OF ADOPTION that complied with the setback regulations existing prior to DATE OF ADOPTION, may be changed from a nonconforming use or permitted use to another

permitted use without regard to the setback regulations set forth in this Article.

(6) **Special Lot Width Regulations:** Notwithstanding the Area Regulations of the zoning district requirements set forth herein, where lots are irregular in shape, and the front property line is narrow, such as on a cul-de-sac, the minimum lot width shall be measured along the front setback; provided, however, the length of the front property line at the street right-of-way shall not be less than twenty-four feet (24.0').

(7) **Division of Existing Lots:** Unless specifically authorized by the Zoning Code, no part of a yard, open space, or off-street parking or loading space required by the Zoning Code for one land use shall be included as a part of a yard, open space, or off-street parking or loading space for another land use.

(8) **Reduction of Lot Size:** No setback or lot existing as of DATE OF ADOPTION shall be reduced in dimension or area below the minimum requirements set forth in the Zoning Code. Setbacks or lots created on or after DATE OF ADOPTION, shall meet at least the minimum requirements established by this ordinance.

XI. ART. 11-I-11. SUPPLEMENTARY DEVELOPMENT REQUIREMENTS FOR CERTAIN USES

The following supplementary development requirements are use-specific requirements that apply in addition to development standards required for specified uses within specified zoning districts. These development requirements were established to assure compatibility with the adjacent zoning district and land uses as well as the public need and the City's orderly development.

(a) **Fuel Sales, Retail/Gasoline Sales and Truck Stop and Fueling Station:** Automobile services stations and other gasoline/fuel sales uses, except the sale of aviation fuel at an airport, shall comply with the following requirements:

(1) A minimum street frontage of one hundred twenty feet (120.0') is required for the site on which the activity will occur;

(2) The primary use of a gasoline sales establishment in any district in which it is permitted shall be the sale of gasoline with incidental sales of sundries. The operation of a convenience store shall be permitted in conjunction with gasoline sales. Automobile sales and repair shall not be considered an accessory use. Automated car washes, as an accessory use, may be permitted;

(3) No outdoor sales or storage shall be permitted in conjunction with gasoline sales facilities;

(4) Pump islands shall be located a minimum of twenty-five feet (25.0') from any street right-of-way;

(5) Pump islands shall be located a minimum of one hundred feet (100.0') from any residential zoning district or any portion of property zoned "MU" or "PD" for residential uses;

(6) The location of the refueling area shall be located a minimum of one hundred feet (100.0') from any residential zoning district or any portion of property zoned "MU" or "PD" for residential uses and twenty-five feet (25.0') from any street right-of-way. In addition, an area shall be provided for the refueling truck outside the required drive aisles, fire lanes, right-of-way, and required parking;

(7) Any canopy placed over the pump island may not extend closer than fifteen feet (15.0') to any street right-of-way;

(8) An eight foot (8.0') solid fence shall be constructed and maintained along any property line adjoining a residential zoning district or any portion of property zoned "MU" or "PD" for residential uses;

(9) All lighting shall be designed and installed to prevent glare or light from being emitted onto adjacent properties;

(10) All self-service fuel/gasoline sales facilities shall provide an emergency shut-off switch to completely eliminate the flow of gasoline from all pumps upon activation in an emergency situation;

(11) This use is prohibited within one hundred feet (100.0') of the 100-year flood plain. In addition, where such use is within five hundred feet (500.0') of the 100-year flood plain or within one thousand feet (1,000.0') of the NIMITZ Lake Impoundment Area, such use will require the adoption of a Conditional Use Permit pursuant to this code. The calculation of these distances shall be based on the approved Federal Emergency Management Agency (FEMA) map in place at the time of development, and the distance shall be measured from the closest point of the flood plain or impoundment area to the closest point on the property line of the tract containing the gasoline sales facility.

(b) **<u>Mini-Storage Facilities</u>:** Mini-Storage warehouses and self-storage units as defined herein shall comply with the following requirements;

(1) **Use, Parking, and Access:**

(i) Mini-storage shall be used for storage purposes only and not for any other use, processing, services, or activities. Outdoor storage is prohibited in conjunction with this use, except as described in paragraph (ii) below;

(ii) The use may include the storage of recreational vehicles, boats, and automobiles, provided that the storage area is screened from public view and paved. The site plan or

concept plan shall show the designated parking and storage areas at the time of project submittal. No parking or storage of recreational vehicles or boats shall be allowed within fifty feet (50.0') of any residential zoning district or any portion of property zoned "MU" or "PD" for residential uses;

(iii) One manager's/caretaker's apartment is authorized for use by an on-site manager or security guard.

(iv) All driveways, parking, loading, and vehicle circulation areas shall be paved in accordance with City specifications.

(v) One parking space shall be required in the office and apartment area for each 10,000 square feet of floor area in the mini-storage development. These spaces are in addition to the required loading areas;

(vi) A continuous marked fire lane is required throughout the project per City Fire Code;

(vii) In addition to the fire lane required by City Fire Code, a continuous loading area, a minimum of eight feet (8.0') in width, shall be provided for parking and loading along any building face which provides access to the storage units.

(2) Design Criteria:

(i) The minimum separation between mini-storage buildings shall be twenty feet (20.0'), provided that additional separation will be necessary where loading areas and fire lanes are required;

(ii) Public access doors to the storage units shall not face the public right-of-way;

(iii) The leasing office and/or manager's/caretaker's apartment shall not exceed one story in height;

(iv) Building facades facing public rights-of-way shall not have metal, vinyl, or wood siding, but shall be a minimum of eight feet (8.0') in height and shall include design features, such as changes in color, texture, or materials, or offsets in the building wall, to break up long facades;

(v) The maximum height adjacent to a residential zoning district or any portion of property zoned "MU" or "PD" for residential uses shall be one story, generally limited to a maximum of fifteen feet (15.0').

(vi) Lighting shall be installed with no fixtures extending above the rooflines and shall be designed and installed to prevent glare or light from being emitted onto adjacent residential properties.

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(c) **Day Care Services (Adult and Children):** a property used for day care services as defined herein, including nursery schools, preschools, day care centers for both children and adults, and similar uses shall comply with the following requirements:

(1) The facility shall comply with the minimum state requirements for such facilities.

(2) A circular or similar drive, covered at the entrance with loading/unloading space for at least two (2) vehicles shall be provided. This requirement is not required for multitenant buildings.

(3) No portion of any play or instruction area shall be located within the required front setback and/or side setback adjacent to a street.

(4) An eight foot (8.0') solid fence shall be constructed and maintained along any property line adjoining a residential zoning district or any portion of property zoned "MU" or "PD" for residential uses.

(d) **Automobile Service and Repair, Major or Minor:** Properties providing both major and minor service and repair functions as defined herein for vehicles such as passenger cars, pick-ups, and vans shall comply with the following requirements:

(1) All maintenance shall be performed entirely within the bays of any maintenance facility.

(2) No outdoor storage of vehicle parts or supplies, including tires and petroleum products shall be permitted.

(3) Maintenance facilities shall be located a minimum of one hundred feet (100.0') from any residential zoning district or any portion of property zoned "MU" or "PD" for residential uses.

(4) Unless placed within the primary structure, incidental equipment, such as air compressors, pumps, or waste material storage, shall be placed within a designated area which is located a minimum of twenty-five feet (25.0') from any street right-of-way, a minimum of fifty feet (50.0') from any side or rear property line, and one hundred feet (100.0') from any residential zoning district or any portion of property zoned "MU" or "PD" for residential uses.

(5) An eight foot (8.0') solid fence shall be constructed and maintained along any property line adjoining a residential zoning district or any portion of property zoned "MU" or "PD" for residential uses.

(6) Vehicles waiting for repair shall be located in a secure area on the site; no off-site or on-street parking or storage of vehicles awaiting service or repair shall be permitted.

(7) This use is prohibited within one hundred feet (100.0') of the 100-year flood plain. In addition, where such use is within five hundred feet (500.0') of the 100-year flood plain or within one thousand feet

(1,000.0') of the Nimitz Lake Impoundment Area, such use will require the adoption of a Conditional Use Permit pursuant to this code. The calculation of these distances shall be based on the approved Federal Emergency Management Agency (FEMA) map in place at the time of development and the distance shall be measured from the closest point of the flood plain or impoundment area to the closest point on the property line of the tract containing the service/repair facility.

(e) **Car Wash:** A property primarily used for a car wash as defined herein shall comply with the following requirements:

(1) Car wash facilities shall be designed to utilize water recirculation systems.

(2) Incidental equipment, such as vacuums and air compressors, shall be located a minimum of twenty-five feet (25.0') from any street right-of-way, a minimum of fifty feet (50.0') from any side or rear property line, and one hundred feet (100.0') from any residential zoning district or any portion of property zoned "PD" or "MU" for residential uses.

(3) An eight foot (8.0') solid fence shall be constructed and maintained along any property line adjoin a residential zoning district or any portion of property zoned "PD" or "MU" for residential uses.

(4) All lighting, including lighting for wash bays and canopies shall be designed and installed to prevent glare or light from being emitted onto adjacent properties.

(5) This use is prohibited within one hundred feet (100.0') of the 100-year flood plain. In addition, where such use is within five hundred feet (500.0') of the 100-year flood plain or within one thousand feet (1000.0') of the Nimitz Lake Impoundment Area, such use will require the adoption of a Conditional Use Permit pursuant to this code. The calculation of these distances ~~are~~ shall be based on the approved Federal Emergency Management Agency (FEMA) map in place at the time of development and the distance shall ~~are to~~ be measured from the closest point of the flood plain or impoundment area to the closest point on the property line of the tract containing the car wash facility.

(f) **Facilities with Drive-Thru Service:** Any use or building offering drive-thru service with direct forward access to a point of service, such as a drive-thru window, order station, or other similar feature, shall provide stacking lanes a minimum of nine feet (9.0') in width and twenty feet (20.0') in length per vehicle as measured from the point of service. The stacking lane shall be marked and shall be separate from any other driveway, parking space, or aisle, and shall not interfere with any required parking, circulation, ingress, or egress.

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(1) **General**: Each point of service for a use such as a drug store, dry cleaner, or other business with a drive-thru facility shall provide a stacking lane for a minimum of three (3) vehicles except as follows:

(i) **For a bank or financial institution or bill-paying window:** Each point of service, such as a teller station or an automated teller machine (ATM) at a drive-through bank or financial institution, or a payment window at a business offering drive-through bill paying, shall provide a stacking lane for a minimum of five (5) vehicles. Where more than one ATM is located in a single drive-thru lane, additional stacking shall not be required above the minimum five (5) spaces.(See Appendix, Figure 11)

(ii) **Restaurant:** Each remote order station at a restaurant with drive-through service shall provide stacking space for vehicles awaiting service.

(a) For a restaurant with a single drive-thru lane, stacking for a minimum of four (4) vehicles shall be provided leading up to the order station, including the space at the order station, and four (4) vehicle spaces shall be provided in the drive-thru lane beyond the order station leading up to the drive-thru window(s), including the space(s) at the drive-thru window(s). (See Appendix, Figure 12)

(b) For a restaurant with dual or double drive-thru lanes, stacking for a total of six (6) vehicles shall be provided in the lanes leading up to the order stations, and four (4) shared spaces shall be provided in the drive-thru lane beyond the order stations leading up to the drive-thru window(s), including the space(s) at the drive-thru window(s). (See Appendix, Figures 13 and 14)

(2) **Drive-thru windows in "C-1" zoning district:** In general, drive-thru windows on properties in the "C-1" zoning district should be located on a corner lot to allow for optimum vehicular access and circulation and to provide separation from less intense uses.

(g) **~~Adult Group Homes~~ Care Facilities, Boarding Homes, and Similar Uses:** A property used for the purpose of an adult group home shall be developed in accordance with the following requirements:

(1) ~~The regulations contained within this section shall be applicable to the use and development of property as a community home, as defined in Chapter 123 of the Texas Human Resources Code, to the extent that the development of a community home is not exempt from the City's zoning~~

~~regulations.~~ These requirements shall apply to Boarding Home Facilities, Personal Care Facilities, and Residential Care Services, as defined in Article 11-I-5 herein, when these uses are located in the R-E, R-1, R-1A, R-2, R-M, and R-T single-family residential zoning districts.

(2) ~~The regulations contained within this section shall be applicable to the use and development of property as a community home, as defined in Chapter 123 of the Texas Human Resources Code, to the extent that the development of a community home is not exempt from the City's zoning regulations~~. Where applicable provisions of state or federal law establish more restrictive regulations ~~of community homes~~ for such facilities than this section, including spacing and occupancy regulations, the more restrictive state or federal law shall apply. ~~An adult group home is a dwelling unit for sixteen (16) or fewer people in which food, shelter, and minor medical treatment are provided under the direction and supervision of a physician; or where services which meet some need beyond boarding or lodging are provided to any family member residing with his family in a one-family dwelling. Residents of an adult group home depend on staff to provide various degrees of assistance in everyday living, but are not considered dangerous to themselves or others and require only occasional or temporary services by professional medical or nursing personnel which are provided through individual arrangement with each resident. An adult group home includes any facility which requires a license issued by the Texas Department of Health or its successor agency as a Personal Care Facility but does not include a facility which requires a license as a Special Care facility.~~

(3) Prior to operating any ~~adult group home~~ Boarding Home, Personal Care Facility, or Residential Care Service, the owner and/or operator shall submit a site plan to the City for review, which indicates that the design, location, and operation of the proposed ~~adult group home~~ use will be in compliance with this section and all other applicable provisions of this code. Said site plan shall be considered as follows:

(i) If use of the property as ~~an adult group home~~ a Boarding Home, Personal Care Facility, or Residential Care Service does not require the approval of a Conditional Use Permit or an ordinance changing the zoning regulations of the property, the site plan must be approved by the Commission prior to commencement of operation of the home; or

(ii) If the use of the property as ~~an adult group home~~ a Boarding Home, Personal Care Facility, or Residential Care Service requires the approval of a Conditional Use Permit or an ordinance changing the zoning regulations of the property, the site plan shall be approved by the City Council in accordance with the applicable procedures related to the adoption of a Conditional Use Permit or ordinance changing the zoning of the property.

(4) ~~An adult group home~~ A Boarding Home Facility, Personal Care Facility, or Residential Care Service located in the R-E, R-1, R-1A, R-2, R-M, and R-T zoning district shall be developed as follows:

(i) ~~All passenger loading and unloading areas and outdoor recreation areas shall be located as to avoid conflict with vehicular traffic.~~

(ii) ~~Access from public streets and/or sidewalks to the facility must comply with the Texas Accessibility Standards adopted by the Texas Department of Licensing and Regulations pursuant to the Architectural Barriers Act, Tex. Rev. Civ. Stat. Art. 9102, as amended.~~

(iii) ~~Ingress and egress from the adult group home shall be from a street with a pavement width of thirty feet (30.0') or greater which is not classified as a dead-end street.~~

(i) No ~~adult group home~~ Boarding Home Facility, Personal Care Facility, or Residential Care Service located in ~~a residential~~ such zoning districts ~~may~~ shall be located ~~any~~ closer than ~~1,500 lineal feet~~ one-quarter mile (.25 mile) from an existing Boarding Home Facility, Personal Care Facility, Residential Care Service, Community Home for Disabled Persons defined in Charter 123 of the Texas Human Resources Code, as amended, Assisted Living Facility ~~center~~, or ~~child care center~~ Day Care Center for children.

(ii) Any ~~adult group home~~ Boarding Home Facility, Personal Care Facility, or Residential Care Service authorized to be located in ~~a residential~~ the aforementioned zoning districts shall be designed and constructed in such a manner as to look like a residence of similar character and designed to tie in with residential structures located on the adjacent properties and shall include pitched roofs and windows which constitute not less than 40% of the front façade.

(5) Requirements for Community Homes for Persons with Disabilities shall be those contained in Chapter 123, Texas Human Resources Code, as may be amended, including requirements for services, licensing, location, limitations on number of residents and number of motor vehicles, and other requirements as may be added or amended from time to time.

(h) **<u>Community Gardens</u>:** Property used for the purpose of a community garden must comply with the following:

(1) The property on which the garden is located may be publicly or privately owned;

(2) A community garden may be placed and maintained on a roof structure provided that it meets all applicable building and fire code requirements;

(3) Any lighting must be shielded so that substantially all directly emitted light falls within the property;

(4) The property may not be used for the storage of items, to include vehicles, equipment, or materials, which are not directly associated with the operation of the community garden;

(5) Compost or and other organic material must not be visible from an adjacent property, and shall be screened from view by shrubbery, an enclosure, or fence;

(6) The garden must be routinely managed to control for and prevent the harborage of rodents and other pests;

(7) The garden must be routinely managed to control for and prevent odors;

(8) A community garden must be designed, maintained, and operated to prevent runoff from irrigation, fertilizer, and other substances from traveling onto adjacent property;

(9) Trash receptacles must be provided and must be screened on at least three (3) sides so as to prevent public view;

(10) An accessory structure, to include a greenhouse, shed, farm stand, or a similar structure:

(i) May be placed and used on the property without the presence of a primary structure;

(ii) Must comply with the setbacks that would be applicable to an accessory structure for the zoning district;

(iii) May only be used for the storage of equipment and materials directly required for the operation of the community garden; and

(iv) Must be removed from the property upon the cessation of the community garden unless its use is allowed pursuant to another provision within this Zoning Code.

(i) **<u>Home Occupation</u>:** The purpose of this section is to ensure protection and the continuance of residential character within the City's residential zoning districts, by permitting only low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property, create little exterior indication of such activities, and which do not create a nuisance or otherwise adversely impact the health, safety, or welfare of the neighborhood.

(1) **General Provisions:**

(i) These regulations found within this subsection apply within a residential zoning district, as listed in Article 11-I-10, "Residential Zoning Districts" of this Zoning Code.

(ii) These regulations do not apply to:

(a) A boarding home facility, as that term is defined within Chapter 30, Article I of the Code of Ordinances; or

(b) Cottage food production that meets the qualifications imposed under Texas Local Government Code and the City of Kerrville building and operations regulations.

(2) **Standards of Operation:** A home occupation shall comply with the following:

(i) Only one employee other than the occupants of the residence may be present on the premises at any one time. A person who receives a wage, salary, or percentage of profits directly related to the home occupation is considered an employee. This definition does not include the coordination or supervision of an employee(s) who does not regularly visit the residence for purposes related to the business.

(ii) The outdoor storage of materials, goods, supplies, or equipment relating to the home occupation is prohibited.

(iii) Any alteration to the exterior of a dwelling, which changes its residential appearance or character, is prohibited.

(iv) The installation, storage, or use of any equipment or machinery not normally found as part of a household or general office is prohibited.

(v) The outdoor display of merchandise for sale is prohibited.

(vi) The creation of any offensive noise, odor, vibration, glare, smoke, fumes, or electrical interference, which is detectable outside the structure and not normally found within a residential area, is prohibited.

(vii) The storage or use of toxic, explosive, flammable, combustible, corrosive, radioactive, or other hazardous materials not normally found within a residential area is prohibited.

(viii) Sales to customers who visit the residence may occur but not more than four (4) times per calendar years.

(ix) Deliveries related to the home occupation by a vehicle of more than two (2) axles is prohibited.

(x) A home occupation may not increase the traffic volume on the street on which the business is located above what is normally found within a residential area.

(xi) A home occupation may not use more than one (1) non-illuminated, on-site sign, which must either be: (1) flush-

mounted to the primary residential structure and not exceed one square foot in size; or, (2) freestanding and placed in the front yard but no closer than twenty feet (20.0') to any property line and not exceed six (6) square feet in size and three feet (3.0') in height. Any such sign may indicate only the name of the occupant and the home occupation and shall comply with the City's Sign Code.

(3) **Uses prohibited as a home occupation.** The following uses are prohibited as a home occupation:

(i) Vehicle repair and service of any type, to include boats, recreational vehicles, and internal combustion engines.

(ii) Uses involving the breeding, boarding, or kenneling of animals.

(iii) Repair services for large appliances or equipment.

(iv) Uses involving manufacturing and/or assembling.

(v) Uses involving the sale of fire arms, ammunition, or explosives.

(vi) Medical offices and/or clinics.

(vii) Barber and/or beauty shops including nail salons.

(4) **Administration:** The City Manager or designee ("City") shall make all determinations as to whether any aspect of a proposed home occupation complies with the requirements of this subsection. If the City determines that a proposed or existing home occupation does not comply with this subsection, a person engaged in the home occupation may submit an application for a Conditional Use Permit in accordance with the Zoning Code, to include the payment of fees.

(5) **Existing home occupation:** A home occupation legally in existence as of the effective date of this subsection but that does not fully comply with this subsection is deemed a legal nonconforming use and may continue in accordance with Article 11-I-16, Nonconforming Uses, of this Zoning Code; however, this exception does not include the following uses: vehicle repair and service of any type; repair services for large appliances and equipment; and uses involving the sale/repair of firearms, ammunition, and/or explosives. The burden of proof of such a legal nonconforming status for a home occupation is on the occupant.

(j) **<u>Manufactured Homes</u>**:

(1) **Generally Prohibited**: Except as specifically authorized by this Zoning Code, no person may place either temporarily or

permanently a manufactured home on any property located within the City.

(2) **Permit Required**: No person shall place a manufactured home on any property located within the City where use of the manufactured home as a residential dwelling is otherwise authorized prior to receiving a permit from the City.

(3) **Permit Application**: A person desiring to obtain the permit required by Subsection (2), above, shall make application to the City Building Official on a form prescribed by the City and pay the required permit fee. No application shall be deemed complete until all information required by the permit application has been provided to the City Building Official and the permit fee paid.

(4) **Permit Approval**: Not later than thirty (30) days following the receipt by the City Building Official of a completed permit application, the City Building Official shall either grant or deny the permit required by Subsection (2). If denied, the City Building Official must state the reason for denial. Permit applications which are not denied on or before thirty (30) days following the receipt by the City Building Official of a completed permit application shall be deemed approved.

(5) **Permit Not Modification of Other Regulations**: The issuance of the permit described in this Section merely grants the authorization to locate a manufactured home on the property described in the permit application and does not otherwise amend or modify any other regulations set forth in the Code of Ordinances relating to manufactured housing.

(6) **Manufactured Housing Development Standards Generally**: Except when located in a Manufactured Home Rental Community, manufactured homes located on property within the City either as a permitted or a conditional use must comply with the following development regulations:

(i) The tongue and/or towing gear, axles, and wheels shall be removed;

(ii) The vacant space between the grade of the property on which the home is located and the exterior edges of the finished floor of the home must be skirted with rock, brick, or concrete masonry construction installed on a concrete footing so that there is no visible gap between the finished floor of the home and the ground;

(iii) The home shall meet all requirements of this Zoning Code for setbacks and off-street parking;

(iv) The home must be attached to a permanent foundation system as defined in 10 T.A.C. §80.201 such that the home

is permanently affixed to the real property on which the home is located. Such permanent foundation system must be installed and inspected in compliance with 10 T.A.C. §80.121 and otherwise comply with Title 10, Chapter 80, Texas Administrative Code as amended;

(v) The home must have siding of a non-metallic building material;

(vi) The roof of the home must be constructed of materials other than galvanized or corrugated sheet metal;

(vii) The home must be placed on the property such that:

(a) An exterior doorway into the home, unobstructed by any carport or garage, is facing the street front; or

(b) A porch with steps, unobstructed by any carport or garage, is located on the side of the home facing the street front, which porch must be extended in a continuous manner along the side of the home to the front door.

(7) **Manufactured Housing Sales and Industrialized (Modular Building/Home) Sales Lots:** Property used for the retail sale of manufactured housing and industrialized buildings must comply with the following development regulations:

(i) A landscaping berm, vegetation, or other landscaping features must be installed to screen all portions from the first floor to the ground of any building located along the street frontage;

(ii) All areas in which units are kept for repair shall be screened with a fence as described in *(a)* below.

(a) The required screening wall or fence shall be constructed as follows:

(1) The wall or fence shall be at least six feet (6.0'), and no more than eight feet (8.0'), in height, and constructed of one, or a combination, of the following materials:

(i) Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

(ii) Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the city's Preferred Plant List, spaced to

create a solid screen a minimum of six feet (6.0') in height within one year of installation, said screen to be maintained by the property owner in a healthy, growing condition.

(2) The height of the wall or fence shall be measured from the highest established grade along the common property line.

(3) Landscaping may be used in combination with any of the above screening and fencing techniques.

(4) In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.

(iii) A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the Building Code.

(iv) The majority of the units that face the street front(s) must have the front door of the building face the street;

(v) A distance of not less than twelve (12) feet must be kept between homes located on the street frontage row, with distances between other homes maintained in accordance with applicable fire regulations.

(k) **Mobile Homes Prohibited**: It shall be unlawful to place a mobile home on any property located within the City.

(l) **Mobile Home as Nonconforming Use:** The use of a mobile home occurring on property located within the City on DATE OF ADOPTION or occurring at the time the property is annexed by the City, shall be deemed a nonconforming use. A mobile home which constitutes a nonconforming use may be relocated from its location in the City to a Manufactured Home Rental Community located within the City and retain its nonconforming use status. A person may not relocate a mobile home which constitutes a nonconforming use back into the City after the mobile home is moved out of the City.

(m) **Industrialized Housing and Industrialized Buildings:** Industrialized housing and industrialized buildings may be located in any area of the City in the same manner as site-built structures are located provided that the industrialized housing or industrialized building complies with Tex. Rev. Civ. Stat. Art. 5221f-1, as amended, applicable State and City regulations regarding construction design and standards, and applicable Building Code regulations. The phrases "industrialized housing" and "industrialized buildings" as used in this Section shall have the same meaning as set forth in Tex. Rev. Civ. Stat. Art. 5221f-1, Sec.1, as amended.

(n) **<u>Travel Trailers and Recreational Vehicles</u>:** The use of a travel trailer or recreational vehicle shall be subject to the following regulations:

(1) The use of a travel trailer or recreational vehicle as a permanent residence or business anywhere within the City is prohibited.

(2) It shall be a defense to a violation of Subsection (1) if:

(i) The trailer or recreational vehicle is located on property within an "RM" District which is developed as a MHRC at the time of the offense; or

(ii) The trailer or recreational vehicle is located on property which is being used as a recreational vehicle park, even if the recreational vehicle park is a nonconforming use; or

(iii) The trailer or recreational vehicle is:

(a) Parked on a lot developed with a dwelling unit, and

(b) Occupied by one or more people who do not claim the dwelling unit as their permanent residence, and

(c) Has been located on the lot for a period not exceeding fourteen consecutive (14) days.

(iv) One (1) travel trailer or one (1) recreational vehicle is located on property which is currently being used for the seasonal retail sale of holiday trees. This section shall only be valid between November 5 and December 31 of any year.

(o) **<u>Temporary Construction Trailers and Buildings</u>:** Temporary construction trailers and buildings used for construction purposes within a platted subdivision for which the City has issued a building permit are permitted in accordance with a building permit issued by the City for a period not to exceed twelve (12) months. The building official may reissue such a permit for a period not to exceed twelve (12) months. A temporary construction trailer or building shall only be used for construction within the subject subdivision and not for any construction or activities beyond said subdivision. Upon the completion of construction upon all lots within the subdivision as determined by the issuance of a certificate of occupancy(s), the abandonment of construction, or the expiration of a building permit, the owner shall remove the trailer or building at its expense within fourteen (14) calendar days.

(p) **<u>Temporary Residential Sales Offices and Model Homes</u>:** A residential sales office is permitted within a subdivision for which the City has issued building permits and may be located either in a model home or in a temporary building or trailer. The City may issue such permit for no more than one year, but the City may extend the permit if the applicant maintains active and continuous construction within the subdivision and a minimum of ten (10) lots in the subdivision remain unsold. The sales office shall be used only for sales within the subject subdivision and not for

sales in any other subdivision. The following regulations shall apply to the use of the temporary residential sales offices or model homes as permitted within any Residential Zoning District:

(1) Model Home – Sales Office

(i) Permitting: A model home used as a temporary sales office shall require a permit, an inspection, and a certificate of occupancy.

(ii) Lot: The model home shall only be constructed on a platted lot.

(iii) Parking: A minimum of four (4) off-street parking spaces shall be provided and shall be surfaced with materials that will not be tracked onto the public right-of-way. Access to this parking shall be by means of a standard residential driveway.

(iv) Landscaping: Landscaping typically associated with residential development shall be provided and maintained at all times.

(v) Site/Plot Plan: A site/plot plan for the lot to be used for the model home sales office shall be included with the building permit application. This plan shall show the location of the off-street parking, driveway, and landscaping.

(vi) Conversion: A model home sales office may be converted for residential habitation at any time but only after residential sales have ceased. The converted model home shall be subject to applicable residential parking standards.

(2) Temporary Building/Trailer Sales Office:

(i) Permitting: A building or trailer used as a temporary sales office shall require a permit, an inspection, and a certificate of occupancy.

(ii) Lot: The building or trailer shall only be placed or constructed on a platted lot.

(iii) Parking: A minimum of four (4) off-street parking spaces shall be provided and shall be surfaced with materials that will not be tracked onto the public right-of-way. Access to this parking shall be by means of a standard residential driveway.

(iv) Site/Plot Plan: A site/plot plan for the lot to be used for the building or trailer sales office shall be included with the building permit application. This plan shall show the location of the off-street parking, driveway, and landscaping.

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(v) **Design:** The design of the residential sales office shall be residential in character with a non-metallic roof of a hip or gable design, the exterior siding shall be non-metallic and similar to the exteriors of the residential housing constructed in the development. At least one doorway into the building or trailer shall face the street.

(vi) **Sales Trailers:** If a trailer is to be used as a residential sales office, the following development requirements shall also apply:

(a) The tongue and/or towing gear, axles, and wheels shall be removed;

(b) The vacant space between the grade of the property on which the trailer is located and the exterior edges of the finished floor shall be skirted with the same material as the exterior of the trailer so that there is no visible gap between the finished floor and the ground; and

(c) A porch with steps and/or ramp is located on the street facing side of the trailer that meets all accessibility standards.

(vii) **Building Compliance:** All buildings or trailers used as residential sales offices shall comply with the Texas Manufactured Housing Standards Act, as amended, regarding construction design and standards and applicable building code requirements.

(viii) **Conversions:** A temporary residential sales office shall not be used for or converted to residential habitation.

(ix) **Removal:** Following the expiration of the permit, the owner shall remove the building or trailer from the lot within fourteen (14) calendar days and at the owner's expense.

(q) **<u>Other Uses</u>:** The following uses and development requirements were adopted by separate ordinance which regulates such uses:

(1) **Small Wind Energy Systems:** A small wind energy system is a mechanical system, whether connected to an electrical utility grid or not; consisting primarily of a tower or roof-mounted anchoring system, rotor, blades, and a generator that is designed for the purpose of converting and then storing or transferring energy from the wind into useable forms of energy. Small wind energy systems shall be regulated in accordance with the relevant City of Kerrville codes.

(2) **Sexually Oriented Businesses:** Sexually oriented businesses refers to adult entertainment that includes an adult arcade, adult

bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult tanning salon, adult theater, escort agency, nude modeling studio, sexual encounter center, or any other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Sexually oriented businesses shall be regulated in accordance with the relevant City of Kerrville codes.

(3) **Wireless Telecommunication Facilities:** Wireless telecommunication facility (WTF) refers to a structure designed and constructed to support one or more antennas used by commercial wireless tele-communication or broadcasting facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), or lattice or monopole construction. This definition includes satellite dishes, microwave-transmitting towers, and WTF's attached to or supported by buildings. Wireless telecommunication facilities (Cellular Antennas) shall be regulated in accordance with the relevant City of Kerrville codes.

(4) **Amateur Radio Antennas:** An amateur radio antenna (ARA) is defined as an antenna used for transmitting and/or receiving by a licensed or unlicensed amateur radio operator and includes the actual tower, support structure, and related equipment. Amateur radio antennas (ARA's) shall be regulated in accordance with the relevant City of Kerrville codes.

XII. Art. 11-I-12. ZONING CHANGES AND AMENDMENTS TO THE ZONING CODE

(a) **Limited Zoning Amendments:** Amendments to existing zoning district boundaries, the use and development regulations affecting a specific property or a specific zoning district, and other regulations that do not have a general city-wide effect shall be adopted in accordance with the following procedures:

(1) **Mandatory Preliminary Conference:** Prior to submitting an application for a zoning change, an applicant or the applicant's authorized representative must meet with the Director or designated Planning Division staff to receive information regarding application procedures and requirements.

(2) **Application:** An application for a zoning change pursuant to this Section (a) may be made by an owner of the real property to be affected by the amendment, or by an authorized representative of the owner, and/or by the City. Such application must be filed with

the Planning Division on forms approved by the Director or designee, accompanied by the application fee established by the City Council for such applications. An application for an amendment to the zoning regulations initiated by the City shall be completed by the Director or designee.

(3) **Complete Application Required:** No application shall be considered until it is determined by the Development Services Director or designee to be complete. An application shall be deemed to be complete only when the signed application form and all information set forth on the application checklist for the type of zoning change requested has been submitted to the Planning Division and the required application fee has been paid.

(4) **Review Process:** Upon receipt of an administratively complete application as determined by the City for a zoning change request, the application shall be reviewed under the process governing the review of an application for rezoning under Tex. Loc. Govt. Code §211.007, as amended, including notification, a report from the Planning Division, and public hearings before the Planning and Zoning Commission and City Council, allowing for testimony from the applicant and others who have an interest in the matter, facts, and opinions concerning the proposed change.

(5) **Report of the Planning Division:** The Planning Division shall review and prepare a report and recommendation regarding the application for a change in zoning, which shall be forwarded to the Commission for consideration, and which shall contain:

(i) A review of the specifics of the application;

(ii) A summary of any public comment received;

(iii) The recommendation of the Director regarding the application, or, if the Director has no recommendation, a statement to that effect.

(6) **Recommendation of the Commission:** After receiving the report and recommendation of City staff, including a summary of public comment received, and after conducting and closing the public hearing, the Commission shall forward a final report on the application to the City Council, which shall contain one of the following recommendations:

(i) Approve as requested;

(ii) Approve with modifications recommended by the Commission;

(iii) Deny.

(7) **Effect of Recommendation to Deny:** Where the Planning and Zoning Commission makes a recommendation to deny a request

for a zoning change, the application will not automatically be placed on a City Council agenda. In order for the application to move forward, the applicant must appeal the Commission's decision in writing to the City Council within ten (10) days after the Commission's recommendation to deny.

(8) **Action by the City Council:** After the close of the public hearing, the receipt of the final report of the Commission, and any additional information and recommendations provided by City staff, the City Council may take one of the following actions:

(i) Deny the application; or

(ii) Approve an ordinance adopting the zoning changes requested by the applicant; or

(iii) Approve an ordinance adopting the zoning changes as recommended by the Commission; or

(iv) Approve an ordinance adopting the zoning change as determined by the City Council

(9) **Recess of the Public Hearing:** After commencement of the public hearing, the Planning and Zoning Commission or City Council may recess their respective public hearing from time to time, provided, however, if the public hearing is to be reconvened on a day other than the day on which the public hearing commenced, either:

(i) The hearing shall be recessed to a specific date and time, which is included in the motion to recess the hearing, in which case no additional notification shall be required; or

(ii) Notice of the time and place at which the public hearing will be reconvened must be provided as set forth in Subsection (a)(4), above.

(b) **Change to Less Restrictive Zoning or Enlarging Area of Request Prohibited:** In no case shall the City Council approve a zoning change that is less restrictive or which includes a larger area than set forth in the public notice required under Chapter 211.007 of the Tex. Local Govt. Code, until a new public notice is given and public hearing held on such less restrictive zoning change.

(c) **Written Protests:** The affirmative vote of at least three-fourths (3/4) of all members of the City Council shall be required before a change proposed pursuant to Section (2), above, may take effect if there is delivered to the City Secretary written protests of the change in accordance with Tex. Loc. Govt. Code 211.006 as follows:

(1) **Minimum Land Area Required:** This Section (c) shall apply only if protests in proper form are received from owners of at least twenty percent (20%) of either:

(i) The area of the lots or land covered by the proposed change; or

(ii) The area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200.0) from that area.

(2) **Form of Protest:** A protest filed pursuant to Section (c) shall be deemed to be in proper form and effective only if it:

(i) Contains a reference to the zoning application being protested, such as the address or location of the property under request, case number assigned by the City, or other identifying information;

(ii) Is signed by the owner(s) of the property;

(iii) In the case of a governmental entity, is accompanied by a certified copy of the order or resolution or a letter signed by the chief officer of the governing body of the governmental entity authorizing the issuance of the protest;

(iv) Is delivered to the Planning and Zoning Commission Secretary prior to the taking of any vote of the Commission, or to the City Secretary prior to the taking of any vote of the City Council, on the matter.

(d) **Computing Area of Land Owned:** In computing the percentage of ownership of land referred to in Subsection (c), above:

(1) The area of streets and alleys shall be included in calculating the total land area within 200.0' of the lots or land covered by the proposed change;

(2) If a street or alley is not owned by the public in fee simple, the property owner(s) adjacent to the street or alley shall be credited with ownership to the center line of the street or alley;

(3) If a street or alley is owned in fee by a federal, state, or local governmental entity on behalf of the public, then the governmental entity shall be considered to be the owner of the street or alley regardless of the ownership of the adjoining property and the percentage of the ownership shall be attributable to the governmental entity.

(e) **Withdrawal of Protest:** An owner may withdraw a protest filed pursuant to the Section (c) at any time prior to the taking of a vote by the City Council on the ordinance adopting the change by:

(1) Delivering to the City Secretary a written request to withdraw the protest prior to the taking of the vote; or

(2) Personally appearing before the Planning and Zoning Commission or City Council and requesting the withdrawal of the protest.

(f) **Withdrawal of Application:** An applicant may withdraw a request for a zoning change at any time prior to the convening of the meeting at which the application is scheduled to be considered by delivering a written request for withdrawal of the application to the City Secretary prior to the beginning of said meeting. An applicant shall not be entitled to the refund of any application fee for an application withdrawn. Furthermore, an application for a zoning change which was previously the subject of a withdrawn application shall be treated as a new application and accompanied by a new application fee.

(g) **Postponement of Public Hearing:** An applicant for a zoning amendment pursuant to Section (2), above, may request that the public hearing regarding an application be considered at a date later than the date originally scheduled; provided, however, such request for postponement must be:

(1) Made in writing by the applicant not later than 72 hours prior to the time which the meeting is scheduled to convene; and

(2) Accompanied by sufficient funds to reimburse the City for publishing the required public notice for the later meeting; and

(3) If notice was originally sent pursuant to Tex. Loc. Govt. Code §211.007, sufficient funds to reimburse the City for sending a notice of postponement to those originally notified.

(h) **Reapplication After Denial:** No application for a zoning change, including, but not limited to, the establishment of a Planned Development District, for property which includes all or part of the same property which was described in a previously denied application for a zoning change, may be accepted by the Planning Division earlier than one year after the date of final action on the prior application by the last of the Commission or the City Council to act, unless:

(1) The Commission determines the use for which the new application is made is not the same or similar use to that proposed in the previously denied application; or

(2) The Commission determines that conditions relating to the property adjacent to the property which was the subject of the previously denied application have substantially changed, in which case a six-month waiting period shall be imposed from the date of the final action of the Commission or the City Council on the prior application, whichever body was the last to act, until a new application can be filed.

(i) **Major Changes to the Zoning Code:** When the City contemplates an amendment to this Zoning Code which has general application to all property within the City or will result in a revision of all or a substantial portion of its zoning map, including, but not limited to, comprehensive changes to zoning classifications, district boundaries, and land use

regulations, regardless of whether such changes are made in one or a series of ordinances, such change shall be deemed to be a major change and shall be made in accordance with the following procedures:

(1) **How Initiated:** The City Council or the Commission, with or without the request of any citizen, may initiate such changes.

(2) **Public Hearings; Notice; Final Action:** The Commission and the City Council shall provide public notice, conduct public hearings, and take all action related to the adoption of any comprehensive changes in accordance with Tex. Loc. Govt. Code §211.007, as amended. The City Council may, at its sole discretion, conduct joint public hearings with the Commission prior to receipt of the final report of the Commission on the proposed changes.

(j) **Amendments of Permitted Uses and Conditional Uses:** Zoning changes which result in a change in the permitted uses or conditional uses of a zoning district and which affect all of the property within the zoning district are major changes pursuant to Subsection (i), above.

XIII. Art. 11-I-13. CONDITIONAL USE PERMITS

(a) **"Conditional Use" Defined:** For purposes of the Zoning Code, a "conditional use" is a use of property which is otherwise not permitted in a specific zoning district, but which may become a compatible use through the imposition of, and compliance with, conditions related to development of the specific property, which are set forth in the Zoning Code or in a Conditional Use Permit approved by the City Council.

(b) **Use Regulations:** Any use which is not contrary to city, county, state, or federal laws and which is not listed as an allowed use in the zoning code shall be deemed a conditional use in any district and subject to the provisions of this article.

(c) **Conditional Use Permit Required:** Except as otherwise authorized in the Zoning Code, no person may develop or use any property for a use which is defined as a conditional use for the zoning district in which the property is located without first obtaining a Conditional Use Permit from the City.

(d) **Procedures for Obtaining a Conditional Use Permit:** The following procedures shall govern the application, consideration, content, issuance, and termination of a Conditional Use Permit:

(1) **Mandatory Preliminary Conference:** Prior to submitting an application for a Conditional Use Permit, an applicant or the applicant's authorized representative must meet with the Director or designated Planning Division staff to receive information regarding application procedures and requirements.

(2) **Application:** An owner and/or developer who desires to use property located in the City in a manner which is defined as a

conditional use must file an application with the Planning Division for a Conditional Use Permit on forms approved by the Planning Division, which application must contain at least the following information:

(3) Complete Application Required:

(i) An application shall be deemed to be complete only when a signed application form and all information set forth on the application checklist for a Conditional Use Permit has been submitted to the Planning Division and the required application fee has been paid.

(ii) An application for a Conditional Use Permit shall include a site plan, defined herein as a scaled drawing showing the intended development for a particular tract of land, that typically depicts existing or proposed building footprints, parking, building setbacks, land uses, landscaping, buffering, easements, floodplain, utility lines, and phasing plan, if applicable.

(4) Review Process: Upon receipt of an administratively complete application as determined by the City for a Conditional Use Permit, the application shall be reviewed under the process governing the review of an application for rezoning as described in Article 11-I-12 and Tex. Loc. Govt. Code §211.007, as amended, including notification, public hearings before the Planning and Zoning Commission and City Council, and testimony from the applicant, Planning Division staff, and others who have an interest in the matter, facts, and opinions concerning the proposed use and the proposed conditions to which such use would be subject.

(5) Report of the Planning Division: Upon receipt of a completed application for a Conditional Use Permit, the Planning Division will review and prepare a report and recommendation regarding the application, which shall be forwarded to the Commission for consideration, and which shall contain:

(i) A review of the specifics of the application;

(ii) A summary of any public comment received;

(iii) Proposed conditions to be applied if the Conditional Use Permit is to be granted; and

(iv) The recommendation of the Director regarding the application, or, if the Director has no recommendation, a statement to that effect.

(6) Recommendation of the Commission: After the close of the public hearing described in Subsection (4), above, the Commission

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shall consider the application and forward to the City Council a recommendation:

(i) To grant the Conditional Use Permit subject to the conditions recommended by staff, with or without addition or modification; or

(ii) To deny the application on the grounds that the use, even with conditions, will be incompatible with the uses on adjacent properties, the goals and objectives of the comprehensive plan, and other relevant factors.

(7) **Effect of Recommendation to Deny:** Where the Planning and Zoning Commission recommends denial as in d(6)(ii) above, the application will not automatically be placed on a City Council agenda. In order for the application to move forward, the applicant must appeal the Commission's decision to the City Council in writing within ten (10) days after the Commission's recommendation to deny.

(8) **Action of the City Council:** After the close of the public hearing described in Subsection (4), above, the City Council shall take the following action:

(i) Grant by resolution a Conditional Use Permit subject to development regulations and conditions establishing requirements, which may include standards of operation, location, arrangement, occupancy limits, and construction for the use for which the permit is issued. In authorizing the location of any conditional use, the City Council may impose such development standards and safeguards as the conditions and location indicate important to the health, safety, welfare and protection of adjacent property and its occupants from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable or hazardous conditions, and the preservation of existing trees, natural terrain features, and navigable streams and their tributaries;

(ii) Deny the application.

(9) **Recess of the Public Hearing:** After commencement of the public hearing, the Planning and Zoning Commission or City Council may recess their respective public hearing from time to time, provided, however, if the public hearing is to be reconvened on a day other than the day on which the public hearing commenced, either:

(i) The hearing shall be recessed to a specific date and time, which is included in the motion to recess the hearing, in which case no additional notification shall be required; or

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(ii) Notice of the time and place at which the public hearing will be reconvened must be provided as set forth in Subsection (d)(4), above.

(10) **Effective Date of Conditional Use Permit:** A Conditional Use Permit shall be deemed effective upon the date approved by the City Council unless specified otherwise.

(11) **Property Owner Protest:** If an application for a Conditional Use Permit is protested in accordance with Section 211.006 of the Texas Local Government Code as amended, the proposed Conditional Use Permit must receive the affirmative vote of at least three-fourths (3/4) of all members of the City Council in order to be approved.

(b) **Written Protests:** The affirmative vote of at least three-fourths (3/4) of all members of the City Council shall be required before a change proposed pursuant to Section (2), above, may take effect if there is delivered to the City Secretary written protests of the change in accordance with Tex. Loc. Govt. Code 211.006as follows:

(1) **Minimum Land Area Required:** This Section (c) shall apply only if protests in proper form are received from owners of at least twenty percent (20%) of either:

(i) The area of the lots or land covered by the proposed change; or

(ii) The area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200.0) from that area.

(2) **Form of Protest:** A protest filed pursuant to Section (c) shall be deemed to be in proper form and effective only if it:

(i) Contains a reference to the zoning application being protested, such as the address or location of the property under request, case number assigned by the City, or other identifying information;

(ii) Is signed by the owner(s) of the property;

(iii) In the case of a governmental entity, is accompanied by a certified copy of the order or resolution or a letter signed by the chief officer of the governing body of the governmental entity authorizing the issuance of the protest;

(iv) Is delivered to the Planning and Zoning Commission Secretary prior to the taking of any vote of the Commission, or to the City Secretary prior to the taking of any vote of the City Council, on the matter.

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(c) **Computing Area of Land Owned:** In computing the percentage of ownership of land referred to in Subsection (c), above:

(1) The area of streets and alleys shall be included in calculating the total land area within 200.0' of the lots or land covered by the proposed change;

(2) If a street or alley is not owned by the public in fee simple, the property owner(s) adjacent to the street or alley shall be credited with ownership to the center line of the street or alley;

(3) If a street or alley is owned in fee by a federal, state, or local governmental entity on behalf of the public, then the governmental entity shall be considered to be the owner of the street or alley regardless of the ownership of the adjoining property and the percentage of the ownership shall be attributable to the governmental entity.

(d) **Withdrawal of Protest:** An owner may withdraw a protest filed pursuant to the Section (c) at any time prior to the taking of a vote by the City Council on the ordinance adopting the change by:

(1) Delivering to the City Secretary a written request to withdraw the protest prior to the taking of the vote; or

(2) Personally appearing before the Planning and Zoning Commission or City Council and requesting the withdrawal of the protest.

(e) **Withdrawal of Application:** An applicant may withdraw a request for a zoning change at any time prior to the convening of the meeting at which the application is scheduled to be considered by delivering a written request for withdrawal of the application to the City Secretary prior to the beginning of said meeting. An applicant shall not be entitled to the refund of any application fee for an application withdrawn. Furthermore, an application for a zoning change which was previously the subject of a withdrawn application shall be treated as a new application and accompanied by a new application fee.

(f) **Postponement of Public Hearing:** An applicant for a Conditional Use Permit pursuant to Section (2), above, may request that the public hearing regarding an application be considered at a date later than the date originally scheduled; provided, however, such request for postponement must be:

(1) Made in writing by the applicant not later than 72 hours prior to the time which the meeting is scheduled to convene; and

(2) Accompanied by sufficient funds to reimburse the City for publishing the required public notice for the later meeting; and

(3) If notice was originally sent pursuant to Tex. Loc. Govt. Code §211.007, sufficient funds to reimburse the City for sending a notice of postponement to those originally notified.

(g) **<u>Reapplication After Denial:</u>** No application for a Conditional Use Permit for property which includes all or part of the same property which was described in a previously denied application for a Conditional Use Permit may be accepted by the Planning Division earlier than one year after the date of final action by the City Council on the prior application unless:

(1) The Commission determines the use for which the new application is made is not the same or similar use to that proposed in the previously denied application; or

(2) The Commission determines that conditions relating to the property adjacent to the property which was the subject of the previously denied application have substantially changed, in which case the application may still not be accepted earlier than six months from the date of the final action of the City Council on the prior application.

(h) **<u>Termination of Conditional Use Permit:</u>** A Conditional Use Permit shall terminate and become null and void as follows:

(1) **Failure to Commence the Use:** Upon a finding by the City Manager that the conditional use for which the Conditional Use Permit was issued has not commenced within 180 calendar days after the effective date of the Conditional Use Permit or the date set forth in the Conditional Use Permit, whichever is applicable. For purposes of this paragraph, the use shall be deemed to have commenced:

(i) If no new construction or renovation of an existing building is required, when actual use for the purposes described in the permit commences; or

(ii) If new construction or renovation of an existing building is required before the use can commence, when a completed application for a building permit, all required construction drawings, and the applicable permit fees have been delivered to the City Building Inspections Department.

(2) **Failure to Commence Actual Use Within Two Years of New Construction or Renovation:** If new construction or renovation of an existing building is required before the use can commence, upon a finding by the City Manager that actual use of the property has not commenced within two (2) years after the effective date of the Conditional Use Permit or other date set forth in the permit, or within two (2) years of the date of issuance of the building permit, whichever is applicable.

(3) **Cessation of Use Not Related to Destruction of Property:** After commencement of the actual use of the property for the purpose set forth in the permit, upon a finding by the City Manager that

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actual use of the property for the purpose for which the Conditional Use Permit was approved:

(i) Has not occurred for a period of 180 consecutive days after the commencement of the actual use for which the Conditional Use Permit was approved; and

(ii) That the conditional use ceased for reasons other than destruction of buildings due to fire, flood, windstorm, or other natural disaster;

(4) **Cessation of Use Related to Destruction of Property:** After commencement of the actual use of the property for the purpose set forth in the permit, upon a finding by the City Manager that actual use of the property for the purpose for which the Conditional Use Permit was approved has not occurred for a period of two consecutive years after the date of destruction of the buildings in which the use was occurring by fire, flood, or windstorm, or other natural disaster;

(5) **Failure to File an Appeal:** Unless the owner of the property files an appeal as set forth in Section (h.), below, on the fifteenth day following delivery of written notice to the owner of the property for which a Conditional Use Permit has been issued, and where the City Manager has determined that a violation of the provisions of the permit has occurred in accordance with Section (i.), below.

(c) **Appeal of Termination for Non-Compliance:** Upon a finding of the City Manager that the use of the property has not been or is not in compliance with the provisions of the permit, including the provisions for cessation of the use as cited above, the City Manager shall send written notice that the permit will be terminated fifteen (15) days from the date of the receipt of the notice, said notice to be sent by certified mail, return receipt requested, to the owner of the property at the last known address indicated on the property rolls of the Kerr County Appraisal District, a copy of which notice shall also be placed on the property. Said notification shall contain a summary of the findings by the City Manager citing the provisions of the permit or City Code which have been violated. The owner of the property may file a written appeal of the City Manager's decision with the City Council by delivering to the City Clerk a summary of the property owner's basis for appeal not later than ten (10) calendar days from receipt of the City Manager's notice. The appeal shall be heard at the next regular City Council meeting which occurs on or after the tenth calendar day following the receipt of the notice of appeal. The appeal to the City Council shall be conducted in accordance with procedures adopted by the City Council. On appeal, the City Council may:

(1) Uphold the decision of the City Manager and terminate the permit;

(2) Uphold the decision of the City Manager, but grant additional time for compliance, after which date the permit shall terminate if the City Council determines that compliance has not been achieved during the additional time; or

(3) Overrule the decision of the City Manager.

The decision of the City Council shall be final.

(d) **Existing Conditional Use Permits:** In addition to Conditional Use Permits issued on or after DATE OF ADOPTION, Conditional Use Permits issued prior DATE OF ADOPTION, shall be subject to termination in accordance with Section (g.) and (h.), above.

(e) **Certificates of Occupancy:** The use of property for the purposes described in a Conditional Use Permit may not commence until a certificate of occupancy has been issued by the City Building Official. No certificate of occupancy shall be issued until all conditions regarding the construction or installation on the property of improvements or structures of any nature and/or landscaping have been satisfied.

(f) **Application for Extension of Deadlines:** A person to whom a Conditional Use Permit is issued may request an extension of time to commence the use for which the permit was issued by submitting a written request to the Planning Division not later than 15 days prior to the date the period for commencement of actual use ends. The City Council, on a showing of good cause by the applicant, may grant an extension for such time as it deems reasonable and in the best interest of the public.

XII. Art. 11-I-14. OFF-STREET PARKING REQUIREMENTS

(a) **General Parking:**

(1) **Off-Street Parking Required:** Off-street parking spaces shall be provided in conformance with these regulations whenever a use is established or enlarged. Required spaces shall be on the building site of the use for which parking is required unless otherwise permitted, and may be provided in either surface parking areas or garages. Whenever there is a change in use or an increase in floor area or in any other unit of measurement used to determine the requirements for off-street parking spaces, additional spaces shall be provided on the basis of the increased requirement.

(2) **Parking Layout and Construction Standards:** Every parcel of land hereafter used as a public or private parking area, including commercial parking lots used for the parking of business-owned vehicles and vehicular display or storage areas, shall be developed and maintained in accordance with the parking layout and construction standards of the City of Kerrville Development Standards.

(3) **Use of Required Spaces:** Required off-street parking and loading spaces shall be used only for their respective purposes and shall not be used for the storage or display of vehicles or trailers for sale or rent, the storage or display of other goods, materials or products, or the location of refuse storage containers. No required parking space may be placed in front of an overhead door or other point used for vehicular access.

(4) **Submission of Plans:** Applications for building permits and Certificates of Occupancy shall include parking plans showing the design of off-street parking areas, including the layout of spaces, aisles, and the location of ingress and egress points. Parking plans must be reviewed and approved by the Development Review Committee. Submission of a parking plan may be waived when, in the Director's opinion, it is not necessary to determine compliance with these requirements.

(5) **Encroachment on Easements and Rights-of-Way:** ~~No portion of any~~ A private parking space, lot, or facility, excluding a parking structure, retaining wall, or similar structure, may encroach on ~~any~~ an easement or right-of-way unless restricted from such usage ~~authorized~~ by law, ordinance, regulation, limitations in the easement dedication language, or ~~written agreement~~ other restriction of the governmental or private entity which owns or otherwise has jurisdiction over the easement or right-of-way, and provided that the owner of said parking space, lot, or facility shall be solely responsible for the cost of any repair or maintenance of the parking surface or other parking improvements resulting from construction that takes place within the boundaries of the easement.

(6) **Calculations:** The following rules shall apply in computing the parking requirements:

(i) **Combination Uses:** When a building site is used for a combination of uses, the parking requirement shall be the sum of the requirements for each type of use.

(ii) **Floor Area:** Floor area shall mean gross square footage, except in the case of office and retail type uses where areas used for nonpublic purposes, such as storage, incidental repair, processing or packaging, show windows, offices incidental to management or maintenance, restrooms, or utility rooms may be discounted, but shall require one space per 750 square feet for such uses.

(iii) **Continuous Seating:** When seating is provided on benches or pews, each eighteen inches (18.0") of seating shall be counted as one (1) seat for the purpose of calculating the parking requirement.

(iv) **Fractions:** When a calculation results in the requirement of a fractional space, a fraction of less than one-half (1/2) shall be disregarded and a fraction of one-half (1/2) or greater shall require one parking space.

(7) **Application to Existing Buildings:** If the use of a building is changed to a different use which pursuant to this article requires more off-street parking than currently exists, then the following applies:

(i) **New Use:** The new use may not commence until the required additional off-street parking is provided, if the building is not located in the Downtown Core as defined herein; or

(ii) **Downtown Core Property:** If the building is located in the Downtown Core as defined herein, and the new use does not require an enlargement of that area encompassed by the exterior walls of the building, the new use may commence without adding the off-street parking which would otherwise be required by this section.

(c) **Parking Reductions and Specific Exceptions:** The Zoning Board of Adjustment may authorize exceptions to the requirements of this article where it finds that the peculiar nature of a use, the shape or size of the property, or other exceptional conditions would justify such action and any such reduction or exception could be accommodated without adverse impacts on adjacent properties or the surrounding area. The following are examples of uses or conditions which may justify a reduction or exception:

(6) **Manufacturing and Warehouse Uses:** A reduction in parking spaces may be considered for manufacturing and/or warehousing uses if such reduction can be justified based upon the amount of floor area per employee, the proportion of floor area occupied by machinery, equipment, and storage, and/or the maximum number of employees or invitees using the building. The potential for future increases in the number of employees or invitees may be considered.

(7) **Longer Term Parking**: Off-site parking may be considered for institutional type uses such as hospitals, churches, or similar uses where longer term parking is common. Where an easement is used to both authorize and reserve such parking, the easement shall be permanent and irrevocable and shall be recorded in the property records of the county.

(8) **Joint Use Parking:** Joint use or collective parking may be allowed to account for parking space requirements. Joint use parking shall mean that required spaces provided for one use may also be credited as required spaces for a complementary use. Where an

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easement is used to both authorize and reserve such parking, the easement shall be permanent and irrevocable and shall be recorded in the property records of the county. The following definitions and examples shall be used as guidelines in considering requests for joint use parking:

(i) **Complementary Use:** Complementary uses are uses which generally operate at different time periods, so that one use is inactive when the other is active.

(ii) **Joint Use:** The percentage or number of spaces which is allowed to be shared and used jointly should be related to the proportion or number of spaces which will be available during the period of relative inactivity.

(iii) **Examples:** If an office parking lot is generally 90% vacant in the evenings and on weekends, then 90% of the spaces might be credited as also providing the parking for a church which operates primarily in the evenings and on weekends. Or, if a church parking lot is generally 50% vacant on weekdays, then 50% of the spaces might be credited as also providing the parking for an office which operates only on weekdays. Theaters and other evening/weekend entertainment uses may be another example of a use that might share parking with an office, bank, church, or other complementary use.

(d) **Number of Parking Spaces Required:** The following regulations shall apply in determining the number of parking spaces required for a specific use or combination of uses:

(6) **Listed Uses:** Nonresidential and residential uses shall be assigned a “Parking Standard”, and the number of off-street parking spaces required for a specific use shall be determined by reference to the schedule of permitted uses and the “Table of Parking Standards”, below.

(7) **Uses Not Listed:** For any use not listed, or where the listed standard is not applicable in the judgment of the Development Review Committee, the parking requirements shall be established using the requirement of a similar use which is listed or an applicable standard from another source. Such determination by the Development Review Committee may be appealed to the Planning and Zoning Commission.

(8) **Handicapped Parking:** Parking for the handicapped and disabled shall be provided as part of the required parking in accordance with the requirements of the Americans with Disabilities Act.

(9) **Parking for Residential Uses, Including Multifamily Residential:** Parking spaces, to meet the requirements of this code

for residential uses, including multifamily residential, may be provided in an enclosed garage, covered carport, an open parking lot, or the driveway contained on a residential lot provided the minimum dimensions for a parking space are met. Tandem parking, where one parking space is located behind another, whether in a garage, carport, or in an open parking lot or residential driveway, may be counted toward meeting the required number of spaces provided the minimum dimensions are met for each space and the spaces are contained entirely within the boundaries of the lot containing the dwelling unit(s) that require the parking.

(e) **Parking Standards:** Refer to Table 2, "Schedule of Off-Street Parking Requirements", for a specific list of parking standards by use.

TABLE 2. SCHEDULE OF REQUIRED OFF-STREET PARKING		
PARKING STANDARD	**GENERAL USEDESCRIPTION**	**REQUIREMENT**
NONRESIDENTIAL USES		
1	Amusement Center, Indoor	Four (4) spaces per court or bowling lane, plus one (1) space per 100 square feet of gross floor area exclusive of courts and lanes
2	Amusement Center, Outdoor	One (1) space per 600 square feet of recreation area
3	Artisan's/Craftsman's Workshop (Manufacturing, Custom)	One (1) space per 1,000 square feet of gross floor area, plus the required spaces for retail sales and office uses (see applicable parking standards in this table)
4	Automobile Service and Repair Facility (See also Car Washes)	Three (3) spaces per service/repair bay, plus required parking for the office use (see Office, General in this table); spaces in the service/repair bays shall not count towards meeting the required parking
5	Bank or Financial Institution	One (1) space per 300 square feet of gross floor area

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6	Building Contractor (All Types)	One (1) space for each 500 square feet of gross indoor floor area, plus one (1) space for each 1,000 square feet of outdoor area/storage
7	Car Wash, Full-Service	Five (5) parking spaces, plus two (2) stacking spaces for each car wash bay (in addition to the spaces in the wash bays)
8	Car Wash, Self-Service	Two (2) parking spaces, plus one (1) stacking space for each car wash bay (in addition to the spaces in the wash bays)
9	Church/Temple/Mosque/Place of Worship	One (1) space per four (4) seats in the sanctuary, plus parking for office, meeting rooms, classrooms, and common areas (see applicable parking standards in this table)
10	Convenience Store with Fuel Sales	One (1) space per 200 square feet of gross floor area, with a minimum of five (5) parking spaces adjacent to the main building; spaces at the gasoline pumps shall not count towards meeting the required parking
11	Cultural Facilities and Institutions (Museums, Art Galleries, Library, etc.; excluding performance space)	One (1) space for each 300 square feet of gross floor area; parking for performance space, if present, shall be calculated using the ratio for Movie Theater/Dinner Theater/Auditorium, this table
12	Day Care (Child or Adult)	One (1) space for each employee, plus one (1) space for each 500 square feet of gross floor area

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13	Dealership - Automobile, Boat, Motorcycle, Personal Water Craft, All Terrain Vehicle	One (1) parking space for each five hundred (500) square feet of gross indoor sales floor area, plus one (1) parking space for each one thousand (1,000) square feet of outdoor area Automobile dealerships shall reserve and mark a minimum of five (5) parking spaces adjacent to the main building for customer parking
14	Fitness Center	One (1) space per 400 square feet of gross floor area
15	Flea Market, Outdoor or Other Outdoor/Open Air Market	One (1) space per 600 square feet. of site area
16	Funeral Services	Five (5) spaces for administrative uses and one (1) space per four (4) seats in the chapel
17	Garden Center/Nursery	One (1) parking space for each five thousand (5,000) square feet of outdoor storage area; plus parking for associated sales or office area at one (1) parking space per two hundred (250) square feet of gross floor area
18	Golf Course or Country Club	Five (5) spaces per green, plus required spaces for restaurants, office, and retail sales areas (see applicable parking standards in this table)
19	Hospitals	One (1) space per four (4) beds based on maximum capacity, plus three (3) spaces per 1,000 square feet of gross floor area for offices, plus parking as required for accessory uses (see applicable parking standards, this table)

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20	Hotel/Motel	One (1) space per guest room , plus one (1) space per 200 feet of gross floor area for restaurant, meeting rooms, office, and related facilities, excluding pool/common areas(see applicable parking standards, this table)
21	Industrial and Manufacturing (Assembly, Fabrication, Manufacturing, Warehouse, Showroom, Distribution, and Similar Uses)	One (1) space per 1,000 square feet of gross floor area, plus the required spaces for office use (see applicable parking standard, this table)
22	Mini-warehouses and Self-storage	One (1) space per 10,000 square feet of gross floor area, plus the required spaces for office and on-site apartment See Article 11-I-11 for additional parking requirements for this use
23	Movie Theater/Dinner Theater/Auditorium, etc.	One (1) space per four fixed (4) seats in the facility or one (1) space per 50 square feet of gross floor area in the assembly area, whichever is greater
24	Office, General (Business or Professional)	One (1) space per 300 square feet of gross floor area
25	Office, Medical	One (1) space per 200 square feet of gross floor area
26	Outdoor storage and sales facilities	One (1) space per 2,000 square feet of storage/sales area, plus the required spaces for office use (see applicable parking standard, this table)
27	Restaurants	One (1) space per four (4) seats or one (1) space per

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		100 square feet of gross floor area, whichever is greater
28	Retail	One (1) space per 300 square feet of gross floor area, excluding non-public space such as restrooms, office, or storage space
29	Retail, Large Items (Furniture Store, Appliance Sales or similar)	One (1) space per 400 square feet
30	School, 0 through Pre-K	See Day Care, this table
31	School, Elementary and Intermediate	Two (2) spaces per classroom
32	School, Secondary	Six (6) spaces per classroom plus the required spaces for office use (see applicable parking standard, this table)
33	School, College or University	One (1) space per two (2) students, plus one (1) space per student housing unit (room)
34	Short-term Rental Unit	One (1) space per bedroom, plus parking required for the manager, if living off-site
35	Stables, Commercial	One (1) space per 2 stalls
36	Veterinary Services	One (1) space per 300 square feet of gross floor area
RESIDENTIAL USES		
37	Dwelling, Single-Family Detached, Patio Home, Duplex	Two (2) spaces per unit
38	Single-Family with Accessory Dwelling Units	Two (2) spaces for the main residence plus two (2) spaces for the accessory dwelling
39	Townhome	Two (2) spaces per dwelling unit plus .25 spaces per dwelling unit for guest parking, to be provided in

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		groupings distributed throughout the development
40	Multifamily (Apartment, Condominium)	• 1.5 spaces for each 1-bedroom unit • 2.0 spaces for each 2-bedroom unit • 2.5 spaces for each unit with 3 or more bedrooms Parking areas for boats, trailers, and recreational vehicles prohibited unless a designated storage area is provided; this parking shall not count towards meeting the required parking
SPECIAL STANDARDS FOR MIXED USE BUILDINGS		
41	Dwellings, Mixed-Use	• 1.5 spaces for each 1-bedroom unit • 2.0 spaces for each 2-bedroom unit • 2.5 spaces for each unit with 3 or more bedrooms
42	Nonresidential Uses in a Mixed-Use building (excluding area occupied by residential uses)	One (1) space per 250 square feet of gross floor area
43	Mixed Use Credit	10% reduction in the total number of spaces required for the nonresidential portion of a mixed-use building containing both residential and nonresidential uses
USES NOT LISTED		
Parking for uses not listed herein shall be established by the Development Review Committee (DRC) using the standard of a similar use or an applicable standard from another source. The requirements established by the DRC may be appealed to the Planning and Zoning Commission.		

XIII. Art. 11-I-15. NONCONFORMING LOTS, USES, STRUCTURES, OR SITE ELEMENTS

(a) **Nonconforming Property Defined:** For purposes of this Zoning Code, a nonconforming property is a land use, lot of record, structure, or other site element or improvement related to the use or development of land that was legally established prior to the effective date of this ordinance or subsequent amendment hereto, that does not conform to the requirements of this code on the effective date. For purposes of this ordinance, the following definitions shall apply to situations which are legally nonconforming as a result of the adoption of this Zoning Code or any amendments hereto:

(1) A nonconforming lot is a tract of land which does not fully conform to the standards and regulations set forth in this Zoning Code;

(2) A nonconforming use is a use of land, building, or other structure, or combination thereof, which does not fully conform to the standards and regulations set forth in this Zoning Code;

(3) A nonconforming structure is any building or structure which does not fully conform to the standards and regulations set forth in this Zoning Code;

(4) A nonconforming site element is an element or improvement other than a use, lot, or structure, such as site lighting, a driveway, off-street parking or loading area, screening, or landscaping, which does not fully conform to the standards and regulations set forth in this Zoning Code, but expressly excludes a nonconforming sign.

(b) **Continuation of Existing Lots, Uses, Structures, or Site Elements:** Except as otherwise set forth in the Code of Ordinances, the lawful use of a lot, ~~building,~~ structure, or other site element on DATE OF ADOPTION may be continued, subject to the provisions herein, although such lot, use, structure, or site element does not conform with the provisions of the Zoning Code for the zoning district in which the property is located. Such uses of property shall be considered valid nonconforming uses.

(c) **No Increase in Nonconformity:** In general, no action shall be taken that increases the degree of the nonconformity of a nonconforming lot, use, structure, or site element.

(d) **Enlargement Prohibited:** No enlargement of a nonconforming use, structure, or site element, and no replatting or reconfiguration of a lot except in conformance with this Code is permitted, except if allowed by law which preempts this Zoning Code. For purposes of this Article, the enlargement of a nonconforming use or structure shall be deemed to have occurred when:

(1) The area of the building in which the nonconforming use is occurring is enlarged or increased, or the building is expanded or structurally altered to accommodate the nonconforming use;

(2) The nonconforming use expands within the building or facility beyond the square footage occupied by the use at the time it became nonconforming;

(3) If applicable, seating capacity of a building or on property where the use is occurring is increased;

(4) The nonconforming use expands into another building or facility;

(5) The number of residential units is increased;

(6) The number of nonconforming uses or units is increased;

(7) The parking or loading area~~s~~ located on the property where the use is occurring is increased;

(8) The storage area or products stored on the premise is increased beyond the storage capacity existing at the time the use became nonconforming;

(9) New structures which are used in furtherance of the nonconforming use are constructed or located on the property; or

(10) The nonconforming use expands beyond the area on the tract of land in which the use has historically been conducted or the nonconforming use within a building is expanded to occupy land outside the building.

(e) **Nonconforming Lot:** A nonconforming lot shall be changed only to conform to the requirements of the district wherein it is located and shall not be reconfigured through platting, replatting, or otherwise so as to become more nonconforming.

(1) A structure situated on a nonconforming lot shall be considered a nonconforming structure, subject to the provisions of this Article 11-I-15.

(2) A nonconforming lot that was made nonconforming with the adoption of this Zoning Code may be used for the construction of a building allowed in the applicable zoning district, provided that all other zoning district and dimensional standards are met, unless otherwise provided for in this Article.

(f) **Nonconforming Use May Change but Not Revert:**

(1) A nonconforming use may be changed to another nonconforming use of the same or a more restrictive zoning category provided that no structural alterations to the building are required to accommodate such change, except those alterations necessary to meet accessibility provisions required by state and federal law.

(2) A nonconforming use, once changed to a conforming use, or to a more restrictive nonconforming use as defined in section (f)(1)

above, must remain as a conforming use and may not thereafter revert to the previous or any other nonconforming use.

(3) A conforming use may be changed to another conforming use, but may not revert to a nonconforming use.

(g) **Repair and Maintenance of Buildings or Equipment:** The repair or maintenance of a nonconforming building or facility necessary to keep the building or facility in sound condition shall not constitute an enlargement of the nonconforming use, provided such repair and maintenance does not result in an increase in the building, parking, storage, ~~or~~ facility area, or capacity, or an increase in the number of residential or nonresidential units or uses existing at the time the use of the building or facility became nonconforming~~, shall not constitute an enlargement of the nonconforming use~~.

(h) **Redesign or Renovation of Buildings or Equipment:** The ~~following~~ redesign or renovation of buildings and/or equipment as follows shall not constitute an enlargement of a nonconforming use:

(1) Improvements to a building that result in a redesign or renovation of an older facility design, but only if:

(i) An approved building permit is issued for the work to be performed; and

(ii) The work is commenced not later than six months after cessation of the nonconforming use if such cessation is necessary to perform the renovation project; and

(iii) The work is completed and the nonconforming use is recommenced within two years after the cessation of the nonconforming use if such cessation is necessary to perform the renovation project; and

(iv) The square footage of the structure which is utilized for the nonconforming use is not increased and the building is not expanded or structurally altered to accommodate the nonconforming use;

(v) The nonconforming use does not expand within the building or facility beyond the square footage occupied by the use at the time it became nonconforming; and the building is not expanded or structurally altered to accommodate the nonconforming use

(vi) The project does not involve the demolition of any part of the exterior portion of the structure;

(2) Replacement of equipment with newer and/or more efficient equipment related to the preparation or dispensing of products, goods, or services, provided ~~such equipment~~:

(i) An approved building permit is issued for the work to be performed; and

(ii) The equipment is located on the same property as the equipment being replaced;

(iii) The equipment does not require an enlargement of the structure in which the equipment is located; and

(iv) The equipment does not require an increase in the square footage within the building or on the property which must be used to continue the nonconforming use.

(i) **Nonconforming Site Element:** A nonconforming site element as defined in Section (a)(4) of this Article~~, such as site lighting, landscaping, screening, parking, or other nonconforming site element or improvement~~ or portion thereof, may be repaired, maintained, or demolished, and once demolished, may not thereafter be reconstructed.

(1) A nonconforming parking lot or storage area may be maintained or repaired, provided there is no increase in the total area used for either purpose and no increase in the number of parking spaces.

(2) The Director may administratively approve an amendment to an approved landscape plan for a nonconforming property to allow a change in landscape materials

(j) **Discontinuance of a Nonconforming Use:** Except as permitted by Sections (h) and (k) of this Article, no building, structure, or land may be used for a nonconforming use after the nonconforming use has ceased for a period of six (6) consecutive months, or, in the event cessation of the nonconforming use has occurred as the result of a renovation or reconstruction of a building permitted by this Article, if the nonconforming use has not recommenced within after cessation. Except when cessation results from a renovation or reconstruction of a building, it shall be a rebuttal presumption that cessation of a nonconforming use has occurred if for a period of six (6) consecutive months:

(1) Actual use of the property or building for the nonconforming use has not occurred, regardless of whether or not other permitted or nonconforming uses are continuing during the same period; or

(2) There has been no consumption of water and sewer services indicated by the water meter for the property; or

(3) There has been no consumption of electrical service on the property;

(4) The property has not been actively marketed for sale or lease.

(k) **Reconstructing Damaged Structures or Site Elements and Recommencing Nonconforming Uses:**

(1) A nonconforming use may recommence, and a nonconforming ~~building, or~~ structure or site element may be rebuilt, restored, replaced, or repaired after said building is damaged or destroyed by fire, flood, explosion, windstorm, earthquake, war, riot, or other calamity, but only if:

(i) ~~The amount of damage or destruction does not exceed 50% of the building value;~~ the area of the structure when rebuilt shall not exceed its area prior to the date of the damage or destruction; and

(ii) The reconstructed building(s) do not create a greater nonconformity than existed prior to the damage or destruction;

(iii) An approved building permit is issued for the work to be performed;

(iv) Such reconstruction is initiated within six months of the date the damage or destruction of the building occurred or by such later date as may be established by the Commission after a finding that the owner has made a good faith effort to commence reconstruction of the building(s) within the six months but has been delayed by factors not under the owner's control, including, but not limited to, the settlement of insurance claims or obtaining necessary financing; and

(v) The area of the reconstructed building(s) used for the nonconforming use does not exceed the area or capacity used prior to the date of said damage or destruction.; and

~~**(2)** In the event a nonconforming structure is partially destroyed or damaged by fire, flood, explosion, windstorm, earthquake, war, riot, or other calamity to an extent exceeding 50% of its market value, said structure or use shall not be rebuilt, restored, reestablished, or reoccupied except in conformance with the applicable requirements of this Zoning Code, including those of the zoning district in which it is located.~~

(l) **Intentional Acts or Omissions:** Notwithstanding the provisions of this Article ~~XIV~~ 11-I-15, a nonconforming use, structure, or site element that is damaged or destroyed by the intentional acts or omissions of the owner or owner's agent may not be rebuilt, restored, replaced, or repaired except in conformance with the applicable requirements of this Zoning Code, including those of the zoning district in which it is located.

(m) **Nonconforming Use Combined with Permitted Uses:** Property used for a nonconforming use may also be used for any other use permitted in the zoning district where the property is located. The area of a building in which a nonconforming use is occurring may be increased to include space to be used for permitted uses; however:

(1) The area of the building which is used for the nonconforming use may not exceed the area used for the nonconforming use prior to the date of addition to the original building;

(2) Any increase in the building size may not cause the structure to become nonconforming, or if the structure is already nonconforming, may not increase the nonconformity; and

(3) No new parking shall be constructed beyond the minimum number necessary to meet the requirement for occupancy of the building by ~~the~~ conforming uses ~~within a building~~.

(n) **Previously Granted Conditional Use Permits:** The use of property pursuant to a conditional use permit issued prior to DATE OF ADOPTION shall be governed as follows:

(1) **Conditional Use Becoming a Permitted Use:** If the use for which the conditional use permit was granted becomes a permitted use in the zoning district in which the property is located, then:

(i) The conditional use permit shall be deemed to have terminated if all regulations set forth in the conditional use permit are the same as those set forth in this Zoning Code for the same use in the same zoning district; or

(ii) The use shall be deemed to be a nonconforming use to the extent that the use and development regulations set forth in the conditional use permit are less restrictive than the use and development regulations for the same permitted use in the same zoning district;

(2) **Conditional Use Remaining a Conditional Use:** If the use for which the conditional use permit was previously granted requires a conditional use permit in the zoning district in which the property is located, the previously issued conditional use permit shall remain in full force and effect; provided, however, such permit shall be subject to termination as set forth in Article ~~XII~~ 11-I-13.

(3) **Conditional Use No Longer a Permitted or Conditional Use:** If a use for which a conditional use permit was previously granted becomes neither a permitted use nor a use for which a conditional use permit may be granted after adoption of the Zoning Code, such use shall be deemed to be a nonconforming use, and the permit shall be subject to termination:

(i) In accordance with this Article; and

(ii) In accordance with Article ~~XII~~ 11-I-13.

(o) **Nonconforming Property Upon Annexation:** Any use of land that was established in the City's extraterritorial jurisdiction and annexed into the city shall be subject to the provisions established in the Tex. Local Gov't Code, Section 43.002, as amended.

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(p) **Appeal to Nonconforming Regulations:** The Board of Adjustment shall have the authority to hear and decide an appeal to the regulations contained in this Article 11-I-15 in accordance with the provisions of Article 11-I-8(a), Appeals to Administrative Decisions, of this Chapter as follows, to:

(1) Allow the reinstatement of a nonconforming use;

(2) Allow the expansion of a nonconforming use;

(3) Allow the reconstruction of a nonconforming structure or site element where the amount of damage or destruction exceeds 50% of the value of the structure or improvements as shown on the most current tax roll of the Kerr County Appraisal District);

(4) Allow expansion of a nonconforming structure or site element;

(5) Determine whether rights to a nonconforming use, structure, or site element have terminated.

XIII. Art. 11-I-16. PERMITS AND CERTIFICATES OF OCCUPANCY

(a) **Certificate of Occupancy for Buildings:** No certificate of occupancy required by the City's Building Code shall be issued:

(1) For a use not otherwise allowed in the zoning district in which the building is located; or

(2) If applicable, until all improvements otherwise required by this Zoning Code, including improvements required for a Planned Development district or Conditional Use Permit, have been completed.

(b) **Building Permits:** No building permit shall issue until the Building Official has determined that the use for which the application is made is an allowable use.

XIV. Art. 11-I-17. ENFORCEMENT; PENALTIES

(a) **Enforcement:** The following city officials shall have the following primary responsibilities with respect to enforcement of this Chapter:

(1) **Development Services Director:** The Development Services Director shall have the primary responsibility for the enforcement of this Zoning Code.

(2) **City Building Official:** The City Building Official, in addition to the authority and responsibility set forth in the Building Code, shall have the primary responsibility for inspecting improvements required by this Zoning Code, other than publicly-owned

improvements, and assuring compliance with such requirements prior to issuance of a certificate of occupancy.

(3) **City Engineer:** The City Engineer, or his/her designee, shall have the primary responsibility for inspecting publicly-owned improvements required to be constructed by this Zoning Code.

(4) **Code Enforcement Officer:** The City Code Enforcement Official, shall have the primary responsibility for achieving voluntary compliance with codes pertaining to the health, safety, and welfare of the citizens, including codes related to planning and zoning.

(b) **Right of Entry:** Whenever necessary for the purpose of investigating or enforcing the provisions of the Zoning Code, or whenever any enforcement officer has reasonable cause to believe that there exists in any structure, or upon any premise, any condition which constitutes a violation of the Zoning Code, an officer of the City may enter such structure or premise at all reasonable times to inspect the same, or to perform any duty imposed upon any said officer by law. If the structure or premises is occupied, the officer shall first present proper credentials and request entry. If the structure or premises is unoccupied, the officer must first make a reasonable attempt to contact a responsible person and request entry. If entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry. All permits issued by the City shall contain a written agreement whereby the permittee shall authorize entry onto the property by any duly authorized officer of the city for the purpose of inspecting and approving the improvements permitted.

(c) **Penalties:** A person found to be in violation of any provision of this Chapter shall be guilty of a misdemeanor, and on conviction thereof, be punished by fine in accordance with the schedule of fees approved by the City Council as amended from time to time.

XV. Art. 11-I-18. PRESERVING RIGHTS IN PENDING LITIGATIONS AND VIOLATIONS UNDER EXISTING ORDINANCES

(a) **Effect of ordinance:** The passage of this ordinance does not legalize any presently illegal use unless such use falls within a zoning district where it becomes conforming with the adoption of this ordinance. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. Further, no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinance was repealed and this zoning ordinance adopted, shall be discharged or affected by such repeal. Prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, or causes presently pending may proceed, in all respects as if such prior ordinance had not been repealed.

XVI. Art. 11-I-19. VALIDITY, SEVERABILITY

(a) **Severability clause:** If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

XVII. Art. 11-I-20. EFFECTIVE DATE:

(a) **When effective:** The fact that the present zoning regulations are inadequate to properly safeguard the public welfare, health, peace, and safety creates an urgency and an emergency, and requires that this ordinance shall become effective immediately upon its passage and publication, and it is accordingly so ordained.

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