

**AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING**

**TUESDAY, AUGUST 13, 2019, 6:00 P.M.**

**KERRVILLE CITY HALL, COUNCIL CHAMBERS**

**701 MAIN STREET, KERRVILLE, TEXAS**



**KERRVILLE CITY COUNCIL AGENDA  
REGULAR COUNCIL MEETING, AUGUST 13, 2019, 6:00 PM  
CITY HALL COUNCIL CHAMBERS  
701 MAIN STREET, KERRVILLE, TEXAS**



The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

**CALL TO ORDER:**

*Mayor Bill Blackburn*

**INVOCATION:**

*Offered by Councilmember Sigerman*

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

*Led by Councilmember Sigerman*

**1 ANNOUNCEMENTS OF COMMUNITY INTEREST:**

*Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.*

**2 VISITORS/CITIZENS FORUM:**

*Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers, and each speaker is limited to four minutes.*

**3 PRESENTATIONS:**

3.A. Acknowledgement of the City of Kerrville's contribution to the success of the 16th Annual River Clean Up. This agenda item requested by Tara Bushnoe, Upper Guadalupe River Authority

**4 CONSENT AGENDA:**

*These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:*

4.A. Resolution No. 30-2019. A resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2019 Safe Routes to School-Infrastructure (SRTS) call for projects. Kerrville Tally Elementary School

Attachments:

[20190813\\_Resolution\\_30-2019 Safe Routes to School grant appl to TxDOT-Tally Elementary.pdf](#)  
[20190813\\_Resolution\\_TallyES\\_SRTSMap.pdf](#)

4.B. Resolution No. 31-2019. A resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2019 Safe Routes to School-Infrastructure (SRTS) call for projects. Kerrville Tom Daniels Elementary School

Attachments:

[20190813\\_Resolution\\_31-2019 Safe Routes to School grant appl to TxDOT-Tom Daniels Elementary.pdf](#)

[20190813\\_Resolution\\_TomDanielsES\\_SRTSMap.pdf](#)

4.C. Authorize the execution of a construction contract with JK Bernhard Construction Co. for the River Trail extension to Schreiner University project in an amount of \$1,219,805.93

Attachments:

[20190813\\_Bid\\_River Trail to Schreiner University\\_Received Bids.pdf](#)

4.D. Resolution No. 32-2019. A Resolution authorizing the City Manager to approve a multiple use agreement with the Texas Department of Transportation to permit the City to construct, maintain, and operate a public hike and bike trail within State Highway 27 right-of-way at Quinlan Creek, as part of the City's River Trail Extension to Schreiner University

Attachments:

[20190813\\_Resolution\\_32-2019 Agreement authorizing MUA with TXDOT re SU-River Trail project.pdf](#)

[MUA - City of Kerrville - SH 27 at Quinlan Creek Bridge Hike and Bike Trail.pdf](#)

4.E. Resolution No. 28-2019. A Resolution recreating the Kerrville Main Street Advisory Board; providing for it's membership, terms of office, organization and structure; and repealing Resolution No. 12-2014

Attachments:

[20190813\\_Resolution\\_28-2019 Recreating Kerrville Main Street Advisory Board.pdf](#)

[20190813\\_Exhibit\\_MainSt\\_DAC\\_Boundary\\_Map.pdf](#)

4.F. Texas Main Street Locally Designated Program 2019 Contract

Attachments:

[20190813\\_Contract\\_Texas Main Street Locally Designated Program.pdf](#)

4.G. Interlocal Cooperation Agreement between City of Kerrville, Texas and Headwaters Groundwater Conservation District: Ellenberger Groundwater Well

4.H. Minutes for the City Council Workshop held on July 23, 2019

Attachments:

[20190813\\_Minutes\\_Council workshop 7-23-19.pdf](#)

4.I. Minutes for the Employee Benefits Trust meeting on July 23, 2019

Attachments:

[20190813\\_Minutes\\_Council EBT 7-23-19.pdf](#)

4.J. Minutes for the regular City Council meeting held on July 23, 2019

Attachments:

[20190813\\_Minutes\\_Council regular meeting 7-23-19.pdf](#)

**END OF CONSENT AGENDA**

**5 PUBLIC HEARING AND ORDINANCE(S), FIRST READING:**

5.A. Ordinance No. 2019-17. An ordinance approving and adopting the City of Kerrville, Texas, Zoning Code, a comprehensive rewrite of the City's Zoning Regulations in accordance and aligned with the Kerrville Comprehensive Plan (K2050); said rewrite to be known as the "City of Kerrville, Texas Zoning Code" and found within a new Chapter 60 of the City's Code of Ordinances; approving and adopting the official Zoning Map of the City, providing procedures to amend said map; requiring a staff report as to implementation by a specific date; repealing in their entirety all ordinances or parts of ordinances inconsistent herewith; providing an open meetings clause; providing a cumulative clause; containing a savings and severability clause; providing for a penalty or fine of not more than \$2,000 for each day of violation of any provision hereof; ordering publication; providing an effective date; and providing other matters related to this subject

Attachments:

[20190813\\_PowerPoint\\_Zoning.pdf](#)

[20190813\\_Ordinance\\_2019-17 Approving-adopting Zoning Code - rewrite of Citys Zoning Regulations.pdf](#)

[20190813\\_Zoning Code\\_Ch60\\_FINAL-DRAFT.pdf](#)

[20190813\\_Map\\_Future-Zoning.pdf](#)

[20190813\\_Land Use Table.pdf](#)

**6 ORDINANCE(S), SECOND READING:**

6.A. Ordinance 2019-16 Second Reading. An Ordinance ordering a special election to be held on November 05, 2019, for the purpose of submitting propositions to voters for proposed amendments to the City Charter; establishing early voting locations and polling places for this election; making provisions for the conduct of the election; and providing for public review

Attachments:

[20190723\\_Ordinance\\_2019-16 City Charter amendments Election.pdf](#)

**7 CONSIDERATION AND POSSIBLE ACTION:**

7.A. Resolution No. 29-2019. A resolution setting forth the ad valorem (property) tax rate to be considered for adoption for the 2019 tax year; calling two public hearings prior to the adoption of said rate; and calling a public hearing prior to the adoption of the fiscal year 2020 budget as required by both the City's charter and state law

Attachments:

[20190813\\_Resolution\\_29-2019 Set Proposed Tax Rate FY2020.pdf](#)

[20190813\\_Resolution\\_Budget Public Notice.pdf](#)

**8 BOARD APPOINTMENTS:**

8.A. Appointment of two board members to the Zoning Board of Adjustment (This item is eligible for Executive Session, Section 551.074: Personnel Matters.)

Attachments:

[20190813\\_Appointment\\_Zoning Board of Adjustments.pdf](#)

**9 ITEMS FOR FUTURE AGENDAS:**

*City Council may suggest items or topics for future agendas.*

**10 EXECUTIVE SESSION:**

*City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code.*

10.A. Section 551.074: Personnel Matters; Appointment to the Zoning Board of Adjustment

**11 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

**ADJOURNMENT**



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Acknowledgement of the City of Kerrville's contribution to the success of the 16th Annual River Clean Up. This agenda item requested by Tara Bushnoe, Upper Guadalupe River Authority

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 30, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

UGRA General Manager Ray Buck would like to thank the City Council for the contributions that the City of Kerrville made towards the success of the 16th Annual River Clean-Up held on July 27, 2019.

**RECOMMENDED ACTION:**

Accept acknowledgement by Upper Guadalupe River Authority.



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 30-2019. A resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2019 Safe Routes to School-Infrastructure (SRTS) call for projects. Kerrville Tally Elementary School

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 26, 2019

**SUBMITTED BY:** Kyle Burow

**EXHIBITS:** [20190813\\_Resolution\\_30-2019 Safe Routes to School grant appl to TxDOT-Tally Elementary.pdf](#)  
[20190813\\_Resolution\\_TallyES\\_SRTSMap.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	M - Mobility / Transportation
<b>Guiding Principle</b>	M1. Promote a safe, reliable, sustainable and affordable transportation system
<b>Action Item</b>	M1.4 - Explore a variety of options, including bonds, to fund the construction of needed transportation improvements

**SUMMARY STATEMENT:**

In February 2019, the Texas Department of Transportation (TxDOT) issued a call for projects in February 2019 for communities to apply for funding assistance through the Transportation Alternatives Set-Aside (TASA) and/or Safe Routes to School-Infrastructure (SRTS) Programs. These programs aim to provide federal funding assistance for a variety of transportation projects; including shared use paths, sidewalk improvements, traffic calming measures, and bicycle infrastructure improvements, within a 2-mile radius from a kindergarten through 8th grade public, private, or charter school. City staff, with the assistance of TxDOT staff, proceeded through the preliminary application process and submitted applications for funding assistance through the SRTS program on four elementary schools in April 2019. The City was authorized to proceed to the detailed application process for two elementary schools, Tally and Tom Daniels.

The City is currently in the detailed application process to be better served with the addition of sidewalks and multi-use paths to assist the K-8 students walking to the appropriate schools. As part of the application, the City of Kerrville as the project sponsor is required to adopt a resolution declaring support of the project, commitment to entering into an Advanced Funding Agreement with TxDOT (if selected), and commit to developing, implementing, constructing, maintaining, and managing the project. The City is also seeking letters of supports from Kerrville ISD, as well as local legislators. Once supported by City Council, the detailed application for the Tally Elementary School Safe Routes To School project will be submitted to TxDOT for funding consideration through the SRTS Program.

**RECOMMENDED ACTION:**

Authorize City Manager and Mayor to finalize and execute the Resolution to satisfy any necessary TxDOT application requirements.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 30-2019**

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION REGARDING ITS SAFE ROUTES TO SCHOOLS PROGRAM FOR FUNDS TO CONSTRUCT INFRASTRUCTURE IMPROVEMENTS AROUND TALLY ELEMENTARY**

**WHEREAS**, the Texas Department of Transportation (“TXDOT”) issued a call for projects in February 2019 for communities to apply for funding assistance through the Safe Routes to School-Infrastructure (“SRTS”) Program; and

**WHEREAS**, SRTS funds may be used for development of plans, specifications, and estimates; environmental documentation; and construction of pedestrian and/or bicycle infrastructure; and

**WHEREAS**, SRTS funds do not require a local match, but as the Project Sponsor, the City would be responsible for all non-reimbursable costs and 100% of overruns, if any, for a TXDOT-approved project using SRTS funds; and

**WHEREAS**, the City desires to submit an application for SRTS infrastructure funds to support the development of pedestrian/bicycle improvements including sidewalks, signage, and crossing upgrades, in the area around Tally Elementary; and

**WHEREAS**, the development of the proposed improvements will enhance student safety by providing designated walking and/or biking pathways where students may safely approach their school; and

**WHEREAS**, the proposed improvements will positively impact the surface transportation system by eliminating instances where students must share busy City thoroughfares with vehicles, which creates driver distractions; and

**WHEREAS**, City Council finds it to be in the public interest to approve the City’s submission of an application to the SRTS program as specified above;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** City Council authorizes the submission of an application for SRTS infrastructure funding, such funding to be used by the City for the Tally Elementary School Safe Routes to School project (the “Project”).

**SECTION TWO.** City Council agrees to comply with all assurances executed in connection with the application and, if funded, the award.

**SECTION THREE.** The City Manager is hereby authorized and directed to

act on the City's behalf in all matters pertaining to this application, the award of funding, and an agreement as to the City's use of such funding for the Project.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.**

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

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Michael C. Hayes, City Attorney

# Kerrville\_Tally\_ES\_SRTS

## School Location



Fred H Tally Elementary School

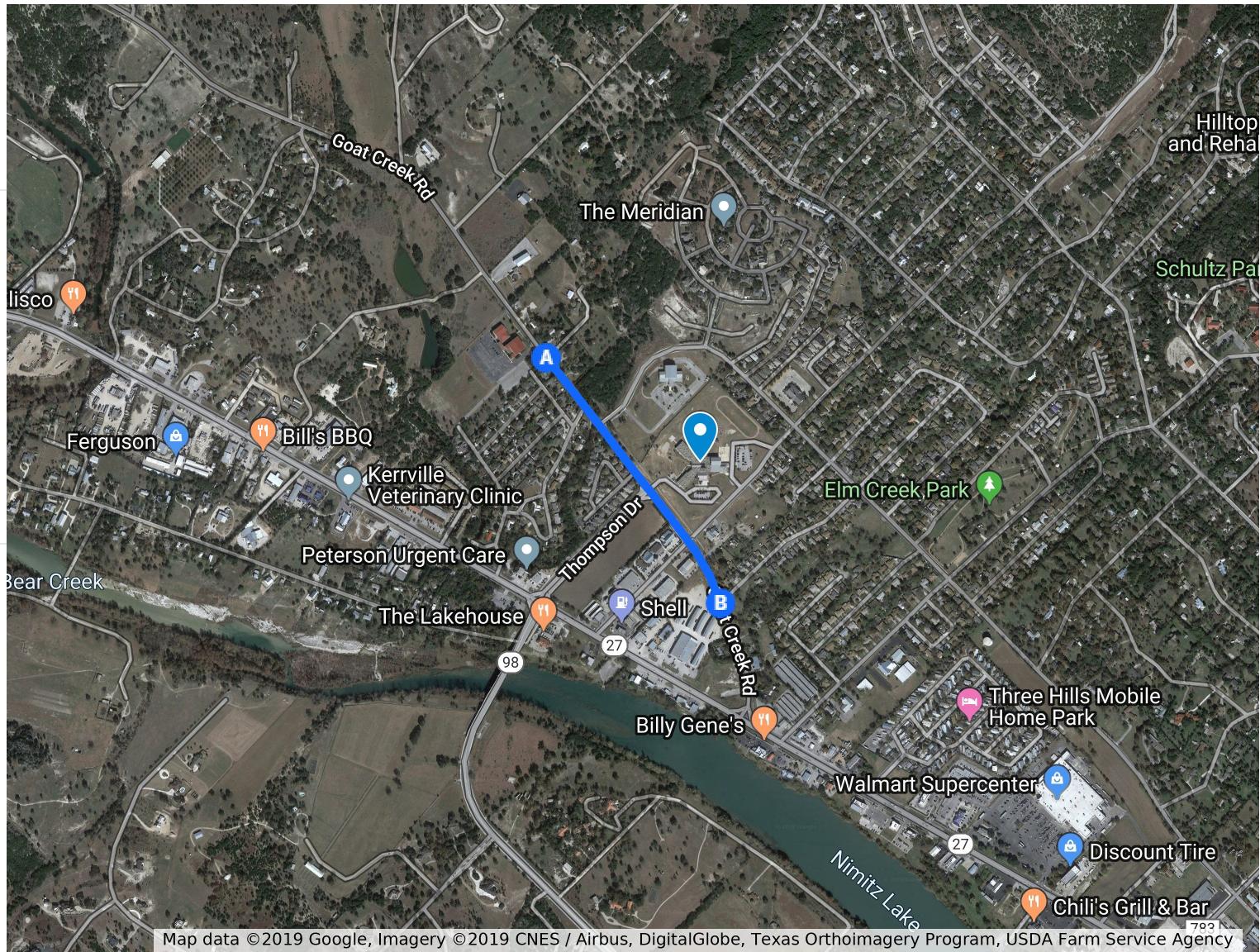
## Project Location - FM 1338 (Goat Creek Rd) - Smith Rd to Stephanie Dr



2010 Sika Dr, Kerrville, TX 78028, USA



1680 Goat Creek Rd, Kerrville, TX 78028, USA





**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 31-2019. A resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2019 Safe Routes to School-Infrastructure (SRTS) call for projects. Kerrville Tom Daniels Elementary School

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 26, 2019

**SUBMITTED BY:** Kyle Burow

**EXHIBITS:** [20190813\\_Resolution\\_31-2019 Safe Routes to School grant appl to TxDOT-Tom Daniels Elementary.pdf](#)  
[20190813\\_Resolution\\_TomDanielsES\\_SRTSMap.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	M - Mobility / Transportation
<b>Guiding Principle</b>	M1. Promote a safe, reliable, sustainable and affordable transportation system
<b>Action Item</b>	M1.4 - Explore a variety of options, including bonds, to fund the construction of needed transportation improvements

**SUMMARY STATEMENT:**

In February 2019, the Texas Department of Transportation (TxDOT) issued a call for projects in February 2019 for communities to apply for funding assistance through the Transportation Alternatives Set-Aside (TASA) and/or Safe Routes to School-Infrastructure (SRTS) Programs. These programs aim to provide federal funding assistance for a variety of transportation projects; including shared use paths, sidewalk improvements, traffic calming measures, and bicycle infrastructure improvements, within a 2-mile radius from a kindergarten through 8th grade public, private, or charter school. City staff, with the assistance of TxDOT staff, proceeded through the preliminary application process and submitted applications for funding assistance through the SRTS program on four elementary schools in April 2019. The City was authorized to proceed to the detailed application process for two elementary schools, Tally and Tom Daniels.

The City is currently in the detailed application process to be better served with the addition of sidewalks and multi-use paths to assist the K-8 students walking to the appropriate schools. As part of the application, the City of Kerrville as the project sponsor is required to adopt a resolution declaring support of the project, commitment to entering into an Advanced Funding Agreement with TxDOT (if selected), and commit to developing, implementing, constructing, maintaining, and managing the project. The City is also seeking letters of supports from Kerrville ISD, as well as local legislators. Once supported by City Council, the detailed application for the Tom Daniels Elementary School Safe Routes To School project will be submitted to TxDOT for funding consideration through the SRTS Program.

**RECOMMENDED ACTION:**

Authorize City Manager and Mayor to finalize and execute the Resolution to satisfy any necessary TxDOT application requirements.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 31-2019**

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION REGARDING ITS SAFE ROUTES TO SCHOOLS PROGRAM FOR FUNDS TO CONSTRUCT INFRASTRUCTURE IMPROVEMENTS AROUND TOM DANIELS ELEMENTARY**

**WHEREAS**, the Texas Department of Transportation (“TXDOT”) issued a call for projects in February 2019 for communities to apply for funding assistance through the Safe Routes to School-Infrastructure (“SRTS”) Program; and

**WHEREAS**, SRTS funds may be used for development of plans, specifications, and estimates; environmental documentation; and construction of pedestrian and/or bicycle infrastructure; and

**WHEREAS**, SRTS funds do not require a local match, but as the Project Sponsor, the City would be responsible for all non-reimbursable costs and 100% of overruns, if any, for a TXDOT-approved project using SRTS funds; and

**WHEREAS**, the City desires to submit an application for SRTS infrastructure funds to support the development of pedestrian/bicycle improvements including sidewalks, signage, and crossing upgrades, in the area around Tom Daniels Elementary; and

**WHEREAS**, the development of the proposed improvements will enhance student safety by providing designated walking and/or biking pathways where students may safely approach their school; and

**WHEREAS**, the proposed improvements will positively impact the surface transportation system by eliminating instances where students must share busy City thoroughfares with vehicles, which creates driver distractions; and

**WHEREAS**, City Council finds it to be in the public interest to approve the City’s submission of an application to the SRTS program as specified above;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** City Council authorizes the submission of an application for SRTS infrastructure funding, such funding to be used by the City for the Tom Daniels Elementary School Safe Routes to School project (the “Project”).

**SECTION TWO.** City Council agrees to comply with all assurances executed in connection with the application and, if funded, the award.

**SECTION THREE.** The City Manager is hereby authorized and directed to act on the City's behalf in all matters pertaining to this application, the award of funding, and an agreement as to the City's use of such funding for the Project.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.**

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

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Michael C. Hayes, City Attorney

# Kerrville\_TomDaniels\_ES\_SRTS

## School Location



Tom F Daniels Elementary School

## Project Location - Olympic Dr - San Jacinto Dr to Tom Daniels ES



2245 San Jacinto Dr, Kerrville, TX 78028, USA



601 Olympic Dr, Kerrville, TX 78028, USA

## Project Location - Singing Wind Dr - Deer Trail to Bridle Path



700 Smokey Mountain Dr, Kerrville, TX 78028, USA



2408 Singing Wind Dr, Kerrville, TX 78028, USA

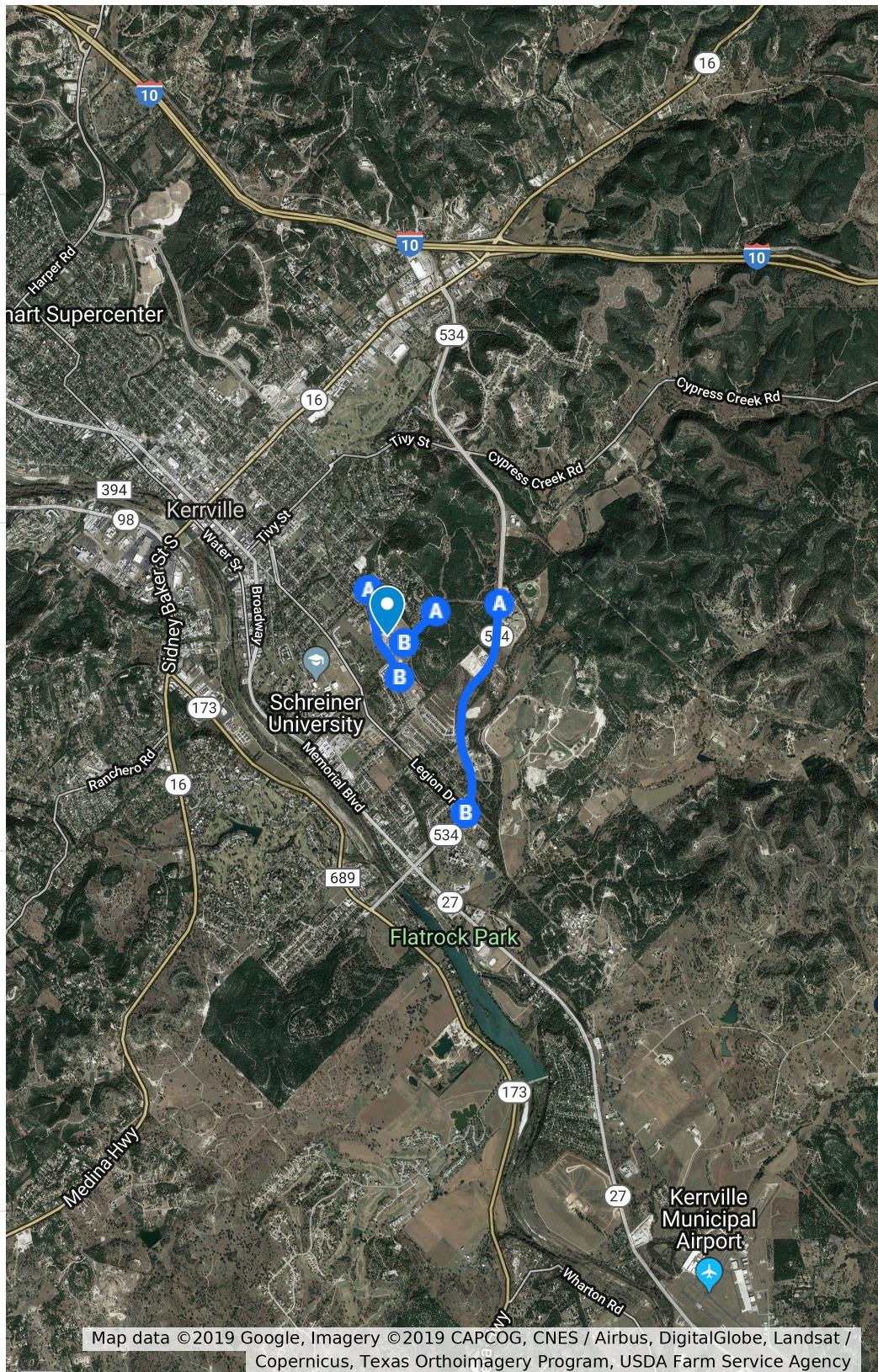
## Project Location - Loop 534 (Veterans Hwy) - Tivy HS to Legion Dr



3489 Veterans Hwy, Kerrville, TX 78028, USA



3301 Legion Dr, Kerrville, TX 78028, USA



Map data ©2019 Google, Imagery ©2019 CAPCOG, CNES / Airbus, DigitalGlobe, Landsat / Copernicus, Texas Orthoimagery Program, USDA Farm Service Agency



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Authorize the execution of a construction contract with JK Bernhard Construction Co. for the River Trail extension to Schreiner University project in an amount of \$1,219,805.93

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 16, 2019

**SUBMITTED BY:** Kyle Burow

**EXHIBITS:** [20190813\\_Bid\\_River Trail to Schreiner University\\_Received Bids.pdf](#)

<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$1,219,805.93	\$1,412,446.21	\$1,550,000.00	70-19005

**PAYMENT TO BE MADE TO:** JK Bernhard Construction Co.

<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	P - Parks / Open Space / River Corridor
<b>Guiding Principle</b>	P6. Focus on connecting businesses, neighborhoods, major destinations and other amenities with parks, open spaces and the River corridor
<b>Action Item</b>	P6.3 - Create a pedestrian/bike connection from Schreiner University to the River Trail

**SUMMARY STATEMENT:**

The City of Kerrville Economic Improvement Corporation (EIC), Schreiner University, and City of Kerrville entered into a project funding agreement in the amount of \$1,500,000 for the development and construction of an extension of the City of Kerrville's River Trail to connect with the Schreiner University campus. In addition, Schreiner University agreed to contribute \$50,000 monetarily towards the project, in addition to easements and other planned campus improvements. The project will consist of 3,700 feet of 10-ft River Trail extension to the Quinlan Creek crossing, 2,700 feet of 8-ft concrete trail along Quinlan Creek to the Schreiner University campus, and 1,000 feet of 6-ft sidewalk to the adjacent neighborhood. Staff consulted with Hewitt Engineering Inc. to complete the construction documents for this section of river trail, as their firm has completed design engineering documents for previous segments of the Kerrville River Trail system from the Riverside Nature Center to Tranquility Island in addition to the latest segment from Lowry Park to the Dietert Center.

Hewitt Engineering Inc. recently completed the design documents for this section of trail and the project was placed for advertisement, with the bid opening held on July 16, 2019. All necessary easement acquisitions have occurred. Six competitive bids were received with JK Bernhard Construction Co. being the apparent low bid. City staff evaluated the bids and recommends awarding the base bid with Alternate #1 (concrete sidewalk to neighborhood) and Alternate #4 (bridge trail debris removal) for a total contract amount of \$1,219,805.93. After engineering expenses, this will allow for an approximate 15% project contingency, which is typical for a project of this magnitude and consistent with other portions of river trail construction. Any remaining project balance that is not utilized will be refunded back to the Kerrville EIC.

**RECOMMENDED ACTION:**

Authorize the City Manager to finalize and execute a construction contract with JK Bernhard Construction Co.

# **Project Name : River Trail to Schreiner University**

Engineering Number: PW#19-002

## **Bid Opening: July 16, 2019**



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 32-2019. A Resolution authorizing the City Manager to approve a multiple use agreement with the Texas Department of Transportation to permit the City to construct, maintain, and operate a public hike and bike trail within State Highway 27 right-of-way at Quinlan Creek, as part of the City's River Trail Extension to Schreiner University

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 26, 2019

**SUBMITTED BY:** Kyle Burow

**EXHIBITS:** [20190813\\_Resolution\\_32-2019 Agreement authorizing MUA with TXDOT re SU-River Trail project.pdf](#)  
[MUA - City of Kerrville - SH 27 at Quinlan Creek Bridge Hike and Bike Trail.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	P - Parks / Open Space / River Corridor
<b>Guiding Principle</b>	P6. Focus on connecting businesses, neighborhoods, major destinations and other amenities with parks, open spaces and the River corridor
<b>Action Item</b>	P6.3 - Create a pedestrian/bike connection from Schreiner University to the River Trail

**SUMMARY STATEMENT:**

The resolution supports authorizing the City Manager, the designated representative of the City of Kerrville, Texas, to execute a Multiple Use Agreement with the Texas Department of Transportation for construction of the River Trail to Schreiner University Project.

The City of Kerrville Economic Improvement Corporation, Schreiner University, and City of Kerrville entered into a project funding agreement in the amount of \$1,500,000 for the development and construction of an extension of the City of Kerrville's River Trail to

connect with the Schreiner University campus. The project will consist of 3,700 feet of 10-ft River Trail extension to the Quinlan Creek crossing, 2,700 feet of 8-ft concrete trail along Quinlan Creek to the Schreiner University campus, and 1,000 feet of 6-ft sidewalk to the adjacent neighborhood. Staff consulted with Hewitt Engineering Inc. after having completed design for previous segments of the River Trail system from the Riverside Nature Center to Tranquility Island in addition to the latest segment from Lowry Park to the Dietert Center.

As a result of the connection to Schreiner University, a portion of the project proceeds through the Texas Department of Transportation (TxDOT) right-of-way for State Highway 27 requiring an agreement between the City and State of Texas for the construction, maintenance, and operation of the River Trail to Schreiner University.

**RECOMMENDED ACTION:**

Authorize City Manager and Mayor to finalize and execute the Resolution to satisfy any necessary TxDOT Agreement requirements.

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. 32-2019**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO APPROVE A MULTIPLE USE AGREEMENT WITH  
THE TEXAS DEPARTMENT OF TRANSPORTATION  
TO PERMIT THE CITY TO CONSTRUCT, MAINTAIN,  
AND OPERATE A PUBLIC HIKE AND BIKE TRAIL  
WITHIN STATE HIGHWAY 27 RIGHT-OF-WAY AT  
QUINLAN CREEK, AS PART OF THE CITY'S RIVER  
TRAIL EXTENSION TO SCHREINER UNIVERSITY**

**WHEREAS**, the City of Kerrville, Texas ("City") has requested that the Texas Department of Transportation (TXDOT) permit it to construct, maintain, and operate a public hike and bike trail on State Highway 27 right-of-way at its intersection with Quinlan Creek; and

**WHEREAS**, City Council authorizes the execution of a Multiple Use Agreement with TXDOT for the purposes provided above; and

**WHEREAS**, City Council finds it to be in the public interest to authorize the City Manager to sign the agreement referenced above;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

City Council authorizes the City Manager to approve and execute a Multiple Use Agreement with TXDOT, which will permit the City to construct, maintain, and operate a public hike and bike trail within State Highway 27 right-of-way at Quinlan Creek, as part of the City's project to extend its River Trail to Schreiner University.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of  
A.D., 2019.**

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Bill Blackburn, Mayor

APPROVED AS TO FORM:

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Michael C. Hayes, City Attorney

ATTEST:

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Shelley McElhannon, City  
Secretary

# DRAFT 08.07.19



Form 2044 (Rev. 10/18)  
Page 1 of 10

## MULTIPLE USE AGREEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

**THIS AGREEMENT** made by the State of Texas by and between the Texas Department of Transportation, hereinafter referred to as "State", party of the first part, and the City of Kerrville \_\_\_\_\_, hereinafter called \_\_\_\_\_, City \_\_\_\_\_, party of the second part, is to become effective when fully executed by both parties.

### WITNESSETH

**WHEREAS**, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 19 \_\_\_\_\_, the governing body for the \_\_\_\_\_ City \_\_\_\_\_, entered into Resolution/Ordinance No. \_\_\_\_\_, hereinafter identified by reference, authorizing the \_\_\_\_\_ City \_\_\_\_\_'s participation in this agreement with the State; and

**WHEREAS**, the \_\_\_\_\_ City \_\_\_\_\_ has requested the State to permit the construction, maintenance and operation of a public \_\_\_\_\_ hike and bike trail \_\_\_\_\_ on the highway right of way, (ROADWAY \_\_\_\_\_ SH 27 \_\_\_\_\_ CONTROL SECTION NO. 0142-05 ).  
(General description of area including either the control number or GPS coordinates.)  
of SH 27 under the Quinlan Creek bridge approximately 1.2 miles north of SL 534  
shown graphically by the preliminary conceptual site plan in Exhibit "A" and being more specifically described by metes and bounds of Exhibit "B", which are attached and made a part hereof; and

**WHEREAS**, the State has indicated its willingness to approve the establishment of such facilities and other uses conditioned that the \_\_\_\_\_ City \_\_\_\_\_ will enter into agreements with the State for the purpose of determining the respective responsibilities of the \_\_\_\_\_ City \_\_\_\_\_ and the State with reference thereto, and conditioned that such uses are in the public interest and will not damage the highway facilities, impair safety, impede maintenance or in any way restrict the operation of the highway facility, all as determined from engineering and traffic investigations conducted by the State.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

### **1. DESIGN AND CONSTRUCTION**

City \_\_\_\_\_ will prepare or provide for the construction plans for the facility, and will provide for the construction work as required by said plans at no cost to the State. Said plans shall include the design of the access control, necessary horizontal and vertical clearances for highway structures, adequate landscape treatment, adequate detail to ensure compliance with applicable structural design standards, sufficient traffic control provisions, and general layout. They shall also delineate and define the construction responsibilities of both parties hereto. Completed plans will be submitted to State for review and approval and when approved shall be attached to the agreement and made a part thereof in all respects. Construction shall not commence until plans have been approved by the State. Any future revisions or additions shall be made after prior written approval of the State. Any sidewalks, curb ramps and other pedestrian elements to be constructed, either on site or off site, by the \_\_\_\_\_ City \_\_\_\_\_ shall be in accordance with the requirements of Title II of the Americans With Disabilities Act (ADA) and with the Texas Accessibility Standards (TAS). Elements constructed by the \_\_\_\_\_ City \_\_\_\_\_ and found not to comply with ADA or TAS shall be corrected at the entire expense of the \_\_\_\_\_ City \_\_\_\_\_.

### **2. INSPECTION**

Ingress and egress shall be allowed at all times to such facility for Federal Highway Administration personnel and State Forces and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all parking or other activities for periods required for such operations will be prohibited.

### **3. PARKING REGULATIONS**

Parking regulations shall be established limiting parking to single unit motor vehicles of size and capacity no greater than prescribed for 1½ ton trucks, such vehicles to conform in size and use to governing laws. Parking shall be permitted only in marked spaces.

Parking shall be prohibited when a security threat, as determined by TxDOT, exists.

#### **4. PROHIBITION/SIGNS**

Regulations shall be established prohibiting the parking of vehicles transporting flammable or explosive loads and prohibiting use of the area in any manner for peddling, advertising or other purposes not in keeping with the objective of a public facility. The erection of signs other than those required for proper use of the area will be prohibited. All signs shall be approved by the State prior to the actual erection.

#### **5. RESPONSIBILITIES**

Timely maintenance, repair and operation of the facility shall be entirely the responsibility of the City \_\_\_\_\_. Such responsibility shall not be transferred, assigned or conveyed to a third party without the advanced written approval of the State. These responsibilities expressly include the timely maintenance and repair of any portion of the facility necessary to comply with the Americans with Disabilities Act. Further, such responsibility shall include picking up trash, mowing and otherwise keeping the facility in a clean and sanitary condition, and surveillance by police patrol to eliminate the possible creation of a nuisance or hazard to the public. Hazardous or unreasonably objectionable smoke, fumes, vapor or odors shall not be permitted to rise above the grade line of the highway, nor shall the facility subject the highway to hazardous or unreasonably objectionable dripping, droppings or discharge of any kind, including rain or snow.

If the State determines that \_\_\_\_\_ City \_\_\_\_\_ has failed to comply with these responsibilities, it will perform the necessary work and charge \_\_\_\_\_ City \_\_\_\_\_ the actual cost of the work.

#### **6. FEES**

Any fees levied for use of the facilities in the area shall be nominal and no more than are sufficient to defray the cost of construction, maintenance and operations thereof, and shall be subject to State approval.

A. Retention Period. The \_\_\_\_\_ City \_\_\_\_\_ shall maintain all books, documents, papers, accounting records and other evidence pertaining to fees collected and costs (hereinafter called the Records). The \_\_\_\_\_ City \_\_\_\_\_ shall make the records available during the term of the Agreement and for four years from the date the Agreement is terminated, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

B. Audit Report. If fees are collected by the \_\_\_\_\_ City \_\_\_\_\_ for the use of the facility under this agreement, the \_\_\_\_\_ City \_\_\_\_\_ will provide the State an annual audit report detailing the fees collected for the use of the facility and the costs associated with constructing, maintaining, and operating the facility within the same period. If the report shows more fees collected than expenses for the construction, operation, or maintenance of the facility the \_\_\_\_\_ City \_\_\_\_\_ must provide a multiple year plan detailing how the additional revenue will be used for construction, operation, or maintenance of the facility.

C. Availability. The State or any of its duly authorized representatives, the Federal Highway Administration, the United States Department of Transportation, Office of Inspector General, and the Comptroller General shall have access to the \_\_\_\_\_ City \_\_\_\_\_'s records that are directly pertinent to this Agreement for the purpose of making audits and examinations.

## **7. TERMINATION UPON NOTICE**

This provision is expressly made subject to the rights herein granted to both parties to terminate this agreement upon notice, and upon the exercise of any such right by either party, all obligations herein to make improvements to said facility shall immediately cease and terminate and \_\_\_\_\_ City \_\_\_\_\_ shall be responsible for the facility's timely removal at no cost to the State. If the State determines that \_\_\_\_\_ City \_\_\_\_\_ has failed to timely remove the facility, it will perform the necessary work and charge \_\_\_\_\_ City \_\_\_\_\_ the actual cost of the work.

## **8. MODIFICATION/TERMINATION OF AGREEMENT**

If in the sole judgment of the State it is found at any future time that traffic conditions have so changed that the existence or use of the facility is impeding maintenance, damaging the highway facility, impairing safety or that the facility is not being properly operated, that it constitutes a nuisance, is abandoned, or if for any other reason it is the State's judgment that such facility is not in the public interest, this agreement under which the facility was constructed may be: (1) modified if corrective measures acceptable to both parties can be applied to eliminate the objectionable features of the facility; or (2) terminated and the use of the area as proposed herein discontinued.

## **9. PROHIBITION OF STORAGE OF FLAMMABLE MATERIALS**

All structures located or constructed within the area covered by the agreement shall be fire resistant. The storage of flammable, explosive or hazardous materials is prohibited. Operations deemed to be a potential fire hazard shall be subject to regulation by the State.

## **10. RESTORATION OF AREA**

The \_\_\_\_\_ City \_\_\_\_\_ shall provide written notification to the State that such facility will be discontinued for the purpose defined herein. The \_\_\_\_\_ City \_\_\_\_\_ shall, within thirty (30) days from the date of said notification, clear the area of all facilities that were its construction responsibility under this agreement and restore the area to a condition satisfactory to the State.

## **11. PREVIOUS AGREEMENTS**

It is understood that this agreement in no way modifies or supersedes the terms and provisions of any existing agreements between the parties hereto.

## 12. INDEMNIFICATION

City \_\_\_\_\_ AGREES TO HOLD AND SAVE THE STATE OF TEXAS FREE FROM DAMAGES THAT MAY RESULT FROM CONSTRUCTION OF THE PROJECT DESCRIBED HEREIN. THE INDEMNIFICATION OF THE STATE SHALL EXTEND FOR A PERIOD OF TWO (2) YEARS BEYOND THE DATE OF TERMINATION OF THIS AGREEMENT.

DURING EACH YEAR WHILE THERE IS ANY LIABILITY BY REASON OF THE AGREEMENT CONTAINED IN THIS SUBSECTION OF THIS RESOLUTION, INCLUDING THE CALENDAR YEAR 2019, THE City of Kerrville (CITY) SHALL COMPUTE AND ASCERTAIN THE RATE AND AMOUNT OF AD VALOREM TAX, BASED ON THE LATEST APPROVED TAX ROLLS OF SAID ENTITY, WITH FULL ALLOWANCES BEING MADE FOR TAX DELINQUENCIES AND COSTS OF TAX COLLECTION, WHICH WILL BE SUFFICIENT TO RAISE AND PRODUCE THE MONEY REQUIRED TO PAY ANY SUMS WHICH MAY BE OR BECOME DUE DURING ANY SUCH YEAR, IN NO INSTANCE TO BE LESS THAN TWO (2%) PER CENT OF SUCH OBLIGATION, TOGETHER WITH INTEREST THEREON, BECAUSE OF THE OBLIGATION HEREIN ASSUMED.

SAID RATE AND AMOUNT OF AD VALOREM TAX IS HEREBY ORDERED TO BE LEVIED AND IS HEREBY LEVIED AGAINST ALL TAXABLE PROPERTY IN SAID ENTITY FOR EACH YEAR WHILE ANY LIABILITY EXISTS BY REASON OF THE OBLIGATION UNDERTAKEN BY THIS SUBSECTION OF THIS RESOLUTION, AND SAID AD VALOREM TAX SHALL BE ASSESSED AND COLLECTED EACH SUCH YEAR UNTIL ALL OF THE OBLIGATIONS HEREIN INCURRED SHALL HAVE BEEN DISCHARGED AND ALL LIABILITY HEREUNDER DISCHARGED.

No party to this agreement intends to waive, relinquish, limit or condition its general governmental immunity from liability in any way.

Each party agrees and acknowledges that it is not an agent, servant, or employee of the other party and that under this provision each party is responsible only for its own acts and for those of its agents, servants, independent contractors or employees. Such responsibility includes, but is not limited to any claims or amounts arising or recovered under the "Workers Compensation Law," the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

Nothing in this agreement shall be construed as creating any liability in favor of any third party against the State and the \_\_\_\_\_ City \_\_\_\_\_. Additionally, this agreement shall not ever be construed as relieving any third party from any liability against the State. Furthermore, the \_\_\_\_\_ City \_\_\_\_\_ shall become fully subrogated to the State's rights of recovery and shall be entitled to maintain any action over and against any third party who may be liable for damages. The State agrees to execute and deliver instruments and papers and to otherwise do that which is necessary to secure such rights.

### **13. INSURANCE**

The \_\_\_\_\_ City \_\_\_\_\_, shall provide necessary safeguards to protect the public on State maintained highways including adequate insurance for payment of any damages which might result during the construction, maintenance, repair and operation of the facility. \_\_\_\_\_ City \_\_\_\_\_ shall include TxDOT as an additional insured by endorsement in \_\_\_\_\_ City \_\_\_\_\_'s commercial general liability insurance policy. Prior to beginning work on the State's right of way, the \_\_\_\_\_ City \_\_\_\_\_'s construction contractor shall submit to the State a completed insurance form (TxDOT Form No. 1560) or appropriate certificate of self-insurance and shall maintain the required coverage during the construction of the facility.

### **14. USE OF RIGHT OF WAY**

It is understood that the State by execution of this agreement does not impair or relinquish the State's right to use such land for highway purposes when it is required for the construction or re-construction of the traffic facility for which it was acquired, nor shall use of the land under such agreement ever be construed as abandonment by the State of such land acquired for highway purposes, and the State does not purport to grant any interest in the land described herein but merely consents to such use to the extent its authority and title permits.

### **15. ADDITIONAL CONSENT REQUIRED**

The State asserts only that it has sufficient title for highway purposes. The \_\_\_\_\_ City \_\_\_\_\_ shall be responsible for obtaining such additional consent, permits or agreement as may be necessary due to this agreement. This includes, but is not limited to, appropriate permits and clearances for environmental, ADA and public utilities.

### **16. FHWA ADDITIONAL REQUIREMENTS**

If the Facility is located on the Federal-Aid Highway System, "ATTACHMENT A", which states additional requirements as set forth in the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710, shall be attached to and become a part of this agreement.

### **17. CIVIL RIGHTS ASSURANCES**

The \_\_\_\_\_ City \_\_\_\_\_, for itself, its personal representatives, successors and interests and

assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no persons, on the grounds of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facility; (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the

City \_\_\_\_\_ shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That if in the event of any breach of the above non-discrimination covenants, the State shall have the right to terminate the agreement and reenter and repossess said land and the facilities thereon, and hold the same as if said agreement had never been made or issued.

#### **18. AMENDMENTS**

Any changes in the time frame, character or responsibilities of the parties hereto shall be enacted by a written amendment executed by both parties hereto.

#### **19. LEGAL CONSTRUCTION**

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this agreement.

#### **20. AUDIT**

The State may conduct an audit or investigation of any aspect of this agreement. The City \_\_\_\_\_ must provide the State with access to any information the State considers relevant to the investigation or audit. The audit can include, but is not limited to, any contract for construction or maintenance of any facility or structure authorized by this agreement or any contract to provide a service to the \_\_\_\_\_ City \_\_\_\_\_ if that service is authorized by this agreement.

## **21. AUTHORITY OF STATE AUDITOR**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

## **22. NOTICES**

All notices required under this agreement shall be mailed or hand delivered to the following respective addresses:

<b>STATE</b> (Mailing Address)	<b>(Name of other party)</b> (Mailing Address)
Texas Department of Transportation	City of Kerrville
Maintenance Division	Engineering Department
125 East 11th Street	200 Sidney Baker St.
Austin, Texas 78701-2483	Kerrville, TX 78028

## **23. TIMELY PAYMENT**

When required by any provision of this agreement requires a payment to be made to the State, the other party hereto shall within thirty (30) days from receipt of the State's written notification pay the State for the full cost of repairing any damages to the highway facility which may result from the other party's construction, maintenance, repair or operation of the facility.

## **24. WARRANTS**

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

List of Attached Exhibits:

- Exhibit A - General Layout
- Exhibit B - Metes and Bounds Description
- Exhibit C - Approved Construction Plans
- Exhibit D - Certificate of Insurance (TxDOT Form 1560)
- Exhibit E - Attachment A (FHWA Additional Requirements)

**IN WITNESS WHEREOF**, the parties have hereunto affixed their signature, the  
City \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and the  
State on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**STATE OF TEXAS**

City of Kerrville  
(Name of other party)

By: \_\_\_\_\_  
Signature

Executed and approved for the Texas  
Transportation Commission for the purpose and  
effect of activating and/or carrying out the orders,  
and established policies or work programs  
heretofore approved and authorized by the Texas  
Transportation Commission.

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_  
Director, Maintenance Division

\_\_\_\_\_  
Title

Dan Stacks, P.E.  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date

**APPROVAL RECOMMENDED:**

\_\_\_\_\_  
Contact Office and Telephone No.

\_\_\_\_\_  
District Engineer

\_\_\_\_\_  
Mario Jorge, P.E.  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**ATTACHMENT A**

Inasmuch as this project is on the Federal-Aid highway system, the following additional requirements as applicable with the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710.105.

1. Any significant revision in the design or construction of the facility shall receive prior approval by the Texas Department of Transportation subject to concurrency by the FHWA.
2. Any change in the authorized use of real property interest shall receive prior approval by the Texas Department of Transportation subject to concurrence by the FHWA.
3. Real property interest shall not be transferred, assigned or conveyed to another party without prior Texas Department of Transportation approval subject to concurrence by the FHWA.
4. This agreement will be revocable in the event that the real property interest facility ceases to be used or is abandoned.

**EXHIBIT E**



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 28-2019. A Resolution recreating the Kerrville Main Street Advisory Board; providing for its membership, terms of office, organization and structure; and repealing Resolution No. 12-2014

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 30, 2019

**SUBMITTED BY:** Sherry Mosier

**EXHIBITS:** [20190813\\_Resolution\\_28-2019 Recreating Kerrville Main Street Advisory Board.pdf](#)  
[20190813\\_Exhibit\\_MainSt\\_DAC\\_Boundary\\_Map.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
N/A	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	D - Downtown Revitalization
<b>Guiding Principle</b>	D6. Promote preservation and reinvestment in single-family and historic components in the areas around and near Downtown
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Over the last several years, the City of Kerrville has experienced a renewed interest in the downtown core and that interest became even more evident with the adoption of the Kerrville 2050 Comprehensive Plan where Downtown's revitalization was frequently mentioned as a top priority during the planning process.

The Texas Main Street Program emphasizes downtown economic revitalization through preservation and rehabilitation of historic buildings in order to provide the necessary image for the downtown area and serves as a unifying factor to encourage area merchants and building owners to reinvest in downtown.

The City of Kerrville was granted a one-year leave of absence from the Texas Main Street Program following a change in City leadership to allow the City time to acquaint the new leadership with the City processes and to hire new staff to take on the task of downtown revitalization.

Re-entry into the Texas Main Street Program could be advantageous in facilitating the goals and objectives of Kerrville 2050 with respect to the City's Downtown revitalization efforts. Information is a powerful tool that is an essential ingredient for an effective downtown revitalization effort and the Texas Main Street Program staff provides considerable training and educational opportunities and resources to its participating communities, especially in the areas of historic preservation, partnership development, organizational management, leadership and team building, and economic development.

The Board shall consist of seven (7) members at-large. Members must be property or business owners within the designated Main Street boundaries, also known as the Downtown Arts and Cultural District ("DAC"), which is more specifically described in Exhibit A of the Resolution (the "DAC"), and must reside within Kerr County. Each member shall be a voting member and is subject to a two-year term; provided, however, that at the Board's initial meeting to recreate the Board, the members shall draw lots to establish the duration of the initial terms, with three members serving an initial term of one year and the remaining four members serving a full, two-year term. The expiration date of all terms shall be August 31 of each year. The initial one-year terms would therefore expire August 31, 2020; and the terms of the remaining four members to expire August 31, 2021.

**RECOMMENDED ACTION:**

Approve Resolution.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 28-2019**

**A RESOLUTION RECREATING THE KERRVILLE MAIN STREET ADVISORY BOARD; PROVIDING FOR ITS MEMBERSHIP, TERMS OF OFFICE, ORGANIZATION AND STRUCTURE; AND REPEALING RESOLUTION NO. 12-2014**

**WHEREAS**, City Council desires to recreate a Kerrville Main Street Advisory Board (“Board”) and to encourage participation in the Kerrville Main Street Program (“KMSP”) as a sustaining member of the Texas Main Street Program (“TMSP”), which is a program within the Community Heritage Development Division (“CHDD”) of the Texas Historical Commission (“THC”) (collectively herein, the “Program”); and

**WHEREAS**, City Council believes that the recreation of a Main Street Advisory Board to assist City Council, other City Boards and Commissions, and City Staff furthers goals and objectives of the City, including goals and objectives of the Kerrville 2050 Comprehensive Plan and other long-range plans adopted by the City; and

**WHEREAS**, the Program emphasizes downtown economic revitalization through preservation and rehabilitation of historic buildings in order to provide the necessary image for the downtown area and serves as a unifying factor to encourage area merchants and building owners to reinvest in downtown; and

**WHEREAS**, the Board should be a strong, working board capable of creating positive change for downtown, as the success of a commercial district’s preservation and revitalization effort depends largely on the Board’s ability to identify and mobilize resources, build volunteer support, develop new leadership, and maintain clear focus on the district’s needs and opportunities; and

**WHEREAS**, the TMSP sets out the City’s responsibilities as well as the additional advantages of participation as a sustaining Texas Main Street Member including group procurement, training, networking, and staff assistance from the State level; and

**WHEREAS**, the Board will provide for the achievement of the TMSP Goals of Organization, Promotion, Design, and Economic Restructuring, as may be amended, for the preservation and revitalization of the historic downtown;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** City Council hereby creates the Kerrville Main Street

Advisory Board of the City of Kerrville, Texas (“Board”), which shall consist of seven (7) members at-large. Members must be property or business owners within the designated Main Street boundaries, also known as *the Downtown Arts and Cultural District*, which is more specifically described in **Exhibit A** of this Resolution (the “DAC”), and must reside within Kerr County. Each member shall be a voting member and is subject to a two-year term; provided, however, that at the Board’s initial meeting to recreate the Board, the members shall draw lots to establish the duration of the initial terms, with three members serving an initial term of one year and the remaining four members serving a full, two-year term. The expiration date of all terms shall be August 31 of each year. The initial one-year terms would therefore expire August 31, 2020; and the terms of the remaining four members to expire August 31, 2021.

**SECTION TWO.** The Board shall elect its own officers, may establish its own procedural rules, and may adopt by-laws for the conduct of its business, to the extent that such rules and by-laws do not conflict with the City’s Charter, Code of Ordinances, or the *Procedural Rules for City Boards*.

**SECTION THREE.** City Council will appoint the initial slate of members for the recreated Board by separate action.

**SECTION FOUR.** The Board shall serve in an advisory capacity to the Mayor and City Council and shall have the following purposes and duties, as well as other duties as assigned by the City Council, as necessary to perform the business of the Board: (1) Advising the KMSP Manager on matters related to KMSP policy; (2) Developing strategic plans, and establishing goals and priorities for the KMSP, including assisting with annual reports; (3) Monitoring expenditures of program funds and assessing the effectiveness of the Program; (4) Formulating proposed budgets for the KMSP and making recommendations to the City Manager and City Council on the budgets; (5) Building support for the KMSP; (6) Reviewing and approving designs for incentive programs; (7) Fundraising for the KMSP, or for special projects organized through KMSP, including identifying and utilizing local, state, federal and private sources including grants and contributions; (8) Sponsoring public forums on Main Street issues; (9) Developing criteria needed for the Board’s activities; (10) Performing such other duties as may be assigned by City Council from time to time; and (11) At the request of City Council, the Board shall prepare an annual work plan, make a complete annual report, and other required reports to the City Council.

**SECTION FIVE.** It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

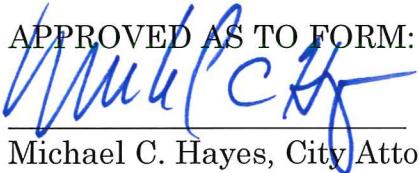
**SECTION FIVE.** Resolution No. 12-2014 is repealed.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of**  
**\_\_\_\_\_ A.D., 2019.**

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Bill Blackburn, Mayor

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

ATTEST:

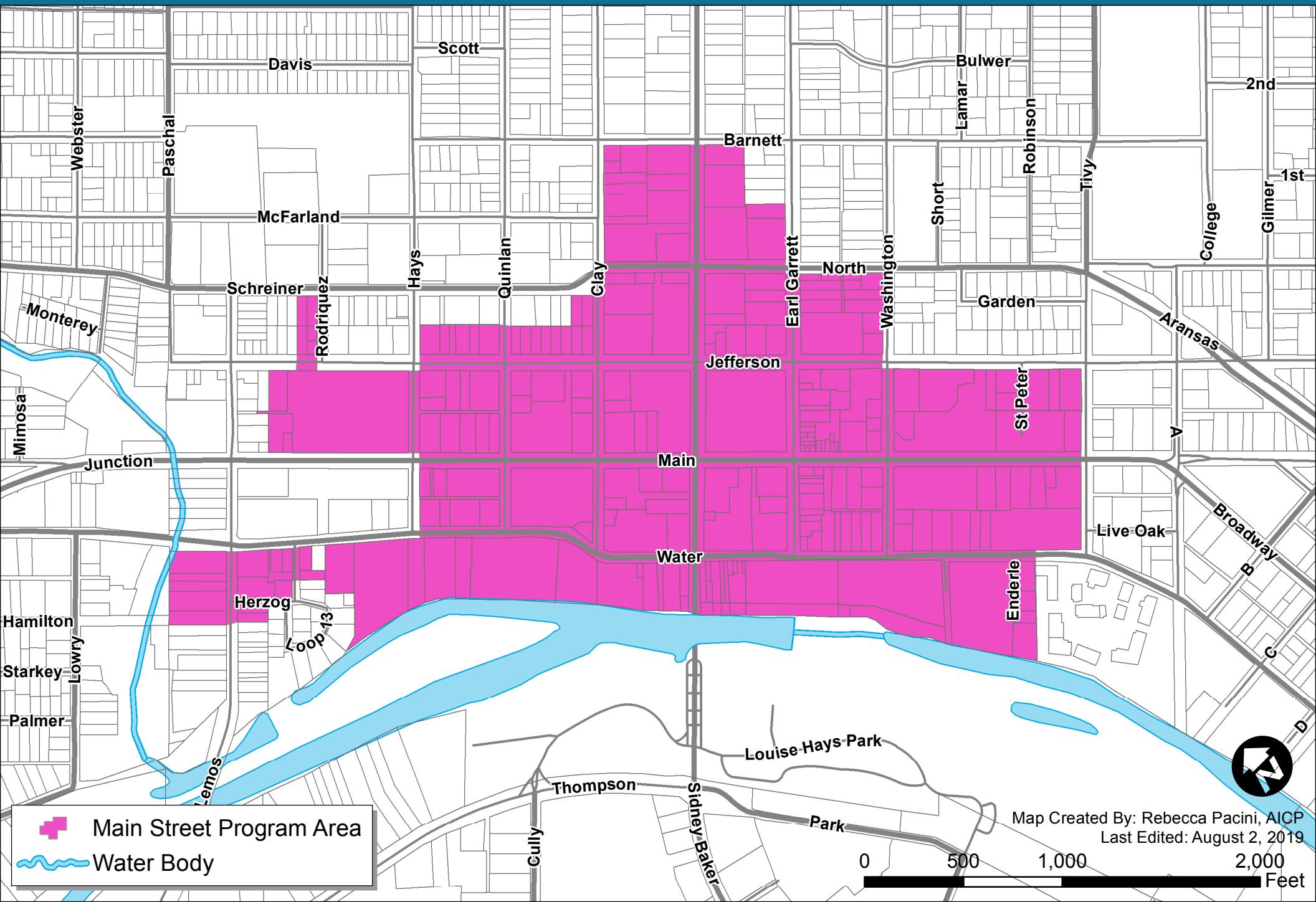
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Shelley McElhannon, City Secretary



# Proposed Main Street Program Area

## Exhibit "A"





**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Texas Main Street Locally Designated Program 2019 Contract

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Aug 07, 2019

**SUBMITTED BY:** Sherry Mosier

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**EXHIBITS:** [20190813\\_Contract\\_Texas Main Street Locally Designated Program.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$535.00	\$535.00	\$535.00	N/A

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**PAYMENT TO BE MADE TO:** Texas Historical Commission

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	D - Downtown Revitalization
<b>Guiding Principle</b>	D6. Promote preservation and reinvestment in single-family and historic components in the areas around and near Downtown
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

This is the standard State contract required annually to be designated as a Texas Main Street City. The purpose of the Local Program is to assist Participant with the development, revitalization, restoration, and preservation of its historic downtown or commercial neighborhood districts in accordance with the national Main Street Approach.

Currently there are 90 designated Main Street communities of all sizes throughout Texas. These communities pay a nominal annual fee to participate and receive a continual range of services from the Texas Main Street Program and additional benefits such as professional design services to help downtown property owners undertake effective rehabilitation, restoration and adaptive re-use projects; training for Main Street Managers, boards and other Main Street Participants; technical assistance for strategic planning and economic development; etc.

**RECOMMENDED ACTION:**

Approval of 2019 Contract for Services between the Texas Historical Commission and the City of Kerrville as required for the Texas Main Street Locally Designated Program.

**TEXAS HISTORICAL COMMISSION****Texas Main Street Locally Designated Program  
2019 Contract****I. PARTIES TO THE CONTRACT**

This contract and agreement concerning **Kerrville Main Street Program** (“Agreement”) is entered into between the **City of Kerrville** (hereinafter referred to as “Participant”) and the **Texas Historical Commission** (hereinafter referred to as “THC”). **Kerrville Main Street Program** (hereinafter referred to as “Local Program”) is part of a larger program within the **Texas Main Street Program** (hereinafter referred to as “TMSP”), as defined in 13 TAC sec. 19.3(1), wherein the Participant qualifies as a Texas Main Street Small City, as defined in 13 TAC sec. 19.3. The purpose of the Local Program is to assist Participant with the development, revitalization, restoration, and preservation of its historic downtown or commercial neighborhood districts in accordance with the national Main Street Approach. This Agreement shall be governed by Texas Government Code, Section 442.014, and Texas Administrative Code, Title 13, Part 2, Chapter 19.

**II. NATIONAL MAIN STREET CENTER BRAND AND NETWORK**

This Agreement constitutes a designation of Participant as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)) and allows the use of the National Main Street Center, Inc. brand, including **MAIN STREET AMERICA™** controlled by National Main Street Center, Inc. 53 West Jackson Blvd., Suite 350 Chicago IL 60604. If Participant’s participation in the TMSP ceases, Participant may no longer use the term ‘Main Street’ to describe its local development, restoration, and preservation program; nor utilize or display the trademarks or branding of the National Main Street Center, Inc. The designation as a Texas Main Street City allows for full participation in the TMSP network, which includes eligibility to receive Texas Main Street publications and participate in Texas Main Street networking opportunities. Designated Texas Main Street Cities, such as Participant, shall execute and submit to the TMSP office the National Main Street Center’s Trademark Sublicense Agreement (“TM Sublicense Agreement”), which grants the right to use the registered trademark, logos and brand of National Main Street Center’s membership program - **MAIN STREET AMERICA™**. Participant hereby agrees to, and shall comply with, all terms and conditions of the TM Sublicense Agreement, which is attached hereto as Exhibit A, and incorporated herein by reference. Additionally, Participant acknowledges and agrees that in the event National Main Street Center develops and/or releases an updated TM Sublicense Agreement (“Updated TM Sublicense Agreement”) during the Term of this Agreement, Participant shall be required to execute, and comply with, the Updated TM Sublicense Agreement or otherwise be subjected to termination pursuant to the terms of VII. (B) below. In the event National Main Street Center develops and/or releases an Updated TM Sublicense Agreement, THC will provide Participant with sixty (60) days’ notice for Participant to consider, prepare and execute an updated Sublicense Agreement. Furthermore, the parties acknowledge and agree that the execution of such Updated TM Sublicense Agreement shall not require amendment of this Agreement and shall become part of this Agreement upon its execution. In the event of conflict between multiple TM Sublicense Agreements, the most recently executed version shall control.

### **III. RESPONSIBILITIES OF THE PARTICIPANT AND LOCAL PROGRAM**

#### **A. Staffing.**

In operation of the Local Program, Participant shall employ a full-time paid program manager who will attend at least two professional development segments annually as outlined in subsection B below. If necessary, a Texas Main Street Small City may, after the first three years of participating in the TMSP, permit the program manager position to also perform specific economic development, tourism, and other relevant duties while remaining as a full-time paid program manager. For the purposes of this Agreement, full-time employment means that the program manager works at least forty (40) hours per week dedicated toward the Local Program and downtown revitalization. Employees of the Participant shall be subject to the sole control and direction of the Participant. Participant shall move forward in an efficient manner to fill a program manager vacancy and the THC's State Coordinator shall be kept apprised of progress in filling vacancies. A Texas Main Street Urban City (as defined by 13 TAC 19.3(4)) shall additionally employ a full-time assistant program manager who shall also participate in the professional development under subsection B below.

#### **B. Professional development.**

The program manager will attend two professional development opportunities in their entirety per year from the list below:

1. Real Places Conference of the Texas Historical Commission.
2. TMSP Basic Training. Required orientation for new program managers.
3. TMSP Summer Professional Development for all program managers.
4. Texas Downtown Association/Texas Main Street Annual Conference.
5. National Main Street Conference.
6. PastForward Conference of the National Trust for Historic Preservation.

Experienced program managers, as determined by THC, may substitute non-Main Street specific, relevant professional development for one of the above events with prior approval of THC. New managers shall attend the TMSP Basic Training, listed second on the list above, within their first year of employment. If there is an assistant Main Street employee in addition to the program manager/s referenced above, that person should also attend at least one segment of Main Street professional development annually.

If a replacement program manager is hired who has not previously attended TMSP Basic Training or does not have a background in Main Street, as determined by THC, the manager is required to attend one series of Basic Training/Professional Development. A \$500 stipend shall be charged to Participant for the training series required under these circumstances.

To help ensure an effectively-functioning local program, local program boards/volunteers are encouraged to attend TMSP educational opportunities. No stipend is charged for their participation.

#### **C. Commitment.**

Participant agrees to carry out their Local Program work according to the Main Street Approach as promulgated by the National Main Street Center and displayed at <https://www.mainstreet.org/mainstreetamerica/theapproach>. Participant agrees to incorporate the following ten criteria, “Ten Criteria,” into their Local Program work:

1. Cultivate broad-based support for the downtown revitalization process.
2. Be vision and mission driven.
3. Operate under a Strategic Plan of Work/Plan of Action.
4. Apply a historic preservation ethic to all Main Street work.
5. Engage active volunteers, boards and committees.
6. Provide an adequate operating budget.
7. Employ a program manager. As outlined in III.A above.
8. Support ongoing education for staff and volunteers. As outlined in III.B above.
9. Comply with reporting requirements. As outlined in III.D. below
10. Fund and maintain national Main Street America™ membership, part of the National Main Street Center, Inc.

#### **D. Reporting.**

To measure progress, Participant shall track statistics such as reinvestment and job/business creation and submit them to the TMSP office by the 10th of the month following the end of each calendar quarter. Monthly activity reports to track specific goal-based activities shall be submitted to the TMSP office by the 10th of each month for the previous month. Even if there has not been reinvestment activity in a month or quarter, Participant shall still submit a report noting such. Additionally, Participant shall submit an annual report that includes an evaluation of the Local Program implementation of the Ten Criteria outlined in Section III. C above for the previous calendar year.

#### **E. Probation.**

Participant agrees that their Local Program may be placed on probation, which may result in the suspension of TMSP services or possible removal from the TMSP, for any of the following reasons:

1. Failure to submit an annual Ten Criteria report pursuant to Section III. D above;
2. Failure to achieve Ten Criteria objectives more than two (2) consecutive years;
3. Failure to submit monthly reports for more than four (4) consecutive months;
4. Failure to submit reinvestment reports for more than two consecutive quarters;
5. Failure to adequately staff or fund the program
6. Failure to abide by this Agreement.

THC shall notify Participant in writing prior to implementing probation in accordance with Texas Administrative Code, Title 13, Part 2, Chapter 19. In the case of probation, Participant will work with the THC's State Coordinator or delegate to overcome any deficiencies. THC may terminate the Local Program's participation in the TMSP if Participant fails to remediate identified deficiencies within a reasonable time. No fees will be refunded in cases of probation and any outstanding fees under this Agreement will remain due. During probationary status, the stipulations called for in sections III and IV of this Agreement may be temporarily altered or suspended upon THC's discretion.

**F. National Main Street America™ membership.**

Participant shall budget for and maintain membership in the National Main Street Center.

**IV. SERVICES TO BE PERFORMED BY TMSP**

**A. On-site visits and technical expertise.**

TMSP services are available to designated Texas Main Street Cities in good standing, including those provided through site visits to address design/planning, economic development and organizational/program capacity issues. Services may include, but are not limited to: façade renderings/technical reports, city planning, preservation and historic building expertise by licensed architects and other design professionals; business development and funding advice, program manager and board training, program capacity-building, and strategic planning.

**B. Securing a Main Street Manager.**

Should a replacement program manager be needed, the TMSP office can assist with all elements of the hiring process, including creating job descriptions, job posting and interviewing. Upon Participant's request, the TMSP office will assist in the hiring process; however, the responsibility for selection, salary, employment and employee-related legal matters will remain with Participant. Participant is responsible for, and shall hold THC and TMSP harmless from, all acts and omissions of its managers and all of its employees, agents, representatives, contractors and/or subcontractors.

**V. GENERAL TERMS AND RESPONSIBILITIES.**

**A. Confidentiality and Public Information Act.**

Notwithstanding any provisions of this Agreement to the contrary, Participant and THC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. THC and Participant agree to notify each other in writing within a reasonable time from receipt of a request for information related to Participant's work under this Agreement. Participant and THC will cooperate in the production of documents responsive to the request. Participant will notify THC within twenty-four (24) hours of receipt of any third-party requests for information that was provided by the State of Texas for use in performing the Agreement. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Subject to the Texas Public Information Act, Participant agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information.

**B. Dispute Resolution.**

The dispute resolution process provided for in Texas Government Code, Chapter 2260, shall be used by THC and Participant to resolve any dispute arising under the Agreement.

If Participant's claim for breach of Agreement cannot be resolved in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Participant shall submit written notice, as required by Chapter 2260, to the individual identified in the Agreement for receipt of notices. Compliance by Participant with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 is Participant's sole and exclusive process for seeking a remedy for an alleged breach of Agreement by THC if the parties are unable to resolve their disputes as described above.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Agreement by Participant and THC nor any other conduct of any representative of the Participant or THC relating to the Agreement shall be considered a waiver of sovereign immunity to suit by THC or any governmental immunity to which Participant is otherwise entitled under Texas law.

#### **C. Indemnification.**

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PARTICIPANT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT AND THE TM SUBLICENSE AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OFFICE OF THE ATTORNEY GENERAL ("OAG") WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, THC AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF PARTICIPANT PURSUANT TO THIS AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT.

PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PARTICIPANT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OAG WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG.

**D. Independent Contractor.**

Participant or Participant's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing goods or services. Participant or Participant's employees, representatives, agents and any subcontractors shall not be employees of THC. Should Participant subcontract any of the services required in this Agreement, Participant expressly understands and acknowledges that in entering into such subcontract(s), THC is in no manner liable to any subcontractor(s) of Participant. In no event shall this provision relieve Participant of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Agreement and the TM Sublicense Agreement or Updated TM Sublicense Agreement.

**E. Ownership of Intellectual Property.**

For the purposes of this Agreement, the term "Work Product" is defined as all reports, analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, knowledge, know-how, ideas, improvements, plans, advice, research, materials, intellectual property or other property developed, produced, or generated in part or in full by THC and/or in cooperation with Participant, in connection with this Agreement. Work Product specifically excludes pre-existing material owned by Participant, or material developed during the Term of this Agreement independently and exclusively by Participant without any THC involvement or contribution, and that does not include or incorporate any Work Product or Work Product components ("Independent Participant Material"). All Work Product generated pursuant to this Agreement is made the exclusive property of THC. All right, title and interest in and to said Work Product shall vest in THC upon creation and shall be deemed to be, and is expressly intended by the parties to be, a work made for hire and made in the course of the services rendered pursuant to this Agreement. To the extent that title to any such Work Product may not, by operation of law, vest in THC, or such Work Product may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to THC. THC shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the Work Product subject matter, and any extensions and renewals thereof.

Furthermore, if and to the extent THC provides Participant any Work Product and/or other property owned by THC ("THC Property") to assist Participant to further the Local Program and the purpose of this Agreement, THC hereby grants Participant, commencing upon the date that Participant is designated as a Texas Main Street City, a nonexclusive, revocable, worldwide, fully paid, royalty-free, license, for the Term of this Agreement while Participant remains designated as a Texas Main Street City, to reproduce, modify, distribute, publicly perform, publicly display and use the THC Property only to the extent such use is in furtherance of the Local Program. To the extent Participant provides any

Independent Participant Material to THC in connection with this Agreement, Participant hereby grants THC, and THC accepts, a nonexclusive, perpetual, irrevocable, worldwide, fully paid, royalty-free license to use, reproduce, copy, modify distribute, publicly perform, publicly display, store, post on the Internet and creative derivative works of such Independent Participant Material, and to sublicense and transfer such Independent Participant Material to third parties to use in accordance with these license terms for THC purposes.

**F. State Auditor.**

In addition to and without limitation on the other audit provisions of this Agreement, and to the extent applicable, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office may conduct an audit or investigation of Participant or any other entity or person receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by Participant or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Participant or other entity that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. Participant further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Participant shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Participant and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Participant related to this Agreement.

**G. Assignment.**

Without the prior written consent of THC, Participant may not assign this Agreement, in whole or in part, and may not assign any right or duty required under it.

**VI. CONTRACT AMOUNT**

In accordance with Texas Government Code, sec.442.014(d) and 13 TAC sec.19.5(d), Participant shall pay THC a fee in the amount of \$535.00 to defray cost of staff time and expenses for services provided under the Local Program. THC shall invoice for the fee and Participant shall tender payment within 60 days.

**VII. TERM and TERMINATION**

**A. Term.**

This Agreement begins upon the latest date the Agreement becomes fully executed by individuals who have the authority to bind the party on whose behalf he or she is signing ("Effective Date") and shall expire on December 31, 2019 unless terminated at an earlier date pursuant to subsection B below.

## **B. Termination.**

1. Either party shall have a right to terminate all performances to be rendered under this Agreement by notifying the other party in writing at least ten (10) days in advance of the termination date.
2. In the event Participant refuses or fails to execute any Updated TM Sublicense Agreement pursuant to the terms of Section II. above within sixty (60) days of receipt thereof, THC shall have the right to immediately terminate this Agreement by written notice to the Participant.
3. Upon termination of this Agreement under subsections 1 and 2 above, Participant will no longer be designated as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)), and will no longer be allowed the use of any Work Product or THC Property, as defined herein, or the registered trademark, logos and brand of National Main Street Center's membership program MAIN STREET AMERICA™. In such event, Participant agrees to return to THC any Work Product and THC Property in its possession.
4. No funds paid under Section VI. Above shall be refunded in any case of termination.

## **VIII. CHANGES AND AMENDMENTS**

Any alterations, additions, or deletions to the terms of this Agreement shall be in writing and signed by both parties.

## **IX. APPLICABLE LAW AND VENUE; NO WAIVER; SEVERABILITY**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Agreement is fixed in any court of competent jurisdiction of Travis County, Texas.

Nothing in this Agreement shall be construed as a waiver of THC's sovereign immunity or any governmental immunity to which Participant is entitled under Texas law. This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

## **X. PROHIBITED FOREIGN BUSINESSES; BOYCOTTING OF ISRAEL**

### **A. Business with Iran, Sudan, or Terrorist Organizations.**

In accordance with Texas Government Code, Chapter 2252, Subchapter F, Participant hereby represents and warrants that it is not a company identified on the lists prepared and maintained under Texas Government Code §§ 806.051 (companies with business operations in Sudan), 807.051 (companies with business operations in Iran), or 2252.153 (companies known to have contracts with or provide supplies or services to a foreign terrorist organization). Notwithstanding the foregoing, a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or to a foreign terrorist organization, is not subject to contract prohibition under this clause. A company claiming such exemption must submit the official copy of the declaration.

#### **B. Boycott of Israel**

In accordance with Texas Government Code, Chapter 2270, Participant hereby represents and warrants that it does not, and shall not for the duration of this Agreement, boycott Israel as the term is defined under Texas Government Code, Sec. 808.001(1).

### **XI. FORCE MAJEURE**

THC shall not be responsible for performance under this Agreement should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of THC.

Participant shall not be liable to THC for non-performance or delay in performance of a requirement under this Agreement if such non-performance or delay is due to one of the following occurrences, which occurrence must not be preventable through the exercise of reasonable diligence, be beyond the control of Participant, cannot be circumvented through the use of alternate sources, work-around plans, or other means and occur without its fault or negligence: fire; flood; lightning strike; weather damage; earthquake; tornado; hurricane; snow or ice storms; equipment break down; acts of war, terrorism, riots, or civil disorder; strikes and disruption or outage of communications, power, or other utility.

In the event of an occurrence under the above paragraph, Participant will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and Participant continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Participant shall immediately notify the THC's State Coordinator by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

### **XII. NOTICES.**

Any notices and/or documents required hereunder shall be deemed to have been duly provided if in writing and delivered personally or by pre-paid guaranteed overnight delivery service, or sent postage prepaid by United States certified mail, return receipt requested. Any such notice shall be effective on the date of delivery if delivered personally, on the next business day following delivery to the guaranteed overnight delivery service if the notice was so delivered and the charges were prepaid, or on the date the recipient signed for the notice if sent by certified mail.

Notices shall be addressed as follows, or at such other address as any party hereto shall notify the other of in writing:

If to THC.:  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711

If to Participant:

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THE UNDERSIGNED PARTIES BIND THEMSELVES TO THE FAITHFUL PERFORMANCE OF THIS AGREEMENT.

In Process

Date: \_\_\_\_\_

Authorized Signature  
(City Manager, Mayor, or Board Chair)

Signer title: \_\_\_\_\_

Signer printed name: \_\_\_\_\_

Signer address: \_\_\_\_\_

Signer phone: \_\_\_\_\_

Debra Drescher, State Coordinator  
Texas Main Street Program  
P.O. Box 12276 Austin, TX 78711  
512-463-5758 [debra.drescher@thc.texas.gov](mailto:debra.drescher@thc.texas.gov)

Date: \_\_\_\_\_

Mark Wolfe, Executive Director  
Texas Historical Commission  
P.O. Box 12276 Austin, TX 78711  
512-463-6100

Date: \_\_\_\_\_

## TRADEMARK SUBLICENSE AGREEMENT

This Trademark Sublicense Agreement (“Sublicense Agreement”) is entered into between Texas Historical Commission (“**Coordinating Program**”) and \_\_\_\_\_ (“**Sublicensee**”), effective as of the last date written below. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### 1. Background.

A. The National Main Street Center, Inc. (“NMSC”) operates a membership program called MAIN STREET AMERICA™. As a part of that program, MAIN STREET AMERICA™ Coordinating Program Membership is available to statewide, regional or citywide organizations that oversee multiple local downtown and neighborhood programs within their service area and work to preserve and revitalize commercial districts. Local Program membership in the MAIN STREET AMERICA™ program is available at the Affiliate or Accredited levels to individual programs or organizations that satisfy the membership eligibility criteria described on the NMSC website (currently located at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>).

B. Organization is a ~~Coordinating Program~~ member of NMSC in good standing and has entered into a Trademark License Agreement with the NMSC which grants to the Coordinating Program the right to sublicense to its Local Programs the use of the NMSC name and trademarks described below.

C. Sublicensee is a Local Program Member in good standing of the MAIN STREET AMERICA™ program at the Affiliate level. Sublicensee is also located within the Coordinating Program’s geographic service area. Therefore, Sublicensee has the opportunity to enter into this Trademark License Agreement, which grants certain rights to use the NMSC’s name and trademarks, including MAIN STREET AMERICA™ and MAIN STREET®, as described below.

D. The NMSC’s parent entity, the National Trust for Historic Preservation (“National Trust”), owns the following registered trademarks, which it has delegated to the NMSC the right to sublicense. NMSC and Coordinating Program have entered into a Trademark Licensing Agreement which grants the Coordinating Program the right to sublicense the following registered trademarks:

Mark	U.S. Registration Number
MAIN STREET	Reg. Nos. 3,365,568 and 2,057,207
NATIONAL MAIN STREET CENTER	Reg. No. 2,013,837

These registered trademarks owned by the National Trust, together with the MAIN STREET AMERICA™ word marks and logos referred to in Section 2.A.1 below, the NATIONAL MAIN STREET CENTER logo referred to in Section 2.A.ii below are referred to herein as the “Trademarks.”

E. The Trademarks are well known and recognized by the general public and associated in the public mind with the NMSC and the National Trust. The Coordinating Program and the Sublicensee recognize the mutual benefits that accrue from the Sublicensee’s use of the Trademarks in accordance with the terms and conditions of this Sublicense Agreement, including the recognition and credibility brought to the Sublicensee through its use of these Trademarks and the benefit to the Coordinating Program and NMSC from association with high-performing Local Programs.

**National Main Street Center  
Local Program Affiliate Member Sublicensing Agreement**

**2. Grant of Sub-License.**

A. Subject to the terms and conditions of this Sublicense Agreement, the Coordinating Program hereby grants the Sublicensee the non-exclusive right and license to use the Trademarks to identify and promote its participation in the MAIN STREET AMERICA™ program, as well as its relationship and association with the Coordinating Program and NMSC, in connection with the following activities:

- i. **MAIN STREET AMERICA™ word and logo marks.** The Sublicensee's rights to use the MAIN STREET AMERICA™ word mark and the following MAIN STREET AMERICA logo are limited to Sublicensees which are members in good standing at the Affiliate membership level of the MAIN STREET AMERICA™ program:

For use by Local Programs who are Designated Members at the Affiliate Level:



As a Main Street America Affiliate™, INSERT PROGRAM NAME HERE is part of a national network of more than 1,200 neighborhoods and communities who share both a commitment to creating high-quality places and to building stronger communities through preservation-based economic development.

- ii. **NATIONAL MAIN STREET CENTER® word and logo marks.** The Sublicensee's right to use the NATIONAL MAIN STREET CENTER word mark and the following NATIONAL MAIN STREET CENTER logo solely and exclusively to indicate its association with the National Main Street Center:



- iii. **MAIN STREET® word mark.** The Sublicensee's right to use the MAIN STREET trademark is limited to use made to identify Sublicensee and/or its activities, including as part of the name of the Licensee (e.g. "Main Street Iowa"), in connection with commercial district revitalization and related consultation, education, and training.

**3. Scope of and Limitations on Use.** Use of the Trademarks by the Sublicensee will be subject to the following limitations:

A. Sublicensee must display the Affiliate level MAIN STREET AMERICA membership mark on their website. All uses of the MAIN STREET AMERICA word mark and logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized

**National Main Street Center  
Local Program Affiliate Member Sublicensing Agreement**

presentations), in connection with the MAIN STREET AMERICA mark or logo. Use of the MAIN STREET AMERICA word mark and logos by Sublicensee is a mandatory condition of membership in the MAIN STREET AMERICA program.

B. The MAIN STREET mark, as part of the name and identity of Sublicensee's organization, programs, and activities, can be used on materials designed to promote the work of Sublicensee (e.g., website, brochures, newsletter, letterhead or other printed promotional materials). The right to use the MAIN STREET mark by the Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

C. All uses of the NATIONAL MAIN STREET CENTER logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations) in connection with the NATIONAL MAIN STREET CENTER mark. Use of the NATIONAL MAIN STREET CENTER logo by Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

D. This Sublicense Agreement is subject to the terms, conditions, and limitations of the Trademark License Agreement between NMSC and the Coordinating Program.

E. Sublicensee will not apply to register any of the Trademarks, or any other trademark that incorporates any part of the Trademarks or "National Trust for Historic Preservation." Sublicensee will not state or imply that it owns any such trademarks.

F. The Sublicensee will not use the Trademarks in combination with or in juxtaposition with other trademarks except as may be approved in writing by the NMSC. The Sublicensee will apply and display the <sup>®</sup> symbol and the <sup>™</sup> symbol next to or with respect to the Trademarks as directed by the Coordinating Program.

G. Other than as specifically provided herein, Sublicensee is not granted any other rights to use, license or sublicense the Trademarks.

**4. Term.** This Sublicense Agreement will become effective immediately upon the date of last signature below, and, unless terminated early under Sections 5 or 10, will be effective through December 31, 2019, at which time it may be renewed by mutual written agreement of the parties hereto.

**5. Conditions.** This Sublicense Agreement between Coordinating Program and Sublicensee is conditioned upon Sublicensee having an active MAIN STREET AMERICA membership at the Affiliate level with NMSC. The requirements of this membership are currently available at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>, and are incorporated herein by reference.

**6. Acknowledgment of Ownership.** Use of the Trademarks indicates acknowledgment by the Sublicensee of the NMSC's and the National Trust's rights and title to the Trademarks, (i.e. MAIN STREET AMERICA, NATIONAL MAIN STREET CENTER, and MAIN STREET), and that Sublicensee will not at any time do, or permit to be done, any act or thing that will in any way impair the rights of the NMSC or the National Trust. All use of the Trademarks by the Sublicensee will inure to the benefit of the NMSC and the National Trust.

**National Main Street Center  
Local Program Affiliate Member Sublicensing Agreement**

**7. Good will and promotional value.** Sublicensee recognizes and acknowledges the value of good will associated with the Trademarks and agrees that it will not conduct any activity, provide any service, or produce or distribute goods which in any way damages or reflects adversely upon the NMSC or the National Trust.

**8. Non-assignment.** This Sublicense Agreement is personal to the Sublicensee, and may not be assigned to any other individual, program, organization, or agency. Any attempted assignment will be null and void.

**9. Compliance Verification.** It is the responsibility of the Sublicensee to verify compliance with the terms of this Sublicense Agreement, and to provide complete and accurate usage reports to the Coordinating Program. If the Coordinating Program or the NMSC has reason to believe that the Sublicensee is in violation of this Sublicense Agreement, the Coordinating Program or NMSC shall have the right to make inquiries with Sublicensee as necessary to determine compliance. In such case, the Sublicensee will cooperate with the Coordinating Program and/or NMSC in its investigation and provide in a timely fashion any and all information that is requested.

**10. Termination.**

A. Coordinating Program may terminate this Sublicense Agreement if the Sublicensee violates any of the provisions of this Sublicense Agreement or fails to satisfy the membership criteria established by the NMSC for Affiliate Local Programs. Such termination will be effective thirty (30) days after the Coordinating Program sends written notice of such termination to Sublicensee. During this thirty (30) day period, Sublicensee may attempt to cure such violation. If the violation is not cured during this period, the termination will be effective upon the expiration of the thirty (30) day period.

B. This Sublicense Agreement will automatically terminate immediately without any notice required, notwithstanding the above paragraph, if the Coordinating Program or NMSC determines: (i) that sublicensee's actions could negatively affect the goodwill, image, or reputation of the NMSC, the National Trust for Historic Preservation, the Coordinating Program, or any of the Trademarks; (ii) the Sublicensee discontinues all or a significant portion of its business; (iii) the National Trust terminates, revokes, or fails to renew the NMSC's rights to use, license, or sublicense the Trademarks; or (iv) the NMSC terminates, revokes or fails to renew the Coordinating Program's rights to use, license or sublicense the Trademarks.

C. Upon the expiration or early termination of this Agreement, the Sublicensee will discontinue use of the Trademarks and will destroy and delete tangible and electronic documents and files containing any such marks, except for a limited number of copies retained for archival purposes only.

**11. Governing Law.** This Agreement is entered into in the District of Columbia and will be governed by and construed in accordance with the laws of the District of Columbia, USA, without giving effect to conflict of laws provisions.

**12. Annual Report, Notices, Other Communication.** Upon request by the Coordinating Program or NMSC, Sublicensee shall submit samples of any materials on which the Trademarks licensed under this agreement were used during the year. Such samples shall be submitted within ten business days of receipt of a written request from the Coordinating Program or NMSC.

**National Main Street Center**  
**Local Program Affiliate Member Sublicensing Agreement**

**13. Notices.** Any notices which either party is required or may desire to serve upon the other party shall be in writing and may be served either personally or by depositing the same in the mail (first class postage prepaid, certified and return receipt requested) or with a reputable overnight express delivery service (with confirmed delivery, charge prepaid or billed to shipper), addressed to the party to be served as follows, unless a different address is designated in writing by the party to be served. Notice shall also be required to be given by electronic mail on the same date as deposited in the mail. Notice given by mail alone shall not be sufficient.

## To CoordinatingProgram:

Name: Texas Historical Commission  
Address: PO Box 12276  
Austin, TX 78711-2276  
Phone: 512-463-5758  
Email: [debra.drescher@thc.texas.gov](mailto:debra.drescher@thc.texas.gov)

## To Sublicensee:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**14. Successors.** This Agreement shall be binding upon, and will inure to the benefit of, the parties and their respective permitted successors and assigns.

**15. Modification.** No amendment or modification of the terms or conditions of this License Agreement will be valid unless in writing and signed by both parties.

**16. Waiver.** The failure of either party to partially or fully exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Sublicense Agreement. No waiver shall be valid or binding unless in writing and signed by the waiving party.

**17. Severability.** If any provision of this Sublicense Agreement or the application of any provision hereof to any person or circumstances is held to be void, invalid, or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

**18. Entire Agreement.** This Sublicense Agreement is the entire agreement between the parties with respect to the matters referred to herein and it supersedes and replaces all prior and contemporaneous oral and written understandings pertaining to the subject matter hereof.

## Coordinating Program

By: \_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

## **Sublicensee**

By: \_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Interlocal Cooperation Agreement between City of Kerrville, Texas and Headwaters Groundwater Conservation District: Ellenberger Groundwater Well

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Aug 07, 2019

**SUBMITTED BY:** EA Hoppe

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
N/A	N/A	N/A	N/A

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**PAYMENT TO BE MADE TO:** N/A

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**Kerrville 2050 Item?** Yes

**Key Priority Area** W - Water / Waste-Water / Drainage

**Guiding Principle** W1. Develop and maintain long-range water plans that prioritize

**Action Item** infrastructure needs and identify funding sources.

W1.5 - Examine the option of piping water in from well fields

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**SUMMARY STATEMENT:**

Developing additional long-term reliable water supply sources was identified as a key priority in the Kerrville 2050 Comprehensive Plan. Exploring and possibly utilizing the Ellenberger Aquifer was the highest ranked near-term initiative in the recently drafted Long Range Water Supply Plan. After several years of studying the various local groundwater aquifer systems and underground geological features, the Headwater Groundwater Conservation District (HGCD) believes the Ellenberger aquifer exists under the City of Kerrville, and they would like to partner with the City to explore that possibility. The proposed agreement outlines a partnership between the two entities in developing an exploratory water well in the Ellenberger aquifer thought to be located directly under portions of City of Kerrville property that the HGCD has studied via the assistance of volunteer geologists.

The project would be administered under a modified City construction process. The City and HGCD will work together to determine the specifications of the well, the estimated depth to the bottom of Trinity Aquifer (Primary Well) and the estimated depth to the bottom of the Ellenberger Aquifer (Exploratory Well).

The City will hire a design engineer to design the well to the agreed upon specifications. Once the well is designed, the City will select a well driller (in conjunction with HGCD staff review) and perform construction administration. These construction contracts will require future Council approvals. The well will be designed to pump 700 gallons a minute, which is considered a high-performing location. The Primary Well will be drilled to the bottom of Trinity Aquifer utilizing City of Kerrville ASR well specifications. All drill logging data will be shared with HGCD for further research needs. If HGCD desires to run additional drilling logs they will be allowed to do so, at their expense. Any additional drilling logs will be included in the design specifications of the bid document. HGCD agrees to pay for any additional drill logging they request, above and beyond the standard logging suite which will be paid for by the City.

Once under construction, the Primary well will be drilled to the bottom of the Trinity and 30' into the Lower Paleozoic Aquifer. At that level, the well could be utilized as an Aquifer Storage and Recovery (ASR) well if needed/desired. A liner will be set to the bottom of the Primary Well and cemented in. Ultimately, at their sole discretion, the City can either finish the well as a groundwater well or as an ASR well, depending on the productivity of the well. After drilling to the bottom of the Trinity Aquifer, HGCD will then re-enter the drilling hole with the same contractor to explore areas below the Primary well depth down into the Ellenberger Aquifer to the proposed Total depth of the well (Exploratory Well). The depth and the cost of this exploratory section will be determined and paid for by HGCD. When the Exploratory Well is complete, the partnership agreement outlines three scenarios:

Scenario 1. If native groundwater is recoverable in volumes equal to or greater than 700 gallons per minute (GPM), for the duration of the 36 hour pump test, the City will reimburse HGCD 100% of the Exploratory Well construction cost. The City will then complete the well and use it as a native groundwater well. If this option is chosen, Headwaters will have no further obligations.

Scenario 2. If the well produces less than 700 GPM of groundwater, but is still considered productive, the City may still use the well as a native groundwater well but would only reimburse HGCD 50% of the Exploratory Well construction cost. If this option is chosen, Headwaters will have no further obligations.

Scenario 3. If the well produces less than 700 GPM and the City decides to use it as an ASR well, HGCD will at their expense plug the Exploratory Well and perforate the case pipe near the bottom of the Trinity Aquifer. The City will not be required to reimburse HGCD for the costs of the Exploratory Well drilling effort in this scenario. The City will then complete the well as an ASR facility.

The partnership agreement outlines that HGCD agrees to pay for the drill logging above and beyond the standard suite of logs, drilling the exploratory section of the well, cleaning, and pump testing. They may also be responsible for plugging the Exploratory Well and perforating the casing, depending on the productivity of the well as previously outlined. Under the terms of the agreement, the City will furnish the well site (located on existing City property) and pay for the well design, construction bidding, contract administration, construction administration, drilling and casing down to the bottom of the Primary Well, cleaning the well-hole, and installing a final liner in the exploratory well section if needed.

**RECOMMENDED ACTION:**

Authorize City Manager to finalize and execute the Interlocal Cooperation Agreement.



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Minutes for the City Council Workshop held on July 23, 2019

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 29, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20190813\\_Minutes\\_Council workshop 7-23-19.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

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**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

Minutes for the City Council Workshop held on July 23, 2019 at 4:00 p.m.

**RECOMMENDED ACTION:**

Approve minutes as presented.

CITY COUNCIL MINUTES  
WORKSHOP

KERRVILLE, TEXAS  
JULY 23, 2019

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Judy Eychner	Mayor Pro Tem
Gary Cochrane	Councilmember Place 1
Delayne Sigerman	Councilmember Place 4

COUNCILMEMBER ABSENT:

Kim Clarkson	Councilmember Place 2
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CITY STAFF PRESENT:

Mark McDaniel	City Manager
E.A. Hoppe	Deputy City Manager
Mike Hayes	City Attorney
Shelley McElhannon	City Secretary
Stuart Barron	Director of Public Works
Ashlea Boyle	Director of Parks and Recreation
Kyle Burow	Director of Engineering
Stuart Cunyus	Public Information Officer
Amy Dozier	Chief Financial Officer
Guillermo Garcia	Executive Director for Innovation
Sherry Mosier	Manager for Strategic Initiatives
Dannie Smith	Fire Chief

VISITORS PRESENT: List on file in City Secretary's Office for the required retention period.

**1. CALL TO ORDER**

On July 23, 2019 at 4:00 p.m., the Kerrville City Council Workshop was called to order by Mayor Bill Blackburn in the City Hall Council Chambers at 701 Main Street.

**2. INFORMATION AND DISCUSSION**

2.A. Presentation regarding Kerrville Urban Trail System (KUTS) vision, including planning and design efforts.

Mark McDaniel introduced the agenda item.

Jeremy Walthers presented the KUTS project goals, and introduced the Design Team, Alissa Priebe and David Cater, who reviewed the project design and concept plans. Mr. Walthers, Ms. Priebe, and Mr. Cater responded to questions.

2.B. Long Range Water Supply Plan.

E.A. Hoppe introduced the agenda item.

HDR consulting engineer Zach Stein presented the Long Range Water Supply Plan and provided information on Kerrville's calculated needs, water supply strategies,

and recommendations for long-term water supply. Mr. Stein and E.A. Hoppe responded to questions. Other project representatives in attendance were HDR consulting engineer Cory Shockley and outside legal counsel Sara Thornton. Also in attendance were representatives of Headwaters Groundwater Conservation District.

**3. ADJOURNMENT**

The meeting adjourned at 4:58 p.m.

APPROVED:

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED: \_\_\_\_\_



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Minutes for the Employee Benefits Trust meeting on July 23, 2019

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 29, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20190813\\_Minutes\\_Council EBT 7-23-19.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

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**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

Minutes for the Employee Benefit Trust meeting held on July 23, 2019 at 5:15 p.m.

**RECOMMENDED ACTION:**

Approve minutes as presented.

CITY OF KERRVILLE, TEXAS EMPLOYEE BENEFITS TRUST JULY 23, 2019

On July 23, 2019, the City of Kerrville Employee Benefits Trust met at 5:20 p.m. in the City Hall Upstairs Conference Room, 701 Main Street, Kerrville, Texas.

**COUNCILMEMBERS PRESENT:**

Bill Blackburn	Mayor
Judy Eychner	Mayor Pro Tem
Gary Cochrane	Councilmember
Delayne Sigerman	Councilmember

**COUNCILMEMBER ABSENT:**

Kim Clarkson	Councilmember
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**CITY EXECUTIVE STAFF PRESENT:**

Mark McDaniel	City Manager
E.A. Hoppe	Deputy City Manager
Mike Hayes	City Attorney
Shelley McElhannon	City Secretary
Kim Meismer	Director of General Operations
Amy Dozier	Chief Financial Officer

**GUEST/VISITOR:**

Bob Tracey, Gallagher Benefits Services Consultants

**CONSIDERATION AND POSSIBLE ACTION**

Approval of the Fiscal Year 2020 employee benefit plans.

Kim Meismer noted that within Chapter 222.002 of the Texas Insurance Code, there is an annual tax in the amount of 1.75% imposed on insurers for gross premiums received from policyholders. Gross premiums paid by a municipality, county, or hospital district are exempt from the tax being collected by their insurer if the municipality, county, or hospital district establishes either a single entity benefit trust or establishes or participates in a Chapter 172 risk pool. In July 2008, City Council approved a resolution to create the Employee Benefit Trust (EBT). Since the inception of the EBT, the tax savings to the city has now totaled \$499,083.00.

Ms. Meismer noted that Blue Cross Blue Shield (BCBS) offered a final bid of .69% increase over FY2019, with a bundled benefits package and with medical plan design changes. Ms. Meismer recommended that council, acting as the trustees of the Employee Benefit Trust, approve the following:

- The city's contribution for employee benefits be budgeted at \$7,300 per employee for FY2020.
- Authorize the use of funds from the Employee Benefit Reserve account, if needed.
- Authorize the city manager to sign the contracts with the following providers:
  - Medical: Blue Cross Blue Shield of Texas
  - Dental: Blue Cross Blue Shield/Dearborn National

- Vision: Dearborn National
- Group Life & AD&D, Voluntary Life & AD&D, and Short Term Disability: Blue Cross Blue Shield/Dearborn National
- Voluntary Life & AD&D: Blue Cross Blue Shield/Dearborn National
- Voluntary Short Term Disability: Blue Cross Blue Shield/Dearborn National

Councilmember Judy Eychner moved to approve the recommendations as presented. Councilmember Delayne Sigerman seconded, and the motion passed 4-0.

**Adjournment**

The City of Kerrville Employee Benefits Trust meeting adjourned at 5:42 p.m.

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Bill Blackburn, Mayor/Chairman

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED: \_\_\_\_\_



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Minutes for the regular City Council meeting held on July 23, 2019

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 29, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20190813\\_Minutes\\_Council regular meeting 7-23-19.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Minutes for the regular City Council meeting held on July 23, 2019 at 6:00 p.m.

**RECOMMENDED ACTION:**

Approve minutes as presented.

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JULY 23, 2019

On July 23, 2019, at 6:00 p.m. the meeting was called to order by Mayor Bill Blackburn in the City Hall Council Chambers at 701 Main Street. The invocation was offered by Councilmember Judy Eychner, followed by the Pledge of Allegiance led by Councilmember Eychner.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Judy Eychner	Mayor Pro Tem
Gary Cochrane	Councilmember
Delayne Sigerman	Councilmember

COUNCILMEMBER ABSENT:

Kim Clarkson	Councilmember
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CITY EXECUTIVE STAFF PRESENT:

Mark McDaniel	City Manager
E.A. Hoppe	Deputy City Manager
Mike Hayes	City Attorney
Shelley McElhannon	City Secretary
Stuart Barron	Director of Public Works
Ashlea Boyle	Director of Parks & Recreation
Kyle Burow	Director of Engineering
Stuart Cunyus	Public Information Officer
Amy Dozier	Director of Finance
Guillermo Garcia	Executive Director of Innovation
David Knight	Chief of Police
Dannie Smith	Fire Chief

VISITORS PRESENT: On file in City Secretary's Office for required retention period.

**1. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

Items of Interest to the Community were presented by Stuart Cunyus and Councilmember Eychner.

**2. VISITORS FORUM:**

The following persons spoke:

- Ward Jones
- Barbara Burton: when citizen was called to speak, she advised that she wanted to speak about Item 4I. Mayor Blackburn approved the citizen to speak on Item 4I.
- Mario Garcia

**3. PRESENTATIONS:**

3A. Mayor Blackburn presented a Proclamation to the family of Army Corporal Billy Joe Butler, recognizing his service to Kerrville, Texas and the United States of America.

Citizen Gene Allen announced Billy Joe Butler's funeral service location change to First United Methodist Church, 321 Thompson Drive, Kerrville, Texas, and the homecoming procession on Sidney Baker on July 24, 2019.

3B. Mayor Blackburn presented a Proclamation observing the National Day of the Cowboy to Darrell Beauchamp, Director of the Museum of Western Art.

**4. CONSENT AGENDA:**

Councilmember Eychner requested to pull item 4G, and citizen Barbara Burton requested to pull item 4I from the Consent Agenda.

Councilmember Eychner moved to approve items 4A, 4B, 4C, 4D, 4E, 4F, 4H, and 4J as presented. Councilmember Delayne Sigerman seconded, and the motion passed 4-0.

4A. Resolution No. 21-2019 authorizing the use of internal combustion engines on Nimitz Lake upstream of the City's impoundment dam for the Kerrville Triathlon and the safety of competitors.

4B. Resolution No. 24-2019 authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefits Trust to pay for employee related group benefits for Fiscal Year 2020.

4C. Resolution No. 25-2019 authorizing the City Manager, the designated representative of the City of Kerrville, Texas, to execute an agreement with the Texas Water Development Board for funding in the amount of \$500,000 (Clean Water Revolving Fund).

4D. Resolution No. 26-2019 authorizing the City Manager, the designated representative of the City of Kerrville, Texas, to execute an agreement with the Texas Water Development Board for funding in the amount of \$500,000 (Drinking Water Revolving Fund).

4E. Mutual Aid Agreement with the City of Ingram for the participation of the Ingram Police Department in the Multi-Jurisdictional Special Operations Unit (SOU).

4F. Monthly Community Improvement Project (CIP) Report.

4H. Minutes for the City Council workshop held July 09, 2019.

4J. Minutes for the City Council workshop held July 16, 2019.

**END OF CONSENT AGENDA:**

4G. Progress Report regarding Development Services Improvements.

Guillermo Garcia highlighted the inspection process improvements and code compliance improvements, then responded to questions.

Councilmember Sigerman moved to approve the Progress Report regarding Development Services improvement. Councilmember Gary Cochrane seconded, and the motion passed 4-0.

4I. Minutes for the City Council meeting held July 09, 2019.

Citizen Barbara Burton reviewed Item 5B of the July 09, 2019 minutes: Resolution No. 23-2019, a resolution authorizing the publication of intention to issue certificates of obligation to finance street and drainage improvements in the City. Resolution No. 23-2019 was approved during the July 09, 2019 meeting. Ms. Burton commented about the 1995 4B Sales Tax voted in by citizens.

Mark McDaniel and Mike Hayes responded to questions and provided clarifications.

Councilmember Cochrane moved to approve the minutes for the City Council meeting held July 09, 2019 as presented. Councilmember Sigerman seconded, and the motion passed 4-0.

**5. ORDINANCES, FIRST READING:**

5A. Ordinance No. 2019-16. An ordinance ordering a special election to be held on November 5, 2019, for the purpose of submitting propositions to voters for proposed amendments to the City Charter; establishing early voting locations and polling places for this election; making provisions for the conduct of the election; and providing for public review.

Mike Hayes presented the ordinance and responded to questions.

The following persons spoke:

- Michael Louise Bond
- Mario Garcia

Charter Review Committee member Mike Sigerman requested to address Mario Garcia's comments. Mayor Blackburn allowed Mr. Sigerman to provide information.

Councilmember Sigerman moved to approve Ordinance No. 2019-16 first reading. Councilmember Eychner seconded, and the motion passed 4-0.

**6. CONSIDERATION AND POSSIBLE ACTION:**

6A. Resolution No. 27-2019 approving an amendment to the Kerrville River Trail Master Plan.

Ashlea Boyle presented the resolution and responded to questions.

The following person spoke:

- Bruce Stracke

Councilmember Eychner moved to approve Resolution No. 27-2019 as presented. Councilmember Cochrane seconded, and the motion passed 4-0.

6B. Construction contract with Intermountain Slurry Seal, Inc. for the 2019 Slurry Seal project in an amount of \$313,308.55.

Kyle Burow presented the contract, and Kyle Burow and E.A. Hoppe responded to questions.

Councilmember Cochrane moved to approve the construction contract with Intermountain Slurry Seal. Councilmember Eychner seconded, and the motion passed 4-0.

**7. INFORMATION AND DISCUSSION:**

7A. Financial update for the month ended June 30, 2019.

Amy Dozier presented information.

**8. ITEMS FOR FUTURE AGENDAS:**

None.

**9. EXECUTIVE SESSION:**

None.

**10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

None.

**ADJOURNMENT.**

The meeting was adjourned at 7:07 p.m.

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Bill Blackburn, Mayor

ATTEST: \_\_\_\_\_  
Shelley McElhannon, City Secretary

APPROVED: \_\_\_\_\_



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance No. 2019-17. An ordinance approving and adopting the City of Kerrville, Texas, Zoning Code, a comprehensive rewrite of the City's Zoning Regulations in accordance and aligned with the Kerrville Comprehensive Plan (K2050); said rewrite to be known as the "City of Kerrville, Texas Zoning Code" and found within a new Chapter 60 of the City's Code of Ordinances; approving and adopting the official Zoning Map of the City, providing procedures to amend said map; requiring a staff report as to implementation by a specific date; repealing in their entirety all ordinances or parts of ordinances inconsistent herewith; providing an open meetings clause; providing a cumulative clause; containing a savings and severability clause; providing for a penalty or fine of not more than \$2,000 for each day of violation of any provision hereof; ordering publication; providing an effective date; and providing other matters related to this subject

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 29, 2019

**SUBMITTED BY:** Drew Paxton

**EXHIBITS:** [20190813\\_PowerPoint\\_Zoning.pdf](#)  
[20190813\\_Ordinance\\_2019-17 Approving-adopting Zoning Code - rewrite of Citys Zoning Regulations.pdf](#)  
[20190813\\_Zoning Code\\_Ch60\\_FINAL-DRAFT.pdf](#)  
[20190813\\_Map\\_Future-Zoning.pdf](#)  
[20190813\\_Land Use Table.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	L - Land Use
<b>Guiding Principle</b>	C5. Establish clear guidelines for code enforcement and zoning, educate the public on the value and importance of property maintenance, and focus on proactive code enforcement and maintaining minimum property standards.

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<b>Action Item</b>	C5.12 - Engage third-party services to assist with the review and rewrite of existing City codes, including the zoning and subdivision ordinances and zoning map, to ensure they are consistent with and support Kerrville 2050
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### **SUMMARY STATEMENT:**

Following the adoption and implementation of the Kerrville 2050 Plan, the Code Review Committee and Planning and Zoning Commission has recommended the proposed City of Kerrville Zoning Code for adoption along with the zoning map. To date, this process has included diagnostic meetings with the consultant team and city staff, stakeholder interviews (October 2018), six meetings of the Code Review Committee, a joint P&Z/City Council Worksession, a community open house (May 2019), and two public hearings with the Planning and Zoning Commission.

The proposed zoning code, land use table, and zoning map have been reviewed and recommended by both the Code Review Committee and the Planning and Zoning Commission. Following the Planning and Zoning Commission hearing, the following edits have been included in this draft. These edits are from the Planning and Zoning Commission recommendations, legal counsel recommendations, and additional public input.

- Edits to the Zoning Code include updates to the definitions for new land uses and removal of unused terms, Supplementary Requirements for automobile parts stores, and setback adjustments for properties fronting an arterial in the Downtown Arts and Cultural (DAC) District.
- Edits to the Land Use Table (highlighted in yellow) include amending the Restaurant with a drive through to be permitted in the DAC, clarifying the parking waiver for existing buildings in the DAC, amending the Pawnshop land use to Pawnshop with and without outside storage and permitted in certain districts, adding Community Home, Continuing Care Facility, Dormitory, sorority or fraternity house, Halfway House, Homeless Shelter, and removing Group Medical Care Facility, Life Care Development, and Personal Care Facility.
- Edits to the Zoning Map include an adjustment to property on Camp Meeting Road to better conform to previous/current zoning.

Overall, the zoning code update project has brought the City of Kerrville Zoning Code into alignment with the Kerrville 2050 Plan, simplified the zoning, reduced the number of districts, and allows for more flexibility for future projects and the re-investment into properties in Kerrville. The residential districts have been expanded to help accommodate a variety of housing types to help with our Workforce Housing goals. The defined list of land uses in the code and land use table have been expanded to limit the need for interpretations. The Zoning Map has been refined to try to limit the number of non-conforming properties while still focusing on the Future Land Use Plan from the Kerrville 2050 Plan and help support the communities vision for the future of Kerrville.

**RECOMMENDED ACTION:**

Approve ordinance to adopt the City of Kerrville Zoning Code.

# Kerrville Ordinance Updates

**Public Hearing and First Reading of the Ordinance  
City Council**

*August 13, 2019*





# Presentation Outline

- Overview of Process and Approach
- Draft Zoning Code
  - Highlights as Recommended by P&Z
  - Changes Since P&Z Hearings
- Draft Zoning Map
  - Highlights as Recommended by P&Z
- Discussion





# Kerrville Ordinance Update: Process to Date

- Diagnostic meeting with staff
- Periodic project coordination calls throughout
- Stakeholder Interviews – October 15-17, 2018
- Six meetings of Citizens Review Committee – November 2018 through June 2019
- Joint P&Z/City Council Worksession – March 19, 2019
- Community Open House – May 16, 2019
- P&Z Public Hearings – June 20 and July 18, 2019

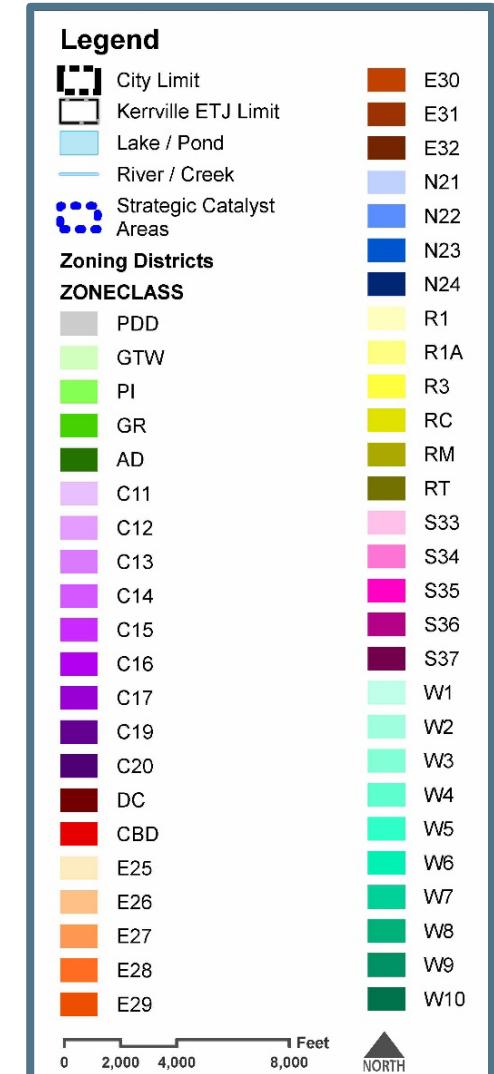


# Overview of Survey/Stakeholder Interviews

- Highlights:
  - The code is cumbersome, difficult to navigate, unclear, requires too much interpretation
  - Interpretations lead to inconsistencies and a lack of confidence in the process
  - Economic development requires a predictable regulatory environment; developers are willing to comply with reasonable standards if they know the rules
  - In the new code, be reasonable, logical, don't add too many new requirements
  - Focus on health, safety, welfare, and the benefits of the proposed changes to the community

# Overview of Survey/Stakeholder Interviews

- Highlights:
  - There are too many zoning districts in the Kerrville code and the districts are too similar
  - Districts should not be based on geography, but on land use character
  - Too many uses require a CUP, and the process is difficult





# Project Goals

- Create a user-friendly ordinance
  - Simplify/Streamline/Clarify the code
  - Revise out-of-date standards and uses
  - Address inconsistencies
  - Minimize the need for interpretation by staff
- Minimize nonconformities resulting from a new code and zoning map
- Support the Kerrville 2050 vision

# Draft Zoning Code

## Highlights as Recommended by P&Z



# Kerrville Zoning Code Update

- Overall Approach
  - Preserve the existing code where possible
  - Add standard zoning code verbiage (administrative sections)
  - Reorganize to improve document flow
  - Expand the list of permitted uses to minimize the need for staff interpretation and add definitions for new uses
  - Develop a more comprehensive and consistent format for district regulations to minimize the need to consult multiple sections of the code to find information
  - Within the district regulations, base setbacks and height on zoning district rather than on use
  - Look for options to help with the housing affordability challenge
  - Create new districts to implement the Kerrville 2050 plan



# Administrative Provisions and Definitions

- Administrative provisions (Articles I and II)
  - Title, Authority, Intent and Purpose
  - Conformance with the comprehensive plan and other relevant plans and ordinances (thoroughfare plan, utility plans) and how to handle applications in conflict with the plan (new)
- Definitions (Article III)
  - Basic terms and concepts
  - Each item in the Land Use Table (many new terms)



# P&Z, ZBA

- P&Z and ZBA (Articles IV and V)
  - Standardize the content between the two sections
    - Membership, appointment, terms
      - Proposing that P&Z alternates become regular members (7 regular members; quorum is 4 members)
      - ZBA will continue as 5 members and 2 alternates, but ALL members will participate in discussion on issues; alternates will vote only in place of an absent member; 75% of members (4 of 5) must be present to hear a case (state law)
    - Duties and powers of each board
    - Organization (officers), meetings and records, Open Meetings Act, rules concerning ex parte contacts (edited)



# Appeals of Administrative Decisions, Variances

- Appeal of an Administrative Decision and Variances (Article VI)
  - Process for requesting a variance to the requirements of the zoning ordinance (consistent with current code)
  - Method for appealing a city official's interpretation of the zoning ordinance (consistent with current code)



# Zoning Districts

- Zoning Districts and Supplementary Requirements for Certain Uses (Articles VIII and IX)
- Zoning of newly annexed areas
  - P&Z hearing to consider zoning proposed with the request for annexation or zone to AG Agriculture (new district)
- Determination of zoning district boundaries
  - Along lot lines, street or railroad right-of-way, etc.
  - If unclear, interpretations to be made by the Director with provisions for appeal of the interpretation (mostly consistent current code)



# Zoning Districts

- 65% reduction in the number of zoning districts

Current Code		Proposed Code	
49 Zoning Districts		17 Zoning Districts	
27	Geographical Districts—North, South, East, West	7	Residential Districts
11	Central/CBD/Downtown Core	4	Nonresidential Districts
6	Residential	6	Special Districts (including PD)
4	Special—Airport, Guadalupe River, Gateway, Public/Institutional		
1	PD		

# Zoning Districts

## Legend

- R-E Estate Residential
- R-1 Single-Family Residential
- R-1A Single-Family Residential with Accessory Dwelling Unit
- R-2 Mixed Density Residential
- R-3 Multifamily Residential
- R-T Residential Transition
- R-M Residential Mix
- C-1 Neighborhood Commercial
- C-2 Light Commercial
- C-3 Commercial
- IM Industrial and Manufacturing
- AD Airport
- AG Agriculture
- DAC Downtown Arts and Culture
- MU Mixed Use
- PD
- PI Public and Institutional
- City Limit
- River / Creek

0 2,000 4,000 8,000 Feet



Fewer districts  
Standard color-coding  
system

## Legend

- City Limit
- Kerrville ETJ Limit
- Lake / Pond
- River / Creek
- Strategic Catalyst Areas

**Zoning Districts**

ZONECLASS	
PDD	R1
GTW	R1A
PI	R3
GR	RC
AD	RM
C11	RT
C12	S33
C13	S34
C14	S35
C15	S36
C16	S37
C17	W1
C19	W2
C20	W3
DC	W4
CBD	W5
E25	W6
E26	W7
E27	W8
E28	W9
E29	W10

0 2,000 4,000 8,000 Feet

NORTH



# District Regulations Strategy

- Residential districts:
  - Maintained existing area regulations and height as much as possible or relaxed the standards slightly in an effort to avoid creating nonconformities
  - Included additional options for smaller lots in the R-2 and R-M districts (3,300 sq. ft. with alleys, 4,500 sq. ft. without alleys)
- Nonresidential districts:
  - Maintained existing area regulations and height as much as possible or relaxed the standards slightly (in an effort to avoid creating nonconformities);
    - Eliminated side and rear setback requirement unless adjacent to single-family residential
    - Graduated height/setback limits adjacent to single-family
    - Area regulations and height determined by zoning district, not by use as under the existing code
- Special districts:
  - Strategy varies by district



# Residential Districts

- **R-E Estate Residential:** One-acre, single-family lots (new; called for in Kerrville 2050); other area and height regulations generally match R-1
- **R-1 Single-Family Residential:** Minimum 5,000 sq. ft. lot (current code requires 6,000 sq. ft.)
- **R-1A Single-Family Residential with Accessory Dwelling Unit:** R-1 lot with apartment (accessory dwelling unit); revised to allow the accessory unit to be in the main building (current code) or in a free-standing structure (new option) with limits on the amount of rear yard the building can occupy
- **R-2 Medium Density Residential:** Replaces R-C Residential Cluster, but maintains the concept of allowing a variety of housing types under one zoning category as one aspect of addressing the affordable housing issue—4,500 sq. ft. and 3,300 sq. ft. lots for single-family residential, new regulations for patio homes, townhomes, duplexes
- **R-3 Multifamily:** Exclusively a multifamily district; doesn't allow single-family uses (change from current code)
- **R-M Residential Mix:** Allows all housing types in R-2 in addition to manufactured housing (consistent with current code)
- **R-T Residential Transition:** Accommodates residential and nonresidential uses in small buildings in the same neighborhood (consistent with current code); limits building size (maximum 3,000 sq. ft.) for structures containing nonresidential uses (consistent with current code); churches and schools exempt (revision)



# Nonresidential Districts (All new)

- **C-1 Neighborhood Commercial:** Type and intensity of uses and regulations based on most restrictive districts under existing code; increased the allowable size of individual buildings—to 5,000 sq. ft. from 3,000 sq. ft. in former Retail, Limited and Personal Services, Limited categories—and proposes limit on total building area per lot—10,000 sq. ft.; adding drive-thru windows as CUP use (example, restaurant, bank, pharmacy)
- **C-2 Light Commercial:** Allows C-1 uses plus light auto-related uses, such as parts sales, leasing, minor repair, car wash, as well as drive-thru service by right; allows total building area of up to 100,000 square feet on a single lot
- **C-3 General Commercial:** Allows C-1 and C-2 uses and adds heavier auto-related uses (dealerships and major repair, building contractor uses), car title loan/check cashing/payday lending businesses, hotel/motel, movie theater, parking lots/structures, uses involving outdoor storage (farm supply store, home improvement store, lumber yard); allows greater than 100,000 square feet of building area on a single lot
- **IM Industrial and Manufacturing:** Traditional industrial uses (manufacturing, assembly, fabrication, processing, warehousing/distribution), agricultural services, some of the heavier commercial uses (auto dealerships, major repair), additional uses involving outside storage (equipment rental, contractor's storage yard, commercial landscape nursery); specific set of business and employee support services permitted
- In general, setbacks and maximum building size requirements relaxed to allow flexibility and minimize nonconformities; added setback and height limitations to protect single-family districts adjacent to nonresidential zoning districts



# Special Districts

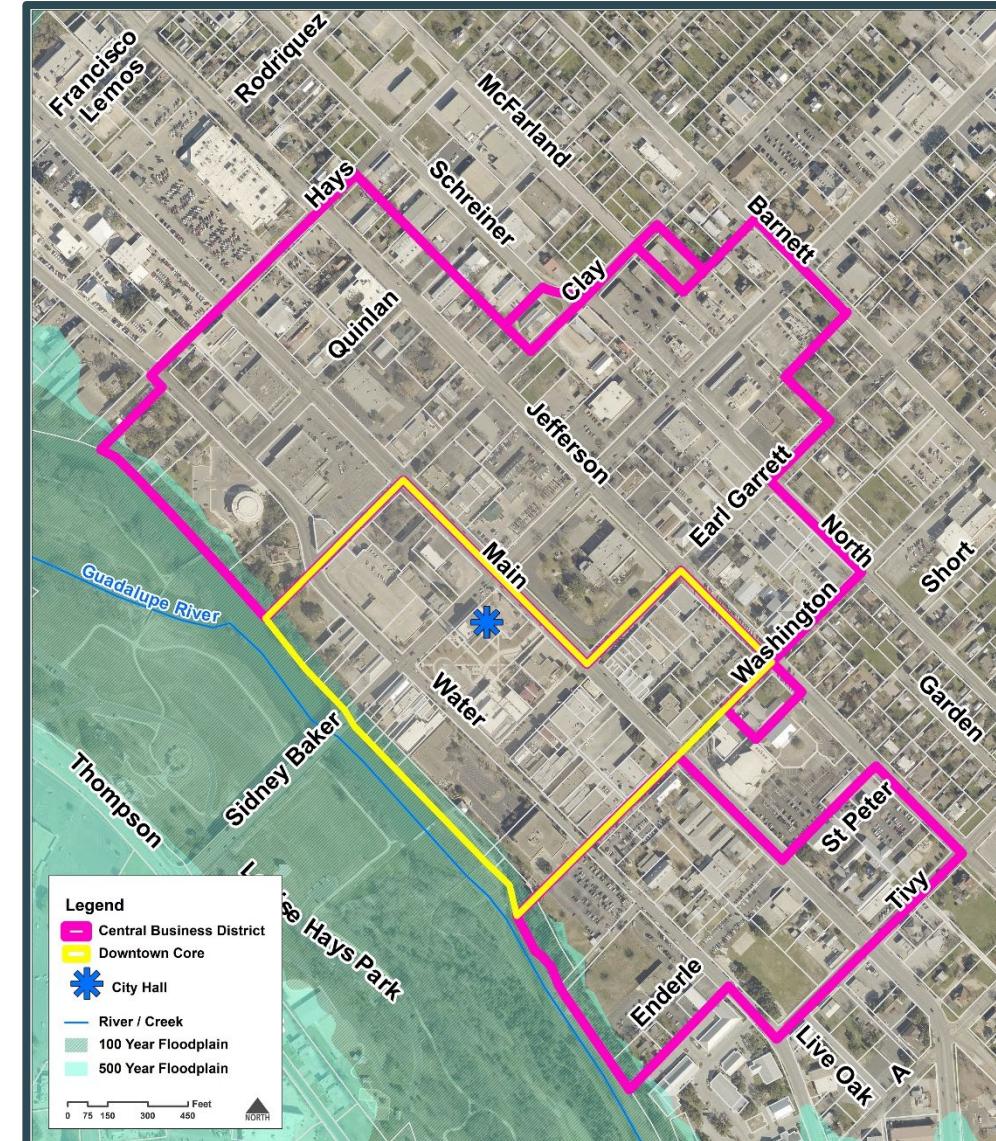
- Six districts
  - Downtown Arts and Culture
  - Mixed Use
  - Planned Development
  - Public and Institutional
  - Airport
  - Agriculture
- Each special district has a unique purpose and set of standards

# Special Districts – DAC

- **DAC Downtown Arts and Culture**
  - Replaces references to CBD in current code
  - Maintained a Downtown Core

## Legend

-  **Central Business District**
-  **Downtown Core**
-  **City Hall**





# Special Districts – DAC

- **DAC Downtown Arts and Culture**
  - Emphasis on walkability and an environment supportive of arts and culture activities as envisioned in the Kerrville 2050 plan
  - Allows mix of compatible residential and nonresidential uses within the district and in individual buildings and flexible parking requirements (parking waived for existing buildings)
  - Focuses on relationship between building and street (setback
    - Maximum 10' with additional 10' setback for architectural features as opposed to minimum setback requirement)
    - Along arterials—Main Street, Sidney Baker, minimum setback 0'; no maximum



# Special Districts – MU

- **MU Mixed Use**

- New district created to support some of the Strategic Catalyst Area concepts in the Kerrville 2050 plan
- Allows mixing of residential and nonresidential uses on a single lot or in a single building
- Setbacks of 10' to 15' based on street type (25' at highway)
- Open space equal to 8% of the “footprint” of any building containing residential uses
  - Property owner to maintain open space and improvements
  - Location to be selected and improved (lighting, fencing) to allow natural surveillance for safety purposes
- Reduced parking requirement because:
  - Residents can walk to services
  - Mix of uses allows multiple needs to be satisfied with one stop



# Special Districts – PD

- **PD Planned Development**
  - Minimum 5 acres required for application
  - Goal is to create a better, more unique development, not to avoid standard code requirements (stated in new code)
  - In exchange for flexible requirements proposed by the applicant, more information is required with the application, including a concept plan
  - Once the PD regulations are adopted, minor amendments to the concept plan can be approved at the staff level under certain criteria:
    - Maximum 30% increase in total building square footage, or maximum 30% increase in total residential units
    - No decrease in setbacks or parking ratios
    - No substantial change in access or circulation on/adjacent to the PD site
    - No change in permitted uses
  - Major amendments go to P&Z and Council (same process as zoning change)



# Special Districts – PI

- **PI Public and Institutional**
  - Accommodates public facilities and gathering places
  - Residential no longer a permitted use (exceptions: rectory/parsonage at a worship facility; dormitory at a university)
    - Note: Worship facilities and public schools permitted in all zoning districts, not only in PI; size limitations apply in some districts
  - Requirements generally flexible (minimal setbacks required except adjacent to single-family; height 35' with increase allowed at 1' height:1' setback once further than 25' from single-family)
  - Screening required adjacent to residential property (current code requires screening of parking for these uses in residential districts)
    - Worship facilities and public schools exempt from screening requirement
  - Outdoor storage prohibited



# Special Districts – AD

- **AD Airport**
  - On airport property, setbacks reduced, no specific parking requirement
  - For property zoned AD not on airport land
    - Uses permitted compatible with airport
      - Some industrial uses, mostly by CUP
      - Some service uses for people who work or visit at the airport (bank, convenience store, drug store, food and beverage shop)
    - Setbacks same as in IM
    - 45' height limit + FAA requirements
    - Additional height and setback restrictions and screening requirements adjacent to residential



# Special Districts – AG

- **AG Agriculture**
  - New district accommodating agricultural uses
  - Can also serve as a holding category for newly annexed property
  - Minimum lot size 5 acres
  - Area and height requirements match R-1
    - Agricultural structures allowed 45' height compared to 35' for other structures



# District Regulations Format

- Each district:
  - Purpose statement
  - Uses described generally with reference to the Land Use Table
  - Area and Height Regulations table (except PD, where the application proposes standards)
- May also include (varies by district):
  - Building Regulations (generally, one main building; applies in residential districts only)
  - Access limitations to certain types of streets (residential districts)
  - Allowances for encroachments into setbacks for architectural features (residential, PI) or right-of-way for pedestrian amenities (DAC)
  - Regulations for accessory buildings (up to 1,000 sq. ft., 15' height, with 5' setback in residential districts; based on recent applications)
  - Provisions for outdoor storage/display (allowed in C-2, C-3, IM, AD)
  - Screening requirements adjacent to residential (all nonresidential and most special districts)

# Area, Height Regulations Table

- Area and Height Regulations table
  - Lot size and dimensions
  - Front, side, rear setbacks
  - Building height (not all districts have limits)
  - Parking: In the table for residential districts; in the Parking section of the code for nonresidential uses
  - Special requirements for certain housing types
    - Accessory dwelling unit in R-1A
    - Maintenance/overhang/drainage easement on the adjacent lot for the zero setback side of a patio home

CHARACTERISTIC	REQUIREMENT
R-1	SINGLE-FAMILY DWELLING
Minimum Lot Size	5,000 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>
Minimum Rear Setback	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley:</li> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 6 feet if the garage or carport is built for two or more motor vehicles</li> <li>• Setback may be measured from the centerline of an adjacent alley</li> </ul>
Maximum Building Height	35 feet
Minimum Parking	2 spaces per dwelling unit

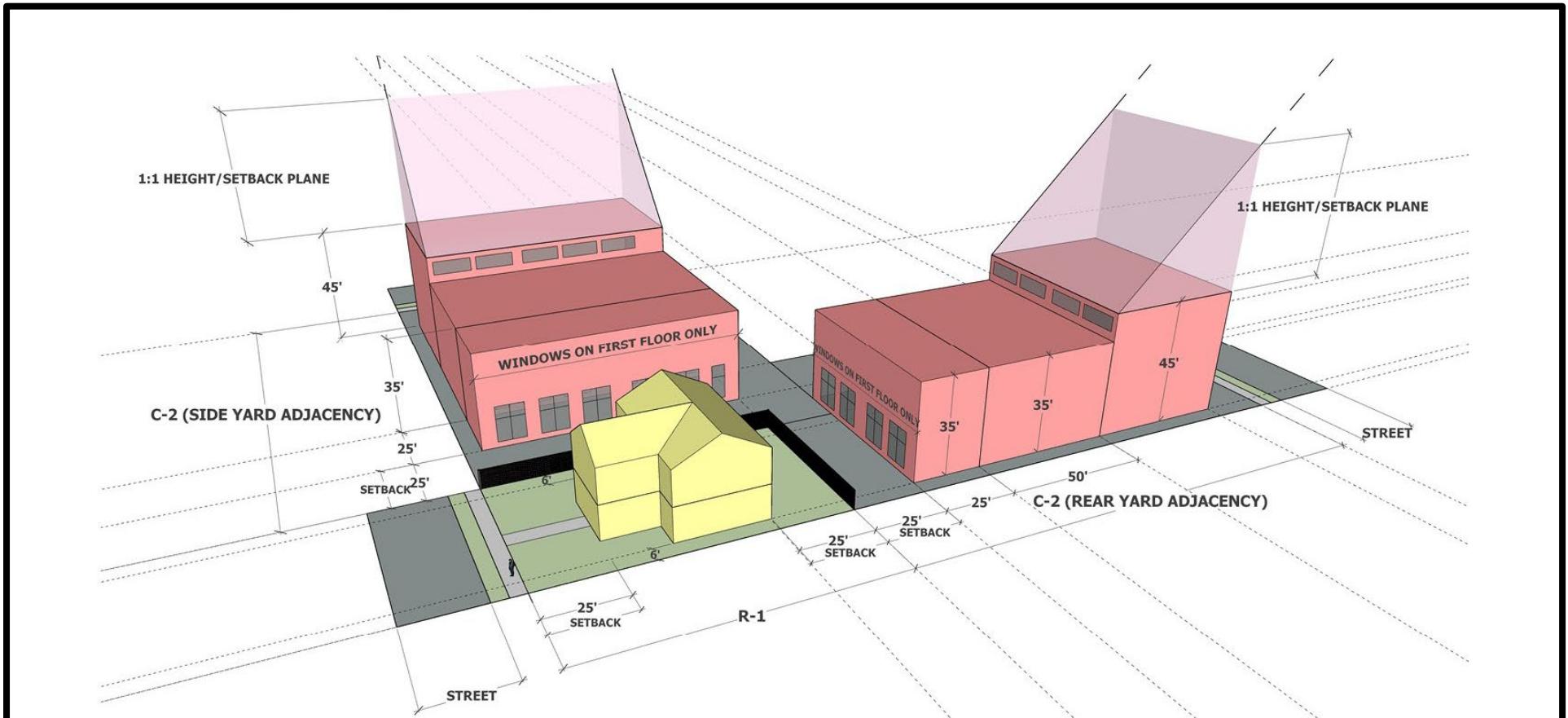


# Setback/Height Adjacent to Residential

- In general, applies to Nonresidential and Special District properties adjacent to single-family residential zoning districts (new)
- “Residential” – Vacant or developed property zoned:
  - R-E, R-1, R-1A, R-2 (single-family detached, patio home, townhome, duplex)
  - R-M except manufactured housing
  - MU or PD for single-family, patio home, townhome, duplex

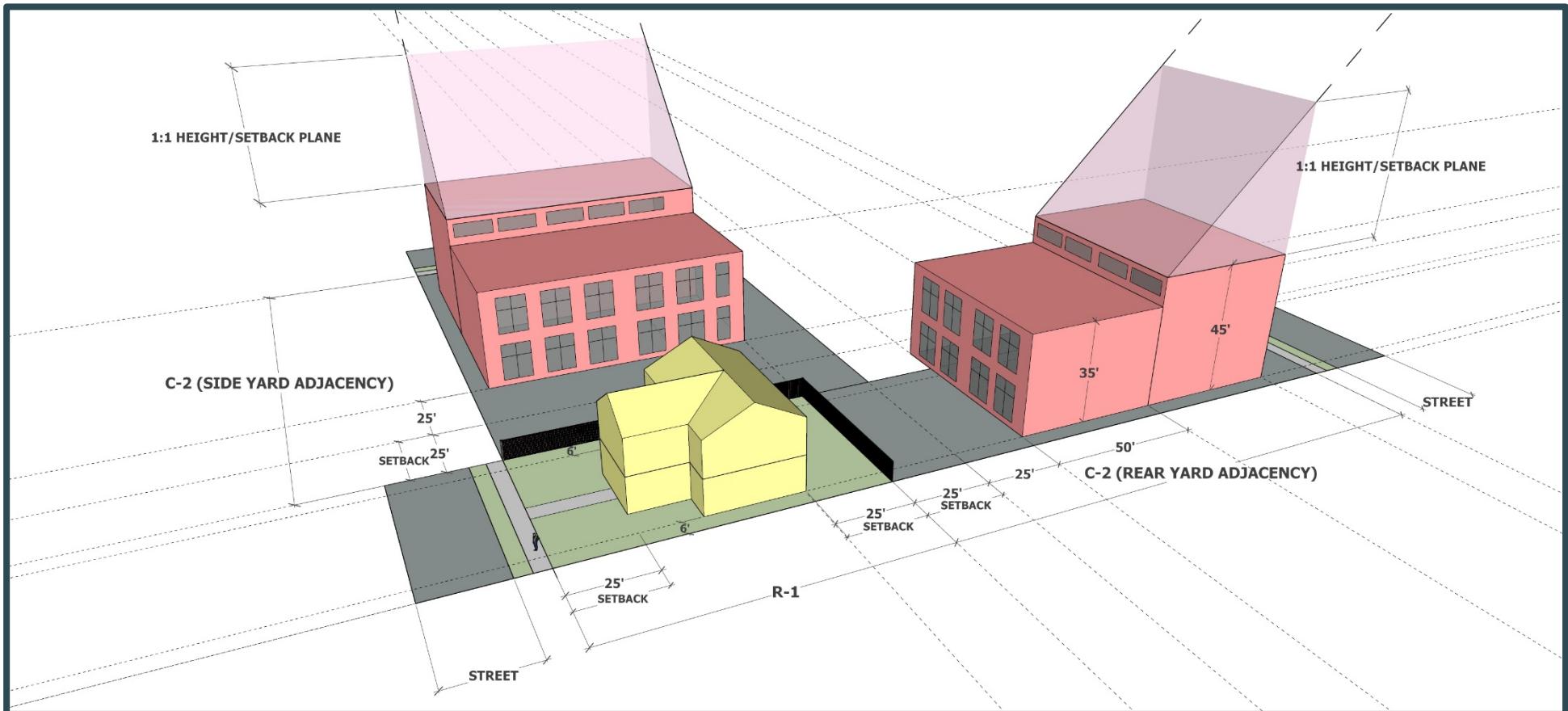
# Setback/Height Adjacent to Residential

- 25' setback required between building in a nonresidential zoning district and single-family residential zoning line (can be used for parking, driveways, landscaping)
- At 25' setback line: 35' building height, windows at first floor level



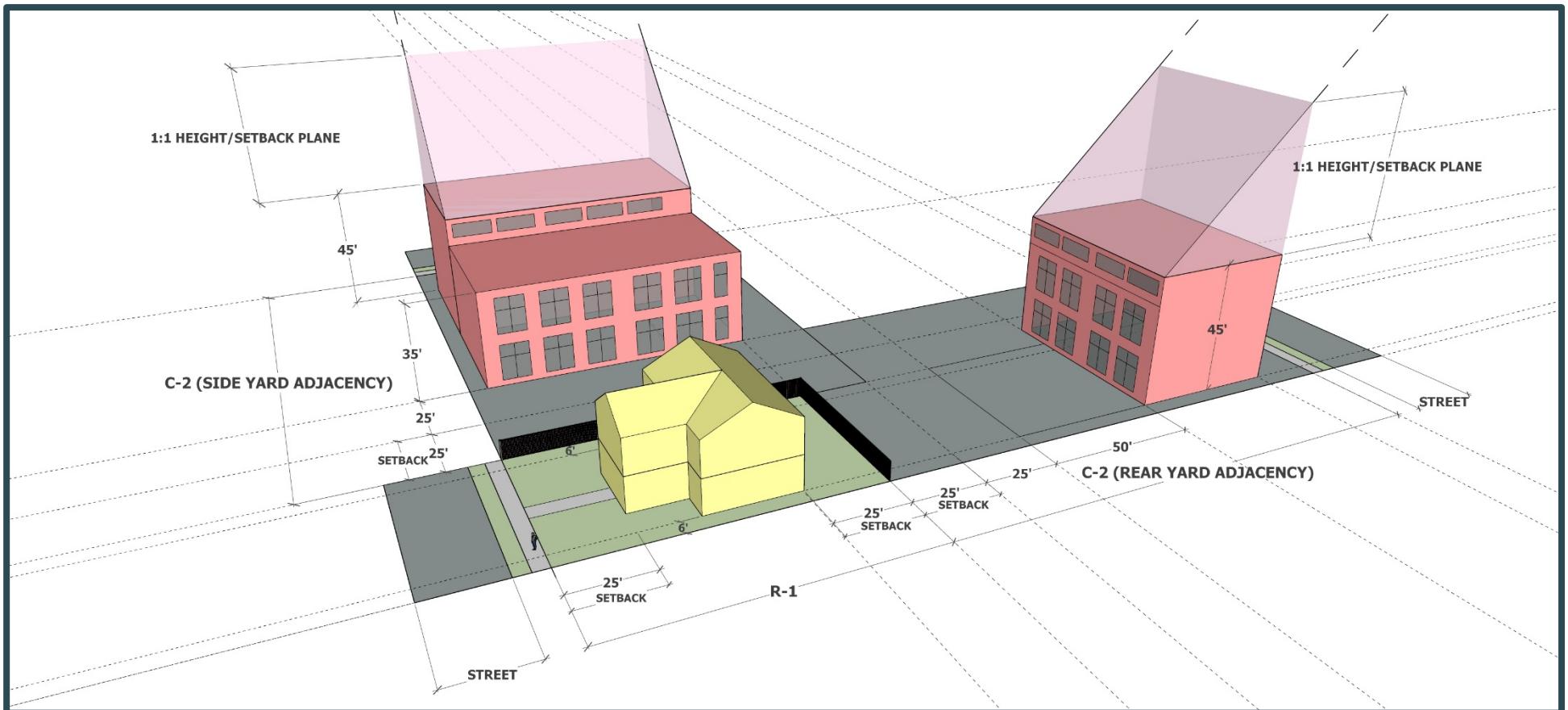
# Setback/Height Adjacent to Residential

- At 50' setback line: 35' building height, no restriction on windows



# Setback/Height Adjacent to Residential

- At 100' setback line: 45' building height, windows permitted
- Beyond 100' from residential, 1' of additional building setback allows 1' increase in building height (1:1)





# Screening Adjacent to Residential

- Screening options:
  - Solid masonry or solid weather-resistant wood; can combine solid sections of masonry or wood fencing with sections of landscaping
  - Chain link or ornamental fencing (including decorative metal or vinyl fencing panels) with landscaping (new); no chain link with slats except in PI zoning
  - 6' to 8' in height
  - Alternate screening incorporating existing or new natural terrain or vegetation may be approved by P&Z



# Outdoor Storage

- Applies to outdoor storage of materials, supplies, inventory, equipment
- Allowed in C-2, C-3, IM, AD
- Screening required adjacent to single-family zoning



# Supplementary Requirements

- Supplementary Requirements for Certain Uses (Article IX)
  - Fuel/Gasoline Sales, Automobile Service and Repair, Car Washes (minimum distance from floodplain and Nimitz Impoundment Area to protect water supply; special setbacks for gas pumps, pump islands, air compressors, etc.)
  - Facilities with Drive-Thru or Drive-In Service (stacking space for vehicles)
  - Current code:
    - Day Care Services, Community Gardens, Home Occupations...
    - Other, such as Wind Energy Systems, Sexually Oriented Businesses, various antennas (refer to regulations elsewhere in the Kerrville code)



# Zoning Changes, Conditional Use Permits

- Zoning Changes (Article X) and Conditional Use Permits (Article XI)
- For both types of request:
  - Rather than including a detailed listing of application requirements, more general description plus reference to City's checklist
    - Completed application form
    - Metes and bounds description of the property
    - Description of the proposed change
    - Fee
    - Other information at varying level of detail (Example: PD, MU-concept plan; CUP-site plan)



# Zoning Changes, Conditional Use Permits

- Zoning Change (Article X)
  - Biggest change is in submittal requirements (less information necessary for an application)
  - Procedures for review dictated largely by state law
- Conditional Use Permits (Article XI)
  - Reducing the number of uses requiring a CUP
  - Simplifying submittal requirements
  - Omitting list of uses allowed without a CUP; addressed in the Land Use Table
  - Maintaining sections re:termination of a CUP (consistent with current code)
  - Review procedures same as for a zoning change (state law)



# Zoning Changes, Conditional Use Permits

- Public hearings:
  - For both zoning change and CUP request, allow a public hearing to be recessed to a specific date at the original hearing to avoid having to notify again (new)
  - Where the P&Z recommends denial, an application proceeds to Council only if the applicant requests in writing to move forward within 10 days of the P&Z decision (new)
  - 3/4 vote of the Council required to approve in spite of a protest of 20% or more (state law; in current code for zoning change, adding to CUP)



# Traffic Impact Analysis

- Clarification: New requirement for a TIA on the zoning application checklist when:
  - Proposed development will generate 1,000 or more net new vehicle trips\* per day
  - Proposed development will generate 150 or more net new vehicle trips during the AM or PM peak hour

\* Net New Trips: The number of trips that will be added to the roadway system by the new development, minus the number of trips per day\* that will be eliminated from the roadway system because of the removal of the existing development; calculation of trips generated based on accepted industry standards



# Land Use Table with CUPs – Current Code (Complete Table)

# Land Use Table with CUPs – Draft Code (Excerpt)

LAND USES	Residential Districts							Nonresidential Districts				Special Districts				Notes	
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG	
Accessory Building or Structure	P	P	P	P <sub>1</sub>	P	P <sub>1</sub>	P	P	P	P	P	C	C	P	P	P	<sup>1</sup> Not permitted for patio homes or townhomes
Accessory Dwelling (see Dwelling Unit, Single-Family with Accessory Dwelling Unit)																	
Agricultural Services											P				P	P	
Agriculture, General	P															P	
Airport															P		
Alcoholic Beverage Sales for Off-Premise Consumption								P	P	P		P	P				
Amateur Radio Antenna								See Ordinance 2005-11									
Ambulance Service, Private										P	P	P	P				
Ambulatory Surgical Center								P	P	P	P			P			
Amenity Center	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>						P <sub>2</sub>	P <sub>2</sub>				<sup>2</sup> For single-family and multifamily residential uses
Amusement Center, Indoor									P	P		P	P				
Amusement Center, Outdoor									C	P	C	P					
Antenna								See Wireless Telecommunications Facilities, Ordinance 2003-35									
Antique Store								P	P	P	P	P	P				
Apartment (See Dwelling, Multifamily)																	
Appliance Repair/Sale, Used Appliances								P	P	P	P						
Appliance Store								P	P	P							
Art Studio/Gallery								P	P	P		P	P				
Artisan's/Craftsman's Workshop							P	P	P	P	P	P	P		P		
Assisted Living Facility						P	C	C	C	P		P	P				
Automated Teller Machine (ATM)								P	P	P	P	P	P		P		
Automobile Dealership, New Auto Sales										P	P						
Automobile Dealership, Used Auto Sales									C	P							
Automobile Parts Store									P	P							
Automobile Rental or Leasing									P	P	P						
Automobile Service and Repair, Major									P <sub>3</sub>	P <sub>3</sub>						<sup>3</sup> Subject to requirements of Article 11-I-11(d)	
Automobile Service and Repair, Minor									P <sub>3</sub>	P <sub>3</sub>	P <sub>3</sub>					<sup>3</sup> Subject to requirements of Article 11-I-11(d)	



# Parking

- Parking (Article XII)
  - Approach
    - Update requirements as needed to reflect current practices
    - Fill in gaps based on new list of uses and clarify where necessary for existing uses
    - Provide specific ratios for activities with unique parking characteristics
    - (In response to Kerrville 2050 desires, bicycle parking to be addressed in the Downtown and River Corridor overlay guidelines)

# Parking Standards

TABLE 2. SCHEDULE OF REQUIRED OFF-STREET PARKING (EXCERPT)

PARKING STANDARD	GENERAL USE DESCRIPTION	PROPOSED REQUIREMENT	CURRENT CODE REQUIREMENT
5	Bank or Financial Institution	One (1) space per 300 square feet of gross floor area	No ratio in the current code for this specific use; proposed ratio same as for Office, General
24	Office, General (Business or Professional)	One (1) space per 300 square feet of gross floor area	No change
37	Veterinary Services	One (1) space per 300 square feet of gross floor area	One (1) space per 150 square feet of gross floor area (current code requires same parking ratio for veterinary services as for medical office)
25	Office, Medical	One (1) space per 200 square feet of gross floor area	One (1) space per 150 square feet of gross floor area
28	Retail, Small and Medium Stores and Centers of up to 100,000 square feet	One (1) space per 300 square feet of gross floor area excluding non-public areas such as restrooms, offices, storage	One (1) space per 250 square feet One (1) space per 750 square feet for non-public areas such as restrooms, offices, storage
29	Retail, Large Items (Furniture Store, Appliance Sales or similar)	One (1) space per 400 square feet	No change
41	Multifamily (Apartment, Condominium)	1.5 spaces for 1-bedroom unit, 2.0 for 2-bedroom, 2.5 for 3+ bedrooms Eliminated parking for office Added requirement for separate parking for boats, trailers, etc. not applicable to minimum requirement)	Two (2) spaces per dwelling unit plus space required for the office use



# Nonconformities

- Nonconforming Lots, Structures, Uses, Site Elements (Article XIII)
  - ***Nonconforming***: A lot, structure, use, or site element that existed or operated legally until a new code was adopted (Note: Zoning Code is not applicable to signs)
  - A nonconforming use can continue to exist/operate after adoption of the new code (“grandfathered in”) as long as it is not expanded or enlarged
    - Cannot increase area within a building, or the size of a building, and cannot expand into/construct another building to accommodate a nonconforming use
    - Cannot increase the number of residential units, number of nonconforming uses or units, seating capacity or storage/loading/parking area to accommodate a nonconforming use



# Nonconformities

- Nonconforming use can change to another nonconforming use of the same or a more restrictive zoning category, but cannot revert to its previous status once converted to a conforming or more restrictive use
- A use abandoned for six months or more is no longer considered legally nonconforming; criteria for “abandonment”:
  - Actual discontinuance of the use
  - No usage of water, sewer service, electricity, etc.
  - No marketing of the property for sale or lease



# Nonconformities

- Nonconforming use/structure can be reinstated/rebuilt if:
  - Discontinued/Destroyed due to fire, flood, explosion, windstorm, earthquake, war, riot, or other calamity (even up to 100% destruction)
  - Reconstruction is initiated within 6 months of the event and reconstruction does not create a greater nonconformity than existed prior to the damage



# Nonconformities

- A nonconforming structure or site element can be repaired to keep it safe, parking lot can be maintained, landscape materials can be replaced; building permit may be required
- Reference state law for property that becomes nonconforming as a result of annexation
- ZBA authorized to hear and decide appeals to:
  - Allow reinstatement of a nonconforming use
  - Allow expansion of a nonconforming use
  - Allow expansion of a nonconforming structure or site element
  - Determine whether rights to a nonconforming use, structure, or site element have terminated

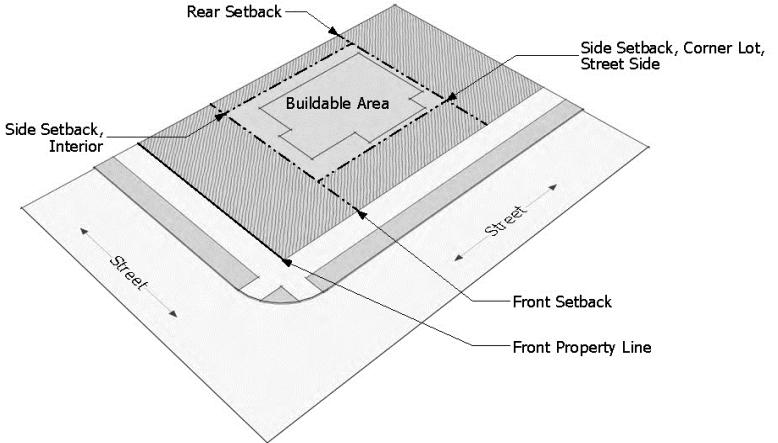


# Administrative Provisions

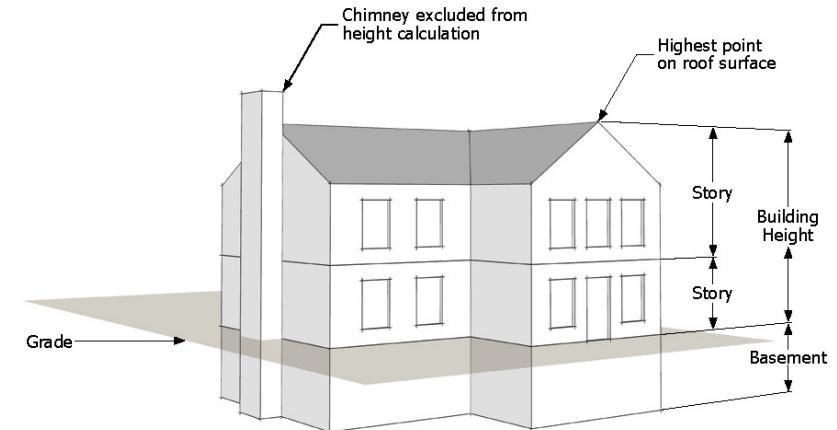
- Administrative Provisions (Articles XIV through XVIII)
  - Permits, certificates of occupancy
  - Responsibility for enforcement, penalty for violations
  - Rights in pending litigation/Violations under existing code
  - Validity/Severability/Effective Date

# Appendix – Figures (Examples)

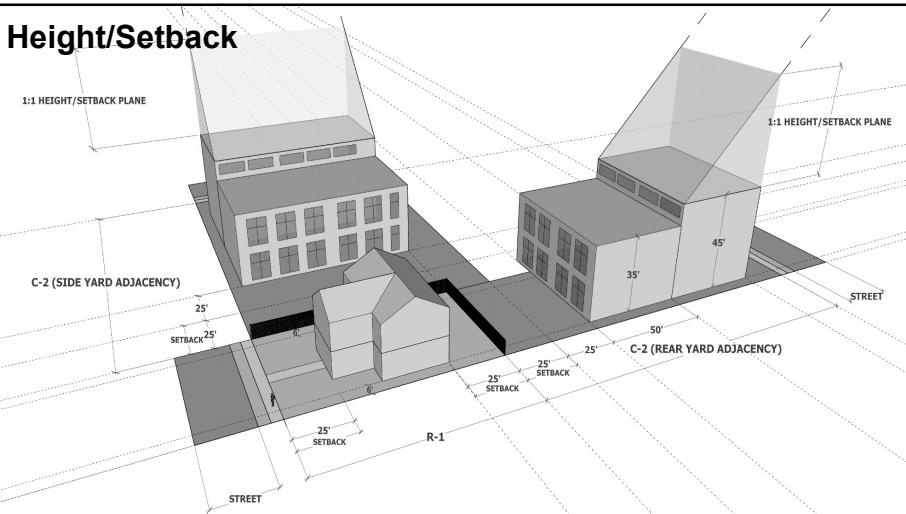
## Building Setbacks



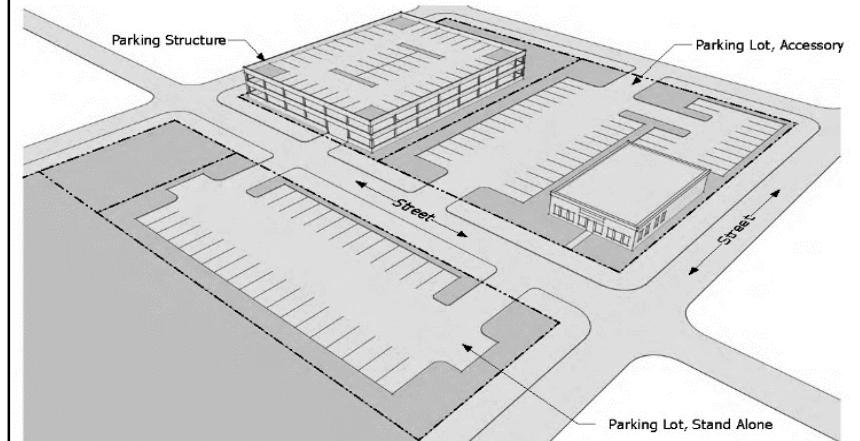
## Residential Building Height



## Height/Setback



## Parking





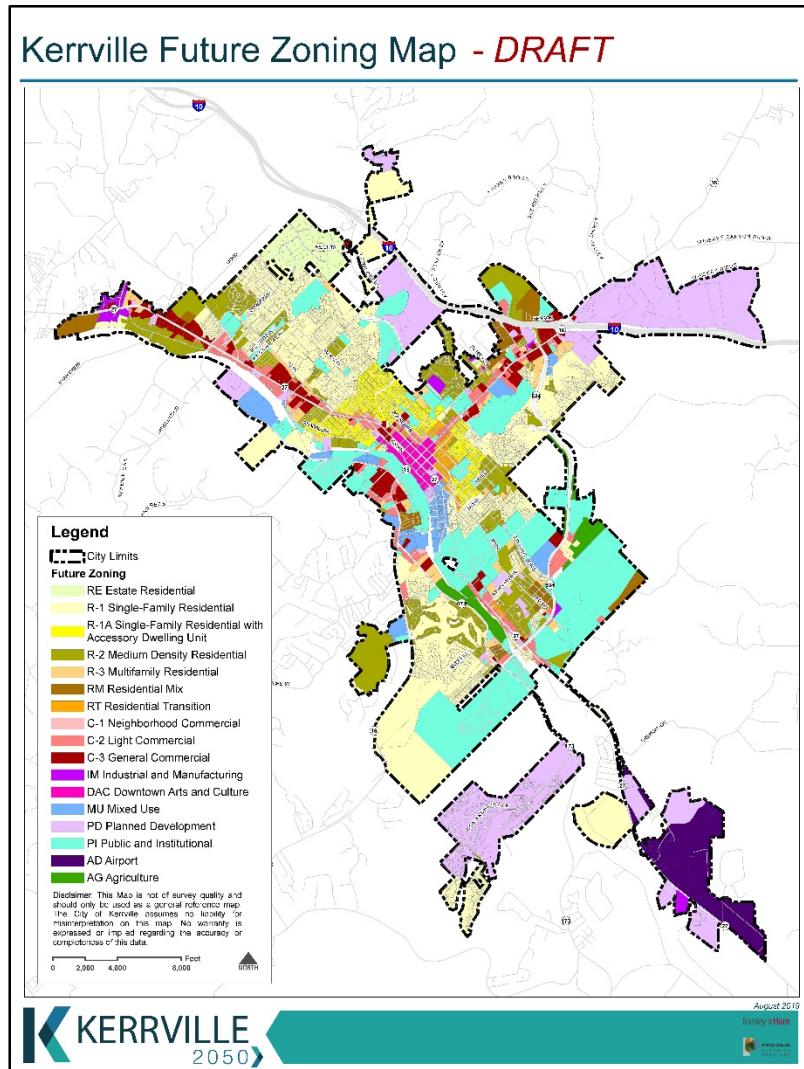
# Appendix – Land Use Table (Excerpt)

- Alphabetical listing of uses
- Districts divided into Residential, Nonresidential, Special District categories
- P= Permitted, C = CUP, Blank = Not Permitted, Notes (P<sub>1</sub>) = Explanation or Reference

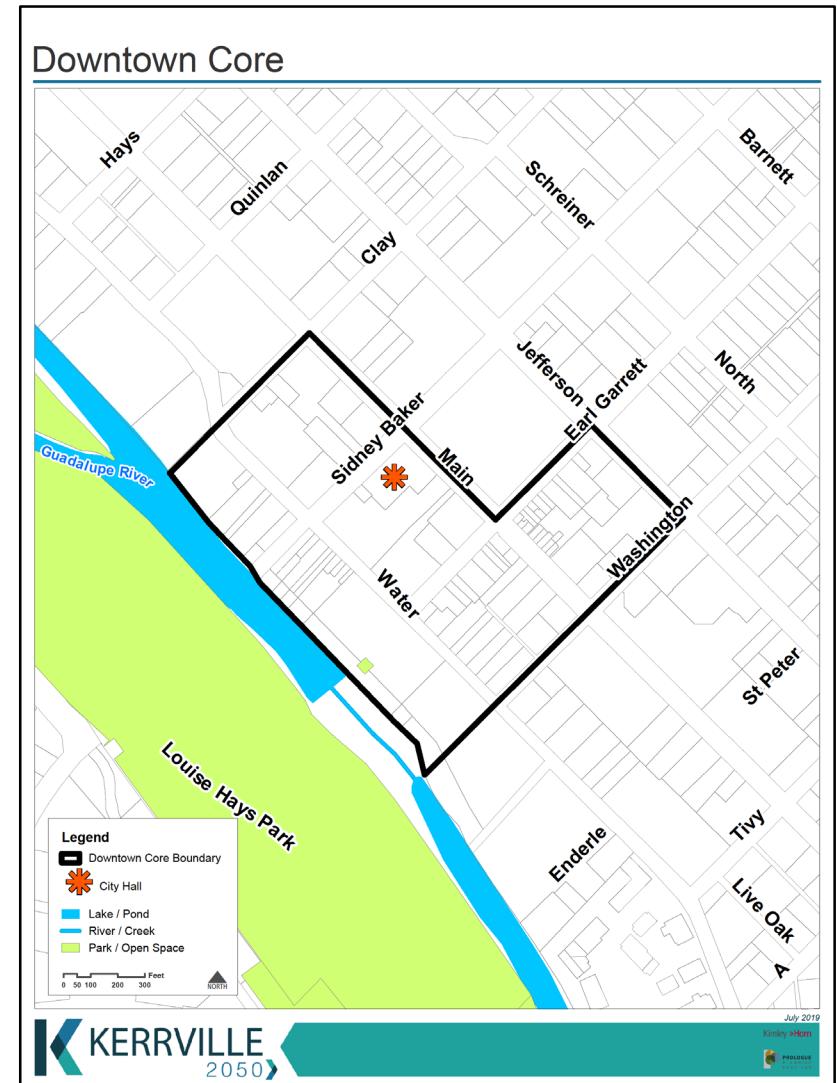
LAND USES	Residential Districts							Nonresidential Districts				Special Districts					Notes
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG	
Accessory Building or Structure	P	P	P	P <sub>1</sub>	P	P <sub>1</sub>	P	P	P	P	P	C	C	P	P	P	<sup>1</sup> Not permitted for patio homes or townhomes
Accessory Dwelling (see Dwelling Unit, Single-Family with Accessory Dwelling Unit)																	
Agricultural Services											P				P	P	
Agriculture, General	P															P	
Airport																P	
Alcoholic Beverage Sales for Off-Premise Consumption								P	P	P		P	P				
Amateur Radio Antenna								See Ordinance 2005-11									
Ambulance Service, Private											P	P					
Ambulatory Surgical Center								P	P	P	P				P		
Amenity Center	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>						P <sub>2</sub>	P <sub>2</sub>				<sup>2</sup> For single-family and multifamily residential uses
Amusement Center, Indoor								P	P			P	P				
Amusement Center, Outdoor								C	P		C	P					
Antenna								See Wireless Telecommunications Facilities, Ordinance 2003-35									
Antique Store								P	P	P		P	P				
Apartment (See Dwelling, Multifamily)																	
Appliance Repair/Sale, Used Appliances								P	P	P	P						
Appliance Store								P	P	P							
Art Studio/Gallery								P	P	P		P	P				
Artisan's/Craftsman's Workshop								P	P	P	P	P	P			P	
Assisted Living Facility							P	C	C	C	P		P	P			
Automated Teller Machine (ATM)								P	P	P	P	P	P	P	P	P	
Automobile Dealership, New Auto Sales											P	P					
Automobile Dealership, Used Auto Sales										C	P						
Automobile Parts Store										P	P						
Automobile Rental or Leasing										P	P	P					
Automobile Service and Repair, Major										P <sub>3</sub>	P <sub>3</sub>						<sup>3</sup> Subject to requirements of Article 11-I-11(d)
Automobile Service and Repair, Minor										P <sub>3</sub>	P <sub>3</sub>	P <sub>3</sub>					<sup>3</sup> Subject to requirements of Article 11-I-11(d)

# Appendix – Maps

## Zoning



## Downtown Core





# Special Use District

- Special Use District
  - Eliminated based on discussion with CRC (those uses, often noxious in nature, will be considered as Conditional Uses, if requested)



# Draft Code Alignment – Project Goals

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



# Draft Code Alignment - Project Goals

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



# Draft Code Alignment – Project Goals

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

# Draft Zoning Code

Changes Since P&Z Hearings



# Changes Discussed at P&Z Hearing 2

- Drive-thru restaurants allowed by right in the DAC, including Downtown Core
- Parking waived in DAC for existing buildings, including Downtown Core (consistent with current code)
- Process for consideration of zoning applications within 6 months of effective date of the ordinance (set for October 1, 2019) with no fee
- Reminder: Uses not listed can be considered as either text amendments or for CUP



# Additional Changes Since P&Z – Land Use Table

- Amended to allow by right in certain districts
  - Appliance Store
  - Book Store
  - Hardware Store
  - Museum
  - Pawnshop
  - Restaurant with drive-thru window
  - Veterinary Service, Small Animal, Indoor Pens
- Amended to allow by CUP
  - Fuel (Gasoline/Propane) Sales, Retail
  - Convenience Store with Fuel Sales



# Additional Changes Since P&Z – Land Use Table

- Care Facilities added:
  - Community Home
  - Continuing Care Facility
  - Dormitory, sorority or fraternity house
  - Halfway House
  - Homeless Shelter
- Care Facilities removed:
  - Group Medical Care Facility
  - Life Care Development
  - Personal Care Facility



# Additional Changes Since P&Z – Zoning Code

- Removed building material requirements based on new legislation (HB 2439)
  - RT material requirements for non-residential revised
  - Revised skirting requirements based on building code
- Amended Mailing Service definition (draft definition was incomplete)
- Removed unused definition for Development Activity
- Amended Supplemental Requirements for certain auto-related uses to include Automobile Parts Stores
- Established a consistent spacing requirement for care facilities

# Draft Zoning Map

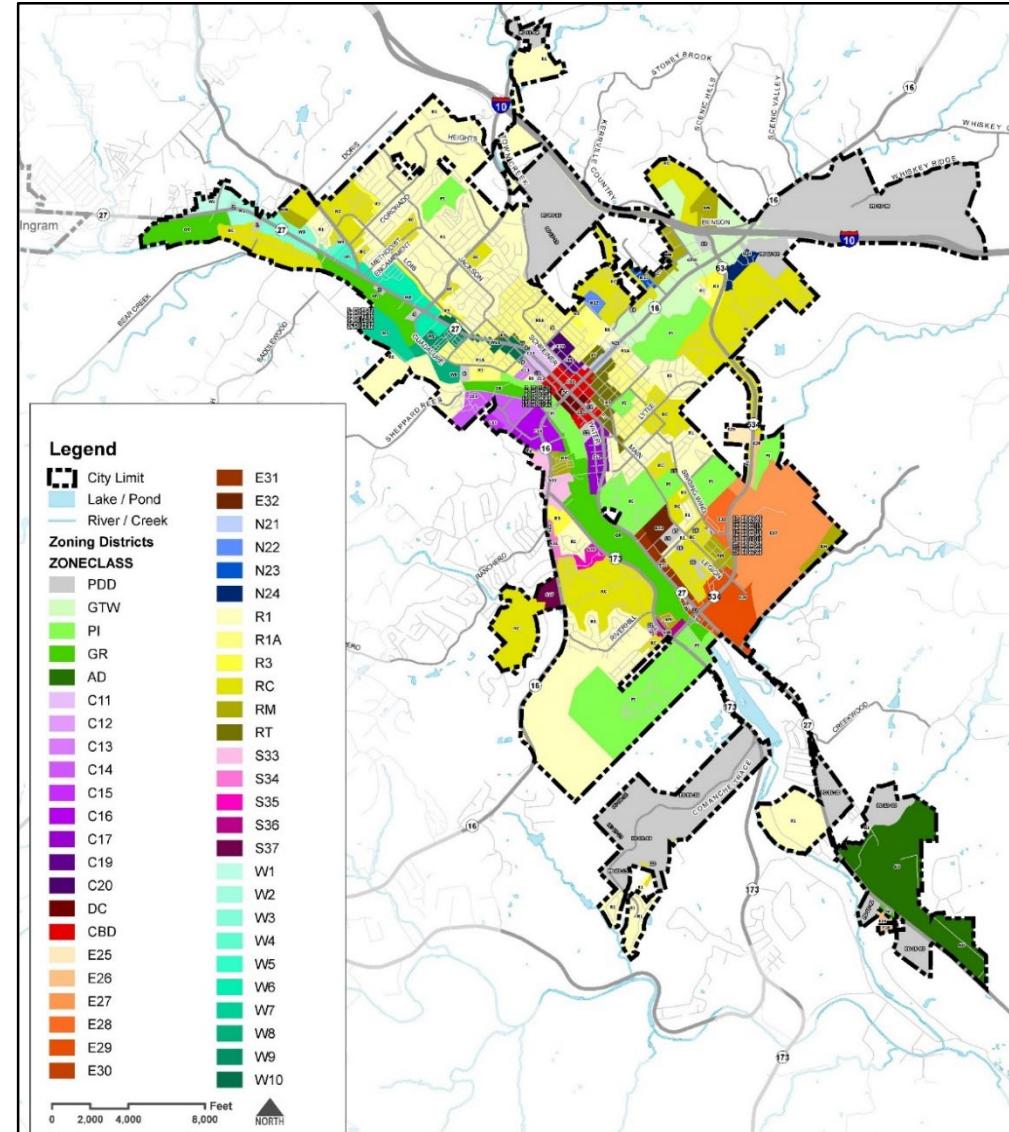
## Highlights as Recommended by P&Z



# Draft Zoning Map – Approach

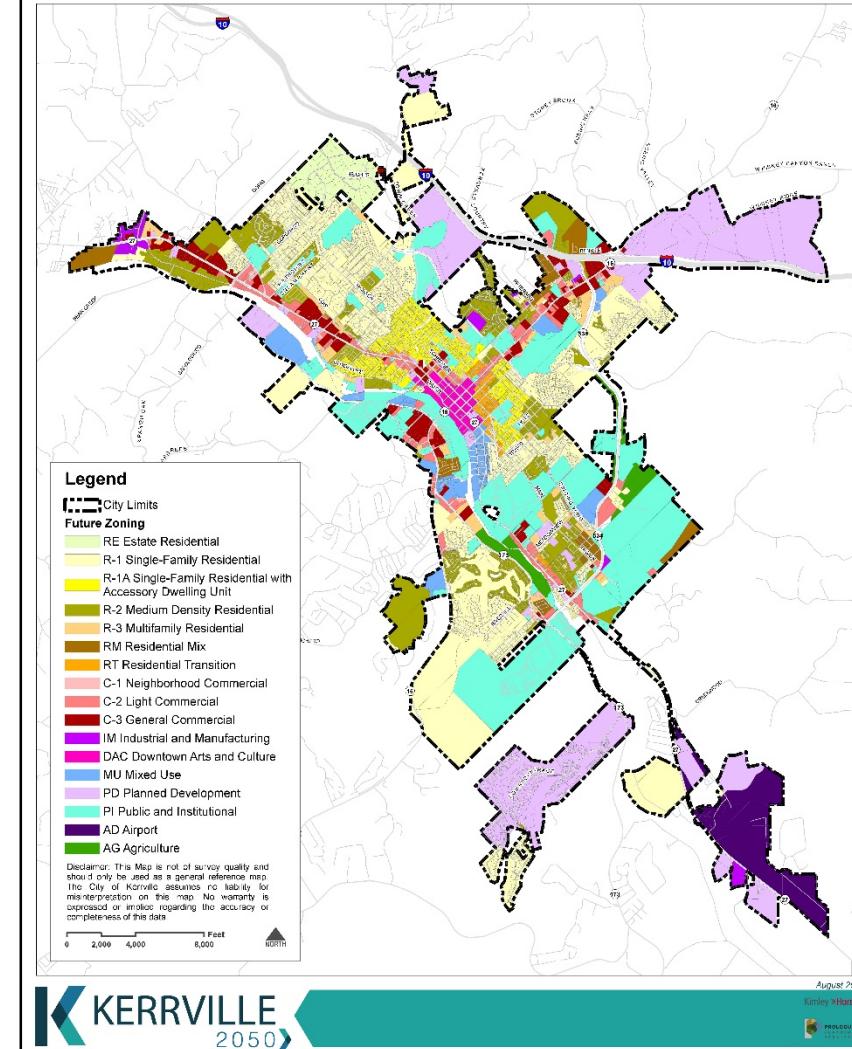
- Existing residential zoning districts were converted to the proposed residential zoning districts most in alignment with their current zoning
- Future nonresidential zoning districts were based on existing land use in most cases
  - This reduced the amount of existing nonconformities
  - New nonconformities that arose were primarily parcels inside of the Future Investment Areas identified by the community during the Kerrville 2050 comprehensive planning process
- Final location specific changes were then incorporated to further reduce nonconformities on properties in districts that are in transition to a mix of uses

# Current Zoning Map



# Proposed Zoning Map

Kerrville Future Zoning Map - *DRAFT*





# Summary of Zoning Map Changes

- Minor adjustments to some properties as a result of discussion at P&Z (Brinkmann)
- Amended Zoning for Camp Meeting Road property to MU along front of property
- Reduced nonconforming properties by approximately 75% from previous map (excluding CBD and DAC parcels)

# Discussion

# Kerrville Ordinance Updates

**Public Hearing and First Reading of the Ordinance  
City Council**

*August 13, 2019*



**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2019-17**

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF KERRVILLE, TEXAS, ZONING CODE, A COMPREHENSIVE REWRITE OF THE CITY'S ZONING REGULATIONS IN ACCORDANCE AND ALIGNED WITH THE KERRVILLE COMPREHENSIVE PLAN (KERRVILLE 2050); SAID REWRITE TO BE KNOWN AS THE "CITY OF KERRVILLE, TEXAS ZONING CODE" AND FOUND WITHIN A NEW CHAPTER 60 OF THE CITY'S CODE OF ORDINANCES; APPROVING AND ADOPTING THE OFFICIAL ZONING MAP OF THE CITY, PROVIDING FOR THE MAINTENANCE THEREOF, AND PROVIDING PROCEDURES TO AMEND SAID MAP; REQUIRING A STAFF REPORT AS TO IMPLEMENTATION BY A SPECIFIC DATE; REPEALING IN THEIR ENTIRETY ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OR FINE OF NOT MORE THAN \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT

**WHEREAS**, in June 2018, City Council, pursuant to its home rule powers and Chapter 213 of the Texas Local Government Code, adopted the *City of Kerrville Comprehensive Plan – Kerrville 2050* ("Comprehensive Plan"); and

**WHEREAS**, the Comprehensive Plan contains, in part, policies, goals, and strategies related to the establishment and location of residential, commercial, industrial land uses, and special districts; and

**WHEREAS**, following the adoption of the Comprehensive Plan, City Council created and appointed a Code Review Committee ("CRC") made up of 15 people with a variety of vocations and interests; and

**WHEREAS**, Council, through Resolution No. 34-2018, charged the CRC with reviewing and considering recommendations regarding development related codes cited for possible consideration within the Comprehensive Plan; and

**WHEREAS**, toward that end, the CRC, City staff, and the City's consultants worked diligently to develop the land use regulations in accordance with the general principals and guidelines found within the Comprehensive Plan; and

**WHEREAS**, beginning in October 3, 2018, the CRC has met 9 times, to date, in meetings that were open to the public; and

**WHEREAS**, between October 15, 2018, and October 17, 2018, the City conducted interviews with stakeholders having special interests or insights into land uses and development within the City as part of preparing the draft Zoning Code; and

**WHEREAS**, on March 19, 2019, the Planning and Zoning Commission and City Council met in a joint work session to discuss a draft of the Zoning Code and to provide comments and directions; and

**WHEREAS**, a Community Open House was held on May 16, 2019, to allow the public to provide input and feedback on preliminary concepts in the draft Zoning Code; and

**WHEREAS**, the CRC and City staff recommend that City Council approve and adopt a newly revised Zoning Code, said code to be known as the "City of Kerrville, Texas, Zoning Code" ("Zoning Code"), which will be found within a new Chapter 60 of the City's Code of Ordinances; and

**WHEREAS**, after receiving the Zoning Code from the Planning and Zoning Commission along with its recommendation for adoption, City Council reviewed and considered the Zoning Code; and

**WHEREAS**, as part of its review and consideration of the Zoning Code, City Council held a public hearing on August 13, 2019, as required by law; and

**WHEREAS**, during the public hearing, City Council received public comments on the Zoning Code; and

**WHEREAS**, City Council finds that the intent of the Zoning Code is to protect the health, safety, morals, or general welfare of the City's residents and citizens and to protect and preserve places and areas of historical, cultural, or architectural importance and significance pursuant to Section 211.001, Texas Local Government Code; and

**WHEREAS**, City Council also finds that the Zoning Code is adopted in accordance with the Comprehensive Plan and is designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements; and

**WHEREAS**, City Council now desires to implement the land use and growth policies and regulations as provided for by the Zoning Code and based upon the Comprehensive Plan; and

**WHEREAS**, pursuant to its authority under both federal and state law, City Council intends to comprehensively rewrite and amend the City's Code of Ordinances by adopting the Zoning Code, Chapter 60 of the Code of Ordinances, including a Land Use Table, in order to implement such policies, goals, and strategies with respect to land use regulations; and

**WHEREAS**, City Council will require staff to report back to Council on or before 180 days of Effective Date (defined below) of this Ordinance as to the implementation of the new Zoning Code, to include whether any amendments need to be made; and

**WHEREAS**, after receiving and considering the recommendations of the Planning and Zoning Commission and City staff; and after multiple meetings and public hearings, at which all parties in interest and citizens were given an opportunity to be heard; and after considering among other things, the character of the various areas of the City and the suitability of particular uses in each area; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City, Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to adopt the proposed Zoning Code as a comprehensive rewrite of the City of Kerrville's land development regulations;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** The facts, recitations, and findings contained in the preamble of this Ordinance are found to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

**SECTION TWO.** The City of Kerrville, Texas, Zoning Code, which is attached as **Attachment A** and incorporated herein by reference as if set forth in full, including the Official Zoning Map and Land Use Table, is adopted in its entirety, and will be a new Chapter 60, to be found within the City's Code of Ordinances. The Zoning Code is incorporated as a portion of the land use regulations and standards and includes permanent revisions to the City's Code of Ordinances to implement the policies, goals, and strategies contained in the previously adopted Comprehensive Plan (Ord. No. 2018-13) concerning residential, commercial, industrial land uses, and special districts.

**SECTION THREE.** The City is divided into the zoning districts as described within the Zoning Code, and as depicted on the Official Zoning Map of the City of Kerrville, which is attached hereto as part of **Attachment A** and incorporated herein, and which, together with all explanatory matter thereon, is hereby adopted by reference as if fully laid out on this page. The Official Zoning Map is identified by the signature of the Mayor, attested by the City Secretary, and bearing the Seal of the City of Kerrville under the following words: "*This is to certify that this is the Official Zoning Map of the City of Kerrville, Texas.*" The City shall locate and maintain the map in a digital format, which may be accessed via the internet.

**SECTION FOUR.** If, in accordance with the provisions of the Zoning Code and Chapter 211 of the Texas Local Government Code, changes or amendments are made to the district boundaries or other matter portrayed on the Official Zoning Map, such changes will be entered on the Official Zoning Map by the City Manager or designee, noting the date and number of the ordinance making the amendment. No alteration of any nature may be made on the Official Zoning Map or matter shown thereon except in conformity with procedures set forth in the Zoning Code or Chapter 211, Texas Local Government Code.

**SECTION FIVE.** 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, which shall be located in the Kerrville City Hall, shall be the final authority as to the current zoning status of land and improvements within the City. The Official Zoning Map shall be available to the public at all hours when the City offices are open.

**SECTION SIX.** City Council hereby waives the application fee for any zoning request made on or before the expiration of 180 days from the Effective Date of this Ordinance.

**SECTION SEVEN.** City Council directs the City Manager to report back to Council on or before the expiration of 180 days of the Effective Date of this Ordinance as to its implementation and whether any amendments need to be made.

**SECTION EIGHT.** The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

**SECTION NINE.** The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. Further, the proposed Zoning Code results from a comprehensive review, rewrite, and replacement of the City's current zoning regulations and procedures and said Code repeals and replaces, to include without limitation: Ordinance No. 97-07 and subsequent amending ordinances regarding Zoning Regulations.

**SECTION TEN.** It is officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION ELEVEN.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION TWELVE.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00) per day for each violation hereof.

**SECTION THIRTEEN.** Pursuant to Texas Local Government Code

§52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**SECTION FOURTEEN.** This Ordinance shall become effective October 1, 2019 (the "Effective Date").

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2019.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.**

---

Bill Blackburn, Mayor

APPROVED AS TO FORM:



---

Michael C. Hayes, City Attorney

ATTEST:

---

Shelley McElhannon, City Secretary

## **Chapter 60**

### **ZONING CODE**

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## ARTICLE I. IN GENERAL / DEFINITIONS

### **Sec. 60-01. 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 means the City of Kerrville Zoning Code.

### **Sec. 60-02. 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

**Sec. 60-03. 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 a binding representation 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;

(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;

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

(4) That any petition for relief will be granted; and/or

(5) No person may rely upon any representation made by an official in violation of this subsection, and any such representation is a violation of the policy of the City and is not binding on the City in any respect. No subsequent decision of the City is a ratification of any representation made contrary to this subsection.

**Sec. 60-04. Intent and Purpose.**

The City developed the regulations set forth in this Chapter 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 the Zoning Code 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 within 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:
  - a. Encourage proper population and structural densities
  - b. Avoid undue concentration of population;
  - c. Promote infill development; and
  - d. 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 City's Comprehensive Plan.

**Sec. 60-05. Unsafe Buildings.**

Nothing in this Zoning Code shall be construed as prohibiting the strengthening of any part of any building or structure to a safe condition where such building or structure poses an immediate threat to public health or safety.

## ARTICLE II. CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PLANS AND ORDINANCES

### Sec. 60-10. 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 as follows:

- (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 herein.
- (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 shall be used as a guide in making decisions regarding zoning district classifications 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 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 the review and approval of rezoning requests and consistency and conformance with such is required.

**Sec. 60-11. Application 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:

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

**Sec. 60-12. Conflicts with Other Ordinances.**

(a) The Zoning Code establishes 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.

(b) 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.

**ARTICLE III. DEFINITIONS AND INTERPRETATION  
OF WORDS AND PHRASES**

**Sec. 60-15. Purpose.**

For purposes of this chapter, words and phrases have the meanings set forth below.

**Sec. 60-16. Interpretation of Words and Phrases.**

(a) 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.

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

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

(3) The word "shall" or "will" is mandatory and not discretionary.

(4) The word "may" is permissive.

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

(b) 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 Code to the specific situation in question. The Director of Development Services ("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 as provided herein.

**Sec. 60-17. Terms Defined.**

**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.

**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.

**Adjacent:** sharing all, or a part of, a common lot line, property line, or zoning district line.

**Agricultural Services:** a use of land primarily involving the following types of activities:

- (1) 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, cleaning, shelling, grinding, milling, ginning, packing, curing;
- (2) The operation of establishments engaged in performing services related to the keeping and raising of livestock, including, , 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;
- (3) "Veterinary Services, Large Animal" or "Veterinary Services, Small Animal" as defined herein;
- (4) 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.

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

**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.

**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 nonscheduled air transport for hire.

**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.

**Alley:** a public space or right-of-way, not meeting the definition of a public street or roadway, and which affords a secondary means of access to the adjacent property.

**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 is subject to other City ordinances, rules, or regulations.

**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.

**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.

**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.

**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.

**Antenna:** see “Wireless Telecommunications Facility”.

**Antique Store:** a retail establishment offering decorations, furniture, works of art, or other artifacts of an earlier period for sale.

**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.

**Appliance Store:** a business that sells and rents new instruments, equipment, or devices designed for a particular use or function in a home.

**Appliance Repair/Sales, Used:** a business that specializes in the sale, rental, 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.

**Applicant:** the property owner or his or her duly authorized representative or agent, to include a developer or realtor.

**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.

**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).

**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.

**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 Thoroughfare Plan.

**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, ceramics, leather goods, candles, jewelry, woodwork, picture frames, metal works, household or office furniture, and clothing or other sewn or knitted products.

**Assisted Living Facility:** an establishment possessing a license issued by the state under Chapter 247 of the Texas Health and Safety code (as it may be subsequently amended), including a resident or dwelling, that (a) furnishes, in one or more facilities, food and shelter to four (4) or more persons who are unrelated to the proprietor of the establishment; (b) provides personal care services or administration of medication by a person licensed or otherwise authorized in this state to administer the medication; (c) may provide assistance with or supervision of the administration of medication; and (d) may provide skilled nursing services for the following limited purposes: (i) coordination of resident care with outside home and community support services agencies and other health care professionals; (ii) provision or delegation of personal care services and medication administration as described by a Texas Health and Safety Code Chapter 247; (iii) assessment of residents to determine the care required; and (iv) for periods of time as established by rule of the Texas Department of Aging and Disability Services, delivery of temporary skilled nursing treatment for a minor illness, injury or emergency; or (e) as defined by Texas Health and Safety Code Chapter 247, as it may be subsequently amended.

**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.

**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.

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

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

**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.

**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 principal use by the applicable zoning, and the activities of an “Automotive Body Shop”.

**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.

**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.

**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.

**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.

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

**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.

**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.

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

**Basement:** that portion of a building, which is primarily below grade.

**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.

**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.

**Block Face:** one side of a street between two consecutive intersecting streets. *See Appendix, Figure 1.*

**Board of Adjustment (or Board):** see “Zoning Board of Adjustment”.

**Boarding Home Facility:** an establishment, including a residence or dwelling, that (a) furnishes in one or more buildings, to persons under separate rental agreements, whether oral or written, lodging to three or more persons unrelated to the owner of the establishment by blood or marriage; (b) 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 by Section 247.002 of the Texas Health and Safety Code, as it may be subsequently amended, to those persons; and (c) is not a use listed in Sec. 30-12 of the Code of Ordinances.

**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.

**Book Store:** a business that specializes in sale, rental, 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.

**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; shall 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. A brewpub is not a bar or cocktail lounge.

**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 firewall, each portion of a structure so separated shall be considered a separate building.

**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:

- (1) Offices and yards for contractors and builders primarily engaged in the construction of residential, farm, industrial, commercial, or other buildings;
- (2) Offices and yards for contractors primarily engaged in road, utility, or similar construction activities which have storage and/or prefabrication yards; or
- (3) General building contractors who combine a special trade with their operations as described herein under "Building Contractor, Trade Specialist".

**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.

**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 and a valid building permit exists for the property.

**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 plumbing, electrical, painting, plastering, carpentry, heating/air conditioning, custom rock masonry (excluding rock quarrying and stockpiling), welding, fencing, overhead doors, but excluding establishments that include the additional operations described above under "Building Contractor, General" and those requiring an outdoor storage yard.

**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.

**Building Height:** see "Height".

**Building Permit:** a permit issued by 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.

**Building Wall:** see "Wall, Exterior".

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

**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.

**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).

**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.

**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.

**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.

**Certificate of Occupancy:** a document issued by 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.

**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.

**Chief Planning Officer:** Director of Planning, Director of Development Services, or other official or designee of the City of Kerrville responsible for city planning functions as designated by the City Manager.

**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.

**City:** the City of Kerrville, Texas, a home-rule municipal corporation of the state of Texas.

**City Code:** ordinances adopted by the City Council and thereafter compiled, codified, and published into the Code.

**City Council:** the City Council of the City of Kerrville, Texas, also referred to herein as the “Council”.

**City Manager:** the City Manager or designee.

**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.

**Clothing and Apparel Store:** a business that specializes in the making, sale, **or rental** of clothes, shoes, or other items of clothing.

**Collector Street:** a roadway that distributes traffic from the local streets to the arterial network and which is classified as a “collector” on the City’s Thoroughfare Plan.

**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.

**Community Garden:** a use of land, which may be publicly or privately owned, on which individual or shared plots containing a garden or gardens are attended to, nurtured, and supported collectively by a group of participants who share in the maintenance and products of the garden.

**Complete Application:** an application for a zoning amendment or any other form of authorization required by this Zoning Code as a prerequisite to the development of land within the City that meets all the technical requirements for submittal specified by the this Code or set forth in administrative guidelines, as determined to be complete by the Director, in accordance with the procedures in Tex. Loc. Gov't Code chapter 245.

**Community Home:** an establishment that (a) is a community-based residential home as defined by the Community Homes for the Disabled Act, Chapter 123, Texas Human Resources Code, as it may be subsequently amended, (b) is occupied by six (6) or fewer persons with disabilities, regardless of the legal relationship of those persons to one another, and (c) is occupied by two (2) or fewer supervisors.

**Comprehensive Plan:** the Comprehensive Plan, including the Thoroughfare Plan, as adopted by City Council in accordance with state law and amendments thereto.

**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.

**Concrete/Asphalt Batch Plant:** a permanent facility or structure that primarily manufactures or produces concrete or asphalt.

**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.

**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:

- (1) Located on a vacant tract; or
- (2) 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.

**Continuing Care Facility:** an establishment (a) for which the owner has obtained a “Certificate of Authority” from the state under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, Chapter 246, Texas Health and Safety Code, as it may be subsequently amended, and (b) provides board and lodging, together with personal care services, medical services, or other health related services. This term does not include facilities that provide care for persons mostly incapable of self-preservation due to age, physical or mental ability.

**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.

**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.*

**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.

**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.

**Date of Adoption:** the date that this ordinance becomes effective and enforceable pursuant the City’s charter.

**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 24 hours per day, and which typically includes the offering of social activities, meals, and recreation.

**Day Care Services, Children:** (a) 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 nursery schools, preschools, and similar uses, but not including overnight lodging or elementary or secondary education, and/or (b) a facility defined by Texas Human Resources Code Section 42.002, as it may be subsequently amended.

**Department of Development Services:** a Department within the City, which includes the Planning Division, the Building Official, and Code Enforcement, also referred to herein as the “Department”.

**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.

**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”.

**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.

**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, Kerr County, franchise utility companies, and the Texas Department of Transportation; which Committee may review plats, site plans, and building plans submitted for review prior to construction and/or development.

**Development Standards:** regulations adopted by the City regarding certain development-related improvements, such as lighting, signage, landscaping, parking, and other similar elements.

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

**Director of Development Services:** the Director of Development Services of the City or designee, as appointed by the City Manager; also referred to herein as the “Director”.

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

**Dormitory, sorority or fraternity house:** student housing associated with an educational facility or institution.

**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.*

**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.

**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.

**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.

**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.

**Dwelling, Duplex:** a free-standing building on one lot, having separate accommodations for not more than two (2) dwelling units.

**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 principal use of the

space is for the commercial/office activity of the occupant, and the secondary use is as the occupant's primary residence.

**Dwelling, Multifamily:** a building, group of buildings, or apartments on a single lot containing three or more dwelling units.

**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.

**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.

**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 the Zoning Code.

**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 wall.

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

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

**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.

**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.

**Emergency Shelter:** a facility which provides room and board, protection, and counseling on a temporary basis, 180 days or less, during crisis intervention for victims of crime, abuse, or neglect.

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

- (1) Commercial buses with a rated capacity of more than ten (10) passengers;
- (2) Trucks with a manufacturer's rated carrying capacity exceeding 2,000 pounds;
- (3) 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; or
- (4) 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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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 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.

**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.

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

**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.

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

**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.

**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.

**Food Truck:** see “Mobile Food Unit”.

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

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

**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.

**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, 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".

**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.

**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.

**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.

**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.

**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.

**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.

**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".

**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.

**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.

**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.

**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.

**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.

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

**Halfway House:** a facility operated under the authority of the Texas Department of Criminal Justice or the Federal Bureau of Prisons for persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to transition residents back into society, enabling them to live independently.

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

**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.*

**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 Thoroughfare Plan.

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

**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.

**Homeless Shelter:** a facility which provides temporary housing to indigent, needy, homeless, or transient persons. This use may also provide ancillary services such as counseling and limited meal service for residents.

**Hospital:** an institution licensed by the State of Texas providing medical, psychiatric, or surgical services for sick or injured persons, including convalescent services, primarily on an inpatient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees or visitors.

**Hotel or Motel:** an establishment (a) defined by Texas Tax Code Section 156.001, as may be amended; or, (b) 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 and subject to other City ordinances, rules, or regulations.

**Industrialized Home:** See “Modular Home”.

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

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

**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.

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

**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.

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

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

**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.

**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.

**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 other City ordinances, rules, or regulations.

**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.

**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.

**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 Thoroughfare Plan.

**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 Planning and Zoning Commission.

**Lot Area:** the total horizontal area within the lot lines of a lot.

**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.

**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.

**Lot Line, Front:** the lot line:

- (1) adjacent to a dedicated street right-of-way, if the lot is an interior lot; or
- (2) separating the narrowest street frontage of the lot from the street, if the lot is a corner lot.

**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 is the lot line most in line with the rear lot lines of adjacent lots.

**Lot Line, Side:** any lot line not a front lot line or a rear lot line. Where a three-sided lot exists, the two interior lot lines are both side lot lines.

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

**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.

**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.

**Mailing Service:** A privately-owned business that specializes in the handling of physical mail, including the shipping of packages from households or small businesses, faxing and copying services, the sale of shipping and mailing supplies and stationery, and which may offer notary services, document shredding, and postal boxes for rent to customers.

**Main Building:** the building on a lot which is occupied by the principal use.

**Manufactured Home or Manufactured Housing:** a “HUD-code manufactured home” as defined in the Texas Manufactured Housing Standards Act, as amended (Chapter 1201, Texas Occupations Code) 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.

**Manufactured Housing Sales:** property used for the retail sale and display of manufactured housing or modular homes.

**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.

**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.

**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”.

**Minor Emergency/Urgent Care/Outpatient Medical Clinic:** a facility staffed by at least one attending physician for the examination, diagnosis, and 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.

**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.

**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.

**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 MFU shall retain its mobility at all times; it does not include a stand or a booth. A roadside food vendor is classified as a MFU. An MFU is subject to other City ordinances, rules, or regulations.

**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

**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.

**Motel:** See “Hotel or Motel”.

**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.

**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.

**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.

**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.

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

**Nursing Home:** a facility licensed and regulated by the Texas Department of Aging and Disability Services pursuant to Chapter 242, Texas Health and Safety Code, as it may subsequently be amended, that provides meals, resident care and services for persons who are typically admitted for periods of time in excess of 30 days. Such services include custodial and attendant care, routine and regular medical and nursing services. The term "nursing home" includes care homes, homes for the aged, convalescent homes, rest homes, and other related facilities not otherwise defined in this section, where such persons are mostly incapable of self-preservation due to age, or physical or mental disability. This term excludes facilities that provide surgical or emergency medical service or that provide care for alcoholism, mental disease, drug additional or communicable disease.

**Occupancy:** The purpose for which a building is used or intended to be used.

**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.

**Office, General (Business or Professional):** A use providing professional or consulting services in various fields including 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. Such office does not include or involve the manufacture, fabrication, production, processing, assembly, cleaning, testing, or storage for sale of materials, goods, or products.

**Office, Medical:** A use providing professional or consulting services in various medical/healthcare fields, including 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. Such office does not include or involve the manufacture, fabrication, production, processing, assembly, cleaning, testing, or storage for sale of materials, goods, or products.

**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.

**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 Zoning Code, the storage of inventory at an automobile, boat, recreational vehicle, motorcycle, or similar dealership is excluded from this definition.

**Overlay District Design Guidelines:** a set of recommendations created for application in a defined geographical area, 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.

**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.*

**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 principal use they serve. *See Appendix, Figure 5.*

**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 principal use they serve. *See Appendix, Figure 5.*

**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 other City ordinances, rules, or regulations.

**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.

**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.

**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.

**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.

**Planning and Zoning Commission:** the City Planning and Zoning Commission, also referred to herein as the "Commission".

**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, and which is regulated under the Subdivision Regulations of the City, as amended.

**Porch:** a covered entrance to a building.

**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.

**Preferred Plant List:** a list of native, drought-resistant plants developed and adopted by City from time to time.

**Principal Building:** See “Main Building”.

**Principal Use:** the primary or predominant use of any land or building.

**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.

**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.

**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.

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

**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.

**Recreational Vehicle Dealership:** a business primarily engaged in selling or leasing of recreational vehicles as defined herein.

**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 Residential Mix District (RM).

**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.

**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.

**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.

**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.

**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.

**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".

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

**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.

**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.

**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.

**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.

**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.

**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.

**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.

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

**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.

**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.

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

**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.*

**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.*

**Sexually Oriented Business:** uses and activities as defined and regulated in accordance with other City ordinances, rules, or regulations, including adult entertainment such as 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.

**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.

**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.

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

**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.

**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.

**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.

**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.

**Special Care Facility:** an establishment (a) for which the owner has obtained a license from the state under the Texas Special Care Facility Licensing Act, Chapter 248, Texas Health and Safety Code, as it may be subsequently amended, and (b) provides a continuum of nursing or medical services, or services to persons with acquired immune deficiency syndrome or other terminal illness, which may provide boarding, lodging, or hospice service. This term does not include facilities that provide care for persons mostly incapable of self-preservation due to age, physical or mental ability.

**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.

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

**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.

**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.

**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.

**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.

**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.

**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.

**Tattoo or Permanent Cosmetics Shop, Body Piercing:** a retail establishment specializing in the sale or application of tattoos, body art, permanent cosmetics, piercings, or other aesthetic items intended for indefinite display on one's body.

**Taxidermy Shop:** a business specializing in the art of preparing, stuffing, or mounting the skins of animals, that does not conduct the evisceration and processing of animal carcasses on-site.

**Toy, Gift, Hobby, and Novelty Shop:** a business that specializes in sale, rental, or procurement of toys, gift, hobby, and novelty related items and may include a small area for the sale of food and beverage items as an accessory use.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**Wall, Exterior:** the exposed or outermost wall of a structure.

**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.

**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.

**Wholesaling:** a business that buys and stores goods in bulk and sells to resellers rather than to end users.

**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 other City ordinances, rules, or regulations.

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

**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) as regulated in accordance with other City ordinances, rules, or regulations.

**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.

**Zoning Board of Adjustment:** the City Zoning Board of Adjustment also referred to herein as the “Board of Adjustment” or the “Board”.

## ARTICLE IV. PLANNING AND ZONING COMMISSION

**Sec. 60-20. Creation.**

City Council shall provide for the creation, continuation, and appointments to the City of Kerrville Planning and Zoning Commission (“Commission”).

**Sec. 60-21. Membership and Appointment.**

(a) **Members.** The Commission shall be composed of seven (7) members. At least five (5) members shall be residents and a qualified voter of the City of Kerrville, Texas; two (2) members may reside in the City’s extraterritorial jurisdiction (ETJ) and shall be a qualified voter of Kerr County. Commission members are appointed by a majority vote of City Council.

(b) **Term of Appointment.** Commission members serve two (2) year terms, such terms to begin and end on January 1. The terms of three (3) of the members appointed expire in odd-numbered years. The terms of the remaining four (4) members expire in even-numbered years. City Council may appoint members to the Commission for terms of lesser duration than two (2) years when making the initial appointment or when otherwise necessary to comply with the provisions of this article, such as to fill a vacancy.

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

(d) **Attendance, Vacancies, Removal from Commission.** The *Procedural Rules for Kerrville City Boards*, as may be amended, applies as to the attendance of Commissioners at meetings, the filling of vacancies on the Commission, removal from the Commission prior to the end of a term, and similar matters. A Commission member has no vested right or property interest in his/her membership and City Council may remove at any time any member from the Commission by majority vote.

**Sec. 60-22. Organization and Rules.**

(a) **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 Commission shall be open to the public.

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

(c) **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.

(d) **Authority of Chair and Vice Chair.** It shall be the duty of the chair or in the absence of the chair, the vice chair, to preside at all meetings of the Commission.

(e) **Open Meetings Act.** The 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.

(f) **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 views in public meetings. Thus, all decisions made by the Commission shall be based upon information contained in the official public record and 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:

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

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

**(g) Meeting Records.** The secretary shall keep a record of all proceedings of the 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 and other official actions, all of which shall be filed in the office of the City Secretary and shall be a public record.

**Sec. 60-23. Duties and Powers.**

**(a) Comprehensive Plan.** The Commission shall recommend to 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.

**(b) Zoning Ordinance.** The Commission shall:

- (1) Formulate a zoning ordinance as may be deemed best to carry out the goals of the Comprehensive Plan;
- (2) Hold public hearings; and
- (3) Make recommendations to City Council relating to the creation, amendment, and implementation of zoning regulations and districts as provided by state law.

**(c) Review of Subdivision 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.

**(d) 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.

**(e) Variances.** Upon application, the Commission shall consider and take appropriate action on variances to the City's subdivision regulations and any other ordinances as prescribed by 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, Texas Local Government Code, as amended.

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

## **ARTICLE V. BOARD OF ADJUSTMENT**

### **Sec. 60-25. Creation.**

City Council shall provide for the creation, continuation, and appointments to the City of Kerrville Zoning Board of Adjustment (“Board”).

### **Sec. 60-26. Membership and Appointment.**

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

**(b) Alternate Members.** In addition to the five (5) regular members, City Council shall appoint two (2) alternate members to the Board of Adjustment who shall be a qualified voter of the City of Kerrville, Texas. Alternate members will serve in place of an absent member when requested to do so by the Board chair so that all cases before the Board are considered 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 chair to do so in place of an absent regular member. All applicable parts of this article apply to an alternate member.

**(c) Term of Appointment.** Board members serve two (2) year terms, such terms to begin and end on October 1. The terms of two (2) of regular members appointed expire in odd-numbered years. The terms of the remaining three (3) members 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. City Council may appoint members to the Board for terms of lesser duration than two (2) years when making the initial appointment or when otherwise necessary to comply with the provisions of this article, such as to fill a vacancy.

(d) **Term Limits.** No member may serve more than three (3) consecutive full terms on the Board without having at least one (1) full year off the Board between terms.

(e) **Attendance, Vacancies, Removal from Commission.** The *Procedural Rules for Kerrville City Boards*, as may be amended, applies as to the attendance of Board members at meetings, the filling of vacancies on the Board, removal from the Board prior to the end of a term, and similar matters. A Board member has no vested right or property interest in his/her membership and City Council may remove at any time any member from the Board by majority vote.

**Sec. 60-27. Organization and Rules.**

(a) **Meetings.** The Board of Adjustment shall hold its meetings when necessary based upon business to be brought before the Board through an application or otherwise. The Board 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 rules adopted or amended must be approved by City Council. All Board meetings shall be open to the public.

(b) **Quorum.** Seventy-five percent (75%), or four (4) members of the Board shall be present to hear each case, pursuant to Section 211.008, Texas Local Government Code.

(c) **Officers.** The Board shall elect a chair and vice-chair from among its regular members at its first meeting of each new year held after October 1. Each officer shall serve a term of one year ending on September 30 after each election and may not serve more than two consecutive, one-year terms in such positions. The Board secretary shall be an employee appointed by the City.

(d) **Authority of Chair and Vice Chair.** It shall be the duty of the chair, or in the absence of the chair, the vice chair, to preside at all meetings of the Board.

(e) **Open Meetings Act.** The Board 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 Board or over which the Board has authority in an attempt to evade the

Open Meetings Act. Such prohibited conduct shall also be applied to email or telephonic conversations.

**(f) 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 views in public meetings. Thus, all decisions made by the Board shall be based upon information contained in the official public record and 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. 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:

- (1) Not engage in such communications involving unsolicited inquiries or other forms of communication, personally or through electronic means; and
- (2) Advise the person or sender that such information should be presented at a Commission meeting.

**(g) Meeting Records.** The secretary shall keep a record of all proceedings of the 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 and other official actions, all of which shall be filed in the office of the City Secretary and shall be a public record.

#### **Sec. 60-28. Duties and Powers.**

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:

- (1) **Appeal from Administrative Official.** Pursuant to Section 60-30, 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 the Zoning Code or Chapter 211, Texas Local Government Code, including without limitation appeals from the

decision of the official regarding non-conforming matters pursuant to this Zoning Code; and

**(2) Variances.** Pursuant to Section 60-31, the Board of Adjustment may consider granting, upon written application, variances to the terms of the Zoning Code, 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 Code would result in unnecessary hardship that is neither financial nor self-imposed, and so that the spirit of the Code will be observed and substantial justice done.

## **ARTICLE VI. APPEAL FROM ADMINISTRATIVE DECISIONS; VARIANCES**

### **Sec. 60-30. Appeals from 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 the Zoning Code or Chapter 211, Texas Local Government Code, shall 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 the Zoning Code or Chapter 211, Texas Local Government Code:

- a. If the appeal concerns an administrative decision that is not related to a specific application:
  1. person aggrieved by the decision; or
  2. Any officer, department, or board of the City affected by the decision.
- b. If the appeal concerns an administrative decision related to a specific application, address or project:
  1. The owner to the owner's representative of the property that is the subject of the decision;

2. The applicant whose specific application is the subject of the decision;
3. A person aggrieved by the decision who is the owner of property within 200 feet of the property that is the subject of the decision; or
4. Any officer, department, or board of the City affected by the decision.

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

- a. A citation to the specific statute(s) and/or ordinance(s) which is(are) the subject of the appeal;
- b. 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;
- c. A summary of the decision(s) made by the City administrative official which is the basis for the appeal;
- d. If the administrative official's decision was made in writing, a copy of the document in which the decision is stated;
- e. The specific grounds upon which the appeal is based;
- f. A description of the property affected by the administrative official's decision sufficient to identify the location and the boundaries of the property;
- g. The reason the person filing the appeal should be considered a person aggrieved by the decision;
- h. When the appeal involves the development of a specific tract of land, a copy of a site plan as requested by the Director, drawn to scale showing existing and proposed development of the property in question; and
- i. The signature of the person filing the appeal.

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

- a. Is filed not later than 10 days after the date on which the decision of the City administrative official was communicated to the appellant with:
  1. The secretary of the Board of Adjustment; and
  2. The administrative officer who rendered the decision which is the subject of the appeal; and
- b. Is accompanied by the filing fee established by City Council; and
- c. Contains all the information set forth in Subsection (2), above.

(4) **Preparation of Record.** Upon receiving the notice of appeal, the Director shall 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 shall stay all proceedings in furtherance of the action appealed from until after the decision of the Board of Adjustment has been rendered unless the official from whom the appeal is taken certifies in writing to the Board 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 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 20 days after the filing and perfection of the notice of appeal; provided, however, the hearing shall not take place earlier than 10 days after notice of the time and place of the public hearing has been:

- a. Published in the City's official newspaper; and
- b. Sent to the appellant and the all property owners 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:

- a. Reverse or affirm, in whole or in part; or
- b. Modify the City administrative official's order, requirement, decision, or determination from which the appeal was taken; and/or
- c. 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.

### **Sec. 60-31. Variances.**

The Board of Adjustment may grant a variance to the Zoning Code in accordance with the following procedures:

(1) **Application.** A complete application for a variance must be made in writing on forms provided by the Director and filed with the secretary of the Board of Adjustment. A complete 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:

- a. All fees established by the City Council for such matters;
- b. A description of the property to which the variance would apply sufficient to identify the location and the boundaries of the property;
- c. The reason the person is requesting the variance;
- d. The signature, acknowledged by a notary public of:
  1. The owner of the property; and

2. If different than the owner, the signature of the person requesting the variance; and
- e. When the variance relates to the development of a specific tract of land, a copy of a site plan as requested by the Director, 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 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 complete application with the secretary of the Board and in no case earlier than 10 days after notice of the time and place of the public hearing has been:

- a. Published in the City's official newspaper; and
- b. Sent to the applicant and all property owners 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:

- a. 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;
- b. 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;
- c. 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;

- d. That the granting of such variance will not be contrary to the objectives and principles contained in the Comprehensive Plan, as amended;
- e. That the variance to be granted is the minimum variance that will relieve the proven hardship;
- f. That the variance is not being granted to relieve the applicant of conditions or circumstances:
  - 1. Which are not inherent in the property itself, but are the result of the use or development of the property;
  - 2. 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
  - 3. Which were otherwise self-imposed by the present or a previous owner;
- g. 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;
- h. That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit (“CUP”) or an ordinance or resolution adopting a Concept Plan or establishing a Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Zoning Code;
- i. 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 for such as set forth herein;
- j. That the variance does not change the permitted, conditional, or prohibited uses in the zoning district in which the property is located.

(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 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:

- a. Grant the variance as requested, limited to the specifics of the application;
- b. Grant a variance modified in accordance with the findings of the Board; or
- c. 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 10 days from the date of filing its decision with the City unless the Board specifically establishes a different effective date. The effective date of a variance may be based on the satisfaction of a condition.

**Sec. 60-32. Filing of Decisions.**

Not later than 5 days 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 shall file the decision with the Director.

**Sec. 60-33. Appeals of Board of Adjustment Decisions.**

An appeal of a decision of the Board of Adjustment may be presented to an appropriate court in accordance with Section 211.010, Texas Local Government Code.

**ARTICLE VII. ZONING DISTRICTS GENERALLY;**

## OFFICIAL ZONING MAP

### **Sec. 60-35. District Regulations.**

All property within the City shall meet and conform to the requirements of such districts as may from time to time be adopted by City Council and as then 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.

### **Sec. 60-36. Zoning Districts.**

The City is divided into the following zoning districts, which shall specify the use, height, area regulations, and other requirements.

#### **(1) Residential Districts:**

- a. Residential Estate (**RE**)
- b. Single-Family Residential (**R-1**)
- c. Single-Family Residential with Accessory Dwelling Unit (**R-1A**)
- c. Medium Density Residential (**R-2**)
- d. Multifamily Residential (**R-3**)
- e. Residential Mix (**RM**)
- f. Residential Transition (**RT**)

#### **(2) Nonresidential Districts:**

- a. Neighborhood Commercial (**C-1**)
- b. Light Commercial (**C-2**)
- c. General Commercial (**C-3**)
- c. Industrial and Manufacturing (**IM**)

#### **(3) Special Districts:**

- a. Downtown Arts and Culture (**DAC**)
- b. Mixed Use (**MU**)

- c. Planned Development (**PD**)
- d. Public and Institutional (**PI**)
- e. Airport (**AD**)
- f. Agriculture (**AG**)

**Sec. 60-37. Zoning of Newly Annexed Areas.**

(a) If a request for annexation does not include a request for zoning, all property newly annexed to the City and any property not permanently zoned upon the date of adoption shall be temporarily classified as an AG district until such time as permanent zoning is established.

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

(c) 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 as an AG district without benefit of a building permit or certificate of occupancy issued by the Department and such permit shall be issued for buildings and uses which comply with the regulations of an AG district until permanent zoning is established.

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

**Sec. 60-38. Official Zoning Map.**

The boundaries of the various zoning districts of the City shall be as shown on the *Official Zoning Map* in accordance with the following:

- (1) The “*official zoning map*” shall be maintained as part of the City’s 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 the 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 City Council. It is 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 Code 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 Department of Development Services shall be the final authority as to the current zoning status of land within the City.

**Sec. 60-39. Determination of Zoning District Boundaries.**

The following rules shall apply in determining the location of zoning district boundaries on the *Official Zoning Map*:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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 Zoning Map* cannot be determined or verified in view

of actual, on-the-ground improvements, the Director shall interpret the location of the district boundary;

- (5) 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;
- (6) 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 the Real Property Records, then the boundary shall be construed to be following said property line; and
- (7) 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 Commission; or
  - b. Request a change in zoning to establish the boundary in question.

**Sec. 60-40. New and Unlisted Uses.**

The Director shall make a determination if a specific land use is listed as a permitted or conditional use in a specific zoning district. Further, 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 such district. In the event the Director determines that the requested use is not otherwise listed or defined in this Zoning Code, the owner or developer may request, in consultation with the Director 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.

**Sec. 60-41. Use of Property Located in One Zoning District to Benefit Another.**

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:**

- a. The property being used for said parking is also zoned to permit the use for which such parking is desired;
- b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the off-site parking; or,
- c. A Conditional Use Permit is secured for the off-site parking in accordance with this Zoning Code.

**(2) Mutual Access:**

- a. The property being used for said access is also zoned to permit the use for which such access is desired;
- b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the mutual access; or,
- c. A Conditional Use Permit is secured for the mutual access in accordance with this Zoning Code.

**Sec. 60-42. Special Regulations Regarding Lot Width, Area, and Setbacks.**

**(1) Alignment with Adjacent Buildings:** The setback of a building may be decreased to less than the minimum setback as follows:

(a) 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');

(b) The side setback of a lot to be developed with a building for nonresidential 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 pursuant to the variance authority specified in Section 60-28, as an element of an approved landscape plan and/or 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 than that required by the City building code 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 Zoning Code; 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, shall comply the requirements of this Code.

(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 Zoning Code.

(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 this Zoning Code. Setbacks or lots created on or after date of adoption, shall meet at least the minimum requirements established by this Code.

## ARTICLE VIII. ZONING DISTRICTS

### Sec. 60-50. Residential Zoning Districts.

(a) **Residential Estate District (RE).** Property located in a(n) Residential Estate Zoning District shall be developed in accordance with this Zoning Code, including the following regulations:

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

(2) **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 within an RE district.

(3) **Building Regulations:** No more than one main building may be constructed on a lot within the RE district. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure as defined herein.

(4) **Area and Height Regulations:** No building shall be constructed in the RE district except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT
	SINGLE-FAMILY DWELLING
<b>Minimum Lot Size</b>	1 acre
<b>Minimum Lot Width</b>	50 feet
<b>Minimum Front Setback</b>	25 feet
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> <li>• Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</li> </ul> </li> </ul>
<b>Maximum Building Height</b>	35 feet
<b>Minimum Parking</b>	2 spaces per dwelling unit

**(5) 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.

**(6) Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

- a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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, with a floor area 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 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.

**(b) Single-Family Residential District (R-1).** Property located in a(n) Single-Family Residential District shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The purpose of the R-1 district is to: (a) encourage the development of primarily single-family detached homes; and, (2) 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.
- (2) **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 within an R-1 district.

**(3) Building Regulations:** No more than one main building may be constructed on a lot in an R-1 district. Exceptions include a detached garage, servant or guest quarters, or lawful accessory structure as defined herein.

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

CHARACTERISTIC	REQUIREMENT
<b>SINGLE-FAMILY DWELLING</b>	
<b>Minimum Lot Size</b>	5,000 square feet
<b>Minimum Lot Width</b>	50 feet
<b>Minimum Front Setback</b>	25 feet
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> <li>• Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</li> </ul>
<b>Maximum Building Height</b>	35 feet
<b>Minimum Parking</b>	2 spaces per dwelling unit

**(5) 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.

**(6) Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

- a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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, with a floor area 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 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.

**(c) Single-Family Residential District with Accessory Dwelling Unit (R-1A):** Property located in a(n) Single-Family Residential District with Accessory

Dwelling Unit shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The R-1A district 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: (a) encourage the continuation of residential uses in older neighborhoods near the downtown area; (b) 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; (c) increase the supply of housing, possibly at more affordable rental rates, and situated in a traditional neighborhood environment; and (d) increase the number of residents, and thus the potential customer base, close to the downtown area.
- (2) **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.
- (3) **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.
- (4) **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
<b>Minimum Lot Size</b>	5,000 square feet
<b>Minimum Lot Width</b>	50 feet
<b>Minimum Front Setback</b>	25 feet

<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>	
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> <li>• Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</li> </ul>	
<b>Maximum Building Height</b>	35 feet	
<b>Minimum Parking</b>	2 spaces per dwelling unit	
<b>ADDITIONAL REQUIREMENTS FOR SINGLE-FAMILY DWELLING WITH ACCESSORY DWELLING UNIT</b>		
	<b>ACCESSORY DWELLING UNIT WITHIN MAIN BUILDING</b>	<b>ACCESSORY DWELLING UNIT IN A DETACHED STRUCTURE</b>
<b>Maximum Building Height</b>	35 feet for main building including accessory dwelling unit	35 feet for detached structure containing accessory dwelling unit
<b>Maximum Area of Accessory Dwelling Unit</b>	One-half of the total floor area of the dwelling unit, excluding the area occupied by the accessory dwelling unit; floor area of the house excludes the area of any attached garage	<ul style="list-style-type: none"> <li>• One-half of the total floor area of the main dwelling unit, excluding the area occupied by the accessory dwelling unit; floor area of the house excludes the area of any attached garage; and</li> <li>• 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</li> </ul>

<b>Minimum Parking for Dwelling with Accessory Unit</b>	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)
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**(5) 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.

**(6) Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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, with a floor area 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) 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.

(d) **Medium Density Residential District (R-2):** Property located in a(n) R-2 district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The R-2 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: (a) as stand-alone housing types; or, (b) 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 district, homes may also be arranged into clusters to create unique neighborhoods, when (a) the topography does not reasonably allow development of the entire tract; or, (b) preservation of important open space, views, critical environmental features, (including significant trees, or recreational areas, is desired.
- (2) **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.
- (3) **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.
- (4) **Area and Height Regulations:** No building shall be constructed in the R-2 district except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT	
	DUPLEX	TOWNHOME

CHARACTERISTIC	REQUIREMENT	
Minimum Lot Size	6,000 square feet	3,000 square feet
Minimum Lot Width	60 feet	25 feet
Minimum Front Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot: <ul style="list-style-type: none"> <li>• 15 feet on the unattached side</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Interior lot: <ul style="list-style-type: none"> <li>• 0 feet</li> <li>• 10 foot separation between townhome buildings</li> </ul> </li> <li>• Corner lot: <ul style="list-style-type: none"> <li>• 0 feet on any attached side</li> <li>• 15 feet on any unattached side</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>
Minimum Rear Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>
Maximum Building Height	35 feet	<ul style="list-style-type: none"> <li>• 35 feet</li> <li>• 45 feet when 100 feet or more from: <ul style="list-style-type: none"> <li>• R-E, R-1, or R-1A zoning</li> <li>• RM zoning if developed for other than manufactured housing;</li> </ul> </li> <li>• Land zoned MU or PD for single-family, patio home, or duplex uses</li> </ul>
Minimum Parking	2 spaces per dwelling unit	<ul style="list-style-type: none"> <li>• 2.25 spaces per dwelling unit <ul style="list-style-type: none"> <li>• 2 spaces for each dwelling unit</li> <li>• 0.25 spaces per dwelling unit for guest</li> </ul> </li> </ul>

CHARACTERISTIC	REQUIREMENT	
	parking, to be provided in groupings distributed throughout the development	
Alley	N/A	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way
	<b>SMALL-LOT SINGLE-FAMILY DWELLING</b>	<b>PATIO HOME</b>
Minimum Lot Size	3,300 square feet	4,000 square feet
Minimum Lot Width	30 feet	40 feet
Minimum Front Setback	10 feet build-to line	<ul style="list-style-type: none"> <li>15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>Interior lot: 5 feet</li> <li>Corner lot, street side: <ul style="list-style-type: none"> <li>15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Mandatory 0 feet on one side</li> <li>10 feet on the remaining side</li> <li>Corner lot, street side: <ul style="list-style-type: none"> <li>15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul> </li> </ul>
Minimum Rear Setback	19 feet to a garage door or carport eave	<ul style="list-style-type: none"> <li>15 feet</li> <li>For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>19 feet to a garage door or carport eave; or</li> <li>5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> </ul> <p>Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</p>
Maximum Building Height	35 feet	35 feet

CHARACTERISTIC	REQUIREMENT	
Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
Alley	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way
<b>ADDITIONAL REQUIREMENTS FOR PATIO HOMES AND SMALL-LOT SINGLE-FAMILY DWELLINGS</b>		
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	<ul style="list-style-type: none"> <li>• 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</li> <li>• A roof eave may extend 16 inches (16.0") into the easement</li> <li>• 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</li> </ul>	
Structures in Required Side Setback	Structures shall be prohibited in the required 10-foot side setback	
<b>SINGLE-FAMILY DWELLING</b>		
Minimum Lot Size	4,500 square feet	
Minimum Lot Width	45 feet	
Minimum Front Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>	

CHARACTERISTIC	REQUIREMENT
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>
Minimum Rear Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> </ul> <p>Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</p>
Maximum Building Height	35 feet
Minimum Parking Alley	2 spaces per dwelling unit N/A

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

**(5) 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.

**(6) Rear or Alley Access Required for Certain Lots:** For a lot with a width of less than 45 feet (45.0'), rear or alley driveway access shall be required in order to maintain sufficient area for viable on-street parking.

**(7) Consistent Block Face:**

- In the R-2 district, no more than one type of housing shall be developed on the same street between intersecting streets on the same block.
- Notwithstanding paragraph (a), above, no more than one type of housing may be developed on loop streets or cul-de-sacs.

**(8) Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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, with a floor area 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 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. Accessory buildings shall be prohibited on lots containing small-lot single-family dwellings, patio homes, or townhomes.

(e) **Multifamily Residential District (R-3):** Property located in a(n) R-3 district shall be developed in accordance with this Zoning Code, including the following regulations:

(1) **Purpose:** The R-3 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 arterial or collector street. Development in the R-3 district may provide a suitable transition between lower density residential uses and higher-intensity commercial areas.

(2) **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.

(3) **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.

(4) **Area and Height Regulations:** No building shall be constructed in the R-3 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:

- RE, R-1, R-1A, or R-2 zoning;
- RM zoning if developed for other than manufactured housing; or
- Land zoned MU or PD for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
<b>APARTMENTS OR CONDOMINIUMS WITH THREE OR MORE UNITS</b>	
<b>Minimum Lot Area Per Dwelling Unit</b>	<ul style="list-style-type: none"> <li>• 1,600 square feet for each one-bedroom unit</li> <li>• 1,800 square feet for each two-bedroom unit</li> <li>• 2,000 square feet for each unit with three or more bedrooms</li> </ul>
<b>Minimum Lot Width</b>	N/A

CHARACTERISTIC	REQUIREMENT
<b>Minimum Front Setback</b>	25 feet
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 10 feet</li> <li>• Corner lot, street side: 15 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley:           <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> <li>• Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• No limit except adjacent to a residential district as described in subsection (e)(4) above, as follows:           <ul style="list-style-type: none"> <li>• Two stories of up to 35 feet when 25 to 50 feet from a residential property line</li> <li>• Three stories of up to 45 feet when more than 50 feet but less than 100 feet from a residential property line</li> <li>• 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</li> </ul> </li> </ul>
<b>Minimum Parking</b>	<ul style="list-style-type: none"> <li>• 1.5 spaces for each 1-bedroom unit</li> <li>• 2.0 spaces for each 2-bedroom unit</li> <li>• 2.5 spaces for each unit with 3 or more bedrooms</li> </ul>

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

(5) **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.

(6) **Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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 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, including, but not limited to, a detached carport or garage, with a floor area 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 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.

**(8) Development Regulations for Accessory Uses:** Accessory uses such as a clubhouse, laundry room, leasing office, or similar, when located on property zoned R-3 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.

(9) **Screening:** Where property zoned R-3 is adjacent to a residential zoning district as described in subsection (e)(4) 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 property and the less intense residential use.

(f) **Residential Mix District (RM):** Property located in a(n) RM district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The RM district broadens the range of available housing types by allowing all uses permitted in an R-2 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 Zoning Code, such as limitations on recreational vehicle storage and requirements for a roadway system, open space, buffering/screening, and skirting.
- (2) **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 RM district.
- (3) **Building Regulations:** No more than one main building may be located on a lot in the RM 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.

**(4) Area and Height Regulations:** No building shall be constructed in the RM district except in conformance with the following requirements. “Residential Zoning District”, as referenced in the regulations below, has the following meaning and shall apply whether the residential property is developed or vacant:

- a. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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	<ul style="list-style-type: none"> <li>• 15 feet if placed perpendicular to the road</li> <li>• 20 feet if placed parallel to the road</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> <li>• Adjacent to a residential zoning district as described in paragraph (4)</li> </ul>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> <li>• Adjacent to a residential zoning district as described in paragraph (4)</li> </ul>

CHARACTERISTIC	REQUIREMENT	
	above: 50 feet with a landscape buffer	(4) above: 50 feet with a landscape buffer
Minimum Rear Setback	<ul style="list-style-type: none"> <li>10 feet if placed perpendicular to the road</li> <li>20 feet if placed parallel to the road</li> <li>Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer</li> </ul>	<ul style="list-style-type: none"> <li>10 feet if placed perpendicular to the road</li> <li>20 feet if placed parallel to the road</li> <li>Adjacent to a residential zoning district as described in paragraph (4) above: 50 feet with a landscape buffer</li> </ul>
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 Recreational Vehicles	10% of total area of the development	N/A
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	<ul style="list-style-type: none"> <li>15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>	<ul style="list-style-type: none"> <li>15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>Interior lot: 5 feet</li> <li>Corner lot: <ul style="list-style-type: none"> <li>15 feet on the unattached side</li> <li>19 feet to a garage door or carport eave</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Interior lot: <ul style="list-style-type: none"> <li>0 feet</li> <li>10 foot separation between townhome buildings</li> </ul> </li> <li>Corner lot: <ul style="list-style-type: none"> <li>0 feet on any attached side</li> </ul> </li> </ul>

CHARACTERISTIC	REQUIREMENT	
	<ul style="list-style-type: none"> <li>• 15 feet on any unattached side</li> <li>• 19 feet to a garage door or carport eave</li> </ul>	
Minimum Rear Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul>	
Maximum Building Height	<p style="text-align: center;">35 feet</p> <ul style="list-style-type: none"> <li>• 35 feet</li> <li>• 45 feet when 100 feet or more from:           <ul style="list-style-type: none"> <li>• R-E, R-1, R-1A, or R-2 zoning</li> <li>• RM zoning if developed for other than manufactured housing;</li> <li>• Land zoned MU or PD for single-family, patio home, or duplex uses</li> </ul> </li> </ul>	
Minimum Parking	<p style="text-align: center;">2 spaces per dwelling unit</p> <ul style="list-style-type: none"> <li>• 2.25 spaces per dwelling unit           <ul style="list-style-type: none"> <li>• 2 spaces for each dwelling unit</li> <li>• .25 spaces per dwelling unit for guest parking, to be provided in groupings distributed throughout the development</li> </ul> </li> </ul>	
Alley	N/A	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way
	<b>SMALL-LOT SINGLE-FAMILY DWELLING</b>	<b>PATIO HOME</b>
Minimum Lot Size	3,300 square feet	4,000 square feet

CHARACTERISTIC	REQUIREMENT	
Minimum Lot Width	30 feet	40 feet
Minimum Front Setback	10 feet build-to line	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory 0 feet on one side</li> <li>• 10 feet on the remaining side</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> </ul> </li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Rear Setback	19 feet to a garage door or carport eave	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 6 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> </ul> <p>Setback may be measured from the centerline of an adjacent alley, but in no instance may be less than 5 feet from the alley</p>
Maximum Building Height	35 feet	35 feet
Minimum Parking	2 spaces per dwelling unit	2 spaces per dwelling unit
Alley	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way	Access to any lot less than 45 feet in width shall be from a paved alley or right-of-way
<b>ADDITIONAL REQUIREMENTS FOR PATIO HOMES AND SMALL-LOT SINGLE-FAMILY DWELLINGS</b>		
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	

CHARACTERISTIC	REQUIREMENT
	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	<ul style="list-style-type: none"> <li>• 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</li> <li>• A roof eave may extend 16 inches (16.0") into the easement</li> <li>• 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</li> </ul>
Structures in Required Side Setback	Structures shall be prohibited in the required 10-foot side setback
<b>SINGLE-FAMILY DWELLING</b>	
Minimum Lot Size	4,500 square feet
Minimum Lot Width	45 feet
Minimum Front Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Side Setback	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> </ul> </li> <li>19 feet to a garage door or carport eave</li> </ul>
Minimum Rear Setback	<ul style="list-style-type: none"> <li>• 15 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 6 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> </ul> <p>Setback may be measured from the alley centerline</p>

CHARACTERISTIC	REQUIREMENT
Maximum Building Height	35 feet
Minimum Parking	2 spaces per dwelling unit
Alley	N/A

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

(5) **Access to Arterial or Collector Street Prohibited for Some Uses:** No property in the RM district which is developed for uses other than a Manufactured Housing Rental Community (MHRC) or a Manufactured Housing Subdivision (MHS) shall be platted with direct access to a collector or arterial street, except where limited access is permitted by the Subdivision Code.

(6) **Rear or Alley Access Required for Certain Lots:** For a lot with a width of less than 45 feet (45.0'), rear or alley driveway access shall be required in order to maintain sufficient area for viable on-street parking.

(7) **Consistent Block Face:** A Site Plan for property zoned RM shall 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.

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

- 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.
- Application to Upper Floors:** The upper floors of a multi-story building shall 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.

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

- a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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, with a floor area 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 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. Accessory buildings shall be prohibited on lots containing small-lot single-family dwellings, patio homes, or townhomes.

(g) **Residential Transition District (RT):** Property located in a(n) RT district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The RT district is designed to be a transition zone between single-family residential areas and commercial properties in certain areas of the City. Because of development regulations requiring the appearance of a business located in an RT 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.
- (2) **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 RT district.

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

(4) **Area and Height Regulations:** No building shall be constructed in the RT district except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT	
	SINGLE-FAMILY DWELLING	NONRESIDENTIAL USE
<b>Minimum Lot Size</b>	5,000 square feet	6,000 square feet
<b>Minimum Lot Width</b>	50 feet	60 feet
<b>Minimum Front Setback</b>	25 feet	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• Front yard to remain unpaved except for a driveway; parking in the front yard prohibited</li> </ul>
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, side street: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, side street: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door or carport eave</li> </ul> </li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> <li>• Setback may be measured from the centerline of an</li> </ul>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a garage or carport adjacent to an alley: <ul style="list-style-type: none"> <li>• 19 feet to a garage door or carport eave; or</li> <li>• 5 feet if the garage or carport is built for two or more motor vehicles</li> </ul> </li> <li>• Setback may be measured from the centerline of an</li> </ul>

	adjacent alley, but in no instance may be less than 5 feet from the alley	adjacent alley, but in no instance may be less than 5 feet from the alley
<b>Maximum Building Height</b>	35 feet	35 feet
<b>Minimum Parking</b>	2 spaces per dwelling unit	Varies by use; see Section 60-101

### **ADDITIONAL REQUIREMENTS FOR NONRESIDENTIAL USES**

<b>Maximum Building Area</b>	3,000 square feet for nonresidential uses allowed herein except public and institutional uses
<b>Building Appearance</b>	<ul style="list-style-type: none"> <li>• Building designed to appear as a residence with:           <ul style="list-style-type: none"> <li>• Wood, rock, or brick exterior materials</li> <li>• Roof of materials and pitch similar to other residences in the adjoining neighborhood</li> <li>• Front door and window(s) required on the wall of any building facing the lot front or street</li> </ul> </li> </ul>
<b>Signage</b>	See sign regulations, Development Standards
<b>Location of Parking, Nonresidential Uses</b>	Parking to be located in the side or rear yard area

**(5) 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.

**(6) Exceptions to Required Setbacks:** All floors of all buildings at grade level and above shall 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 shall 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.

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

- a. No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere 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 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, with a floor area 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 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.

**Sec. 60-51. Nonresidential Zoning Districts.**

(a) **Neighborhood Commercial District (C-1):** Property located in a(n) C-1 district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** Land zoned as a C-1 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, are typically: (a) provided in an office setting; (b) sought on a frequent or recurring basis; and, (c) 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 arterials 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.

(2) **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.

(3) **Building and Area Regulations:** No building shall be constructed in the C-1 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. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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
<b>Minimum Lot Width</b>	N/A
<b>Maximum Building Size</b>	<ul style="list-style-type: none"> <li>• Individual building: 5,000 square feet</li> <li>• Total for all buildings on the lot: 10,000 square feet</li> </ul>
<b>Minimum Front Setback</b>	15 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see <b>Appendix, Figure 8</b>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (a)(3) above: 25 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 10 feet</li> </ul>

	<ul style="list-style-type: none"> <li>• Adjacent to a residential zoning district as defined in subsection (a)(3) above: 25 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• Two stories up to a maximum of 35 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 subsection (a)(3) above to prevent views from nonresidential to residential property</li> </ul>
<b>Minimum Parking</b>	Varies by use; see Article XII

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

**(4) Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(5) 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:
    - A. 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
    - B. The items being stored do not exceed four feet (4.0') in total height as stored or displayed, except as authorized in subsection c 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; and
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; or
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.

**(6) Screening Adjacent to Residential Zoning:**

- 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 subsection (a)(3) 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:
    - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or

B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.

7. **Alternate Screening Permitted:** An applicant may make application to the Planning and Zoning Commission to use alternate screening methods which may include 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 applicant. In the event of disapproval, the applicant may appeal to City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

(b) **Light Commercial District (C-2):** Property located in a(n) C-2 district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The C-2 district accommodates a wider array of retail, office, and service uses than property zoned C-2, 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 arterials to provide convenient access to patrons and to accommodate higher traffic volumes.

(2) **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.

(4) **Building and Area Regulations:** No building shall be constructed in a C-2 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. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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
<b>Minimum Lot Width</b>	N/A
<b>Maximum Building Size</b>	100,000 square feet of gross building area on the lot
<b>Minimum Front Setback</b>	25 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see <b>Appendix, Figure 8</b>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (b)(3) above: 25 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Adjacent to a residential zoning district as defined in subsection (b)(3) above: 25 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>

<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• No limit except adjacent to a residential zoning district as defined in subsection (b)(3) above, as follows:           <ul style="list-style-type: none"> <li>• Two stories of up to 35 feet when 25 feet to 100 feet from a residential property line;</li> <li>• 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</li> <li>• 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 subsection (b)(3) above to prevent views from nonresidential to residential property</li> </ul> </li> </ul>
<b>Minimum Parking</b>	Varies by use; see Article XII

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

(4) **Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(5) Outdoor Storage:**

- Outdoor storage shall be permitted in the C-2 district subject to the requirements herein.
- No materials, supplies, inventory, or and equipment may be kept or stored:
  - Within any required parking spaces, fire lanes, circulation aisles, or customer pick-up lanes;
  - 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; and
  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.

**(6) 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. district as described in subsection (b)(3) 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:

- A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
- B. Chain link or ornamental fencing, behind an irrigated landscape screen constructed of materials chosen from the *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.
  - A. In no case shall chain link fencing with metal slats be an acceptable method of screening, with or without a landscape screen.
  - B. A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the building code.

(7). **Alternate Screening Permitted:** A applicant may make application to the Planning and Zoning Commission to use alternate screening methods which may include 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 applicant. In the event of disapproval, the applicant may appeal to City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

(c) **General Commercial District (C-3):** Property located in a(n) C-3 district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The C-3 district is designed to accommodate: (a) retail, service, and office uses; (b) 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.

(2) **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.

(3) **Building and Area Regulations:** No building shall be constructed in a C-3 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:

- RE, R-1, R-1A, or R-2 zoning;
- RM zoning if developed for other than manufactured housing; or
- Land zoned MU or PD for single-family, patio home, townhome, or duplex uses.

CHARACTERISTIC	REQUIREMENT
<b>Minimum Lot Width</b>	N/A
<b>Minimum Front Setback</b>	25 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see <b>Appendix, Figures 8 through 10</b>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> <li>• Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet</li> </ul>

<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Adjacent to a residential zoning district as defined in paragraph (iii) above: 25 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• No limit except adjacent to a residential zoning district as defined in paragraph (iii) above as follows: <ul style="list-style-type: none"> <li>• Two stories up to a maximum of 35 feet when 25 feet to 100 feet from a residential zoning district;</li> <li>• 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</li> <li>• 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 subsection (c)(3) above to prevent views from nonresidential to residential property</li> </ul> </li> </ul>
<b>Minimum Parking</b>	Varies by use; see Article XII

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

**(4) Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(5) Outdoor Storage:**

- Outdoor storage shall be permitted in the C-3 district subject to the requirements herein.
- 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; or
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 (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.

**(6) 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 subsection (c)(3) 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:
  - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
  - B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.

(7) **Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, an applicant 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 applicant. In the event of disapproval, the applicant may appeal to the City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

(d) **Industrial and Manufacturing District (IM):** Property located in a(n) IM district shall be developed in accordance with this Zoning Code, including the following regulations:

(1) **Purpose:** The purpose of the IM 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 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 arterials and collector streets is a primary consideration for these uses, the operational characteristics of which are generally not compatible with residential areas.

(2) **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.

(3) **Building and Area Regulations:** No building shall be constructed in an IM 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. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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
<b>Minimum Lot Width</b>	N/A
<b>Minimum Front Setback</b>	25 feet
For illustrations of side and rear setback requirements and building height adjacent to residential, see <i>Appendix, Figures 8 through 10</i>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (d)(3) above: 50 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Adjacent to a residential zoning district as defined in subsection (d)(3) above: 50 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• No limit except adjacent to a residential zoning district as defined in subsection (d)(3) above as follows:           <ul style="list-style-type: none"> <li>• Two stories up to a maximum of 35 feet when 50 feet to 100 feet from a residential zoning district</li> <li>• 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</li> <li>• 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 subsection (d)(3) above to prevent views from nonresidential to residential property</li> </ul> </li> </ul>
<b>Minimum Parking</b>	Varies by use; see Article XII

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

(4) **Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height

is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(5) 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; and
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; or
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. 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.

**(6) Screening Requirements Adjacent to Residential Zoning:**

a. The owner or developer of property zoned IM 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 subsection (d)(3) 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:
  - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
  - B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.

**(7) Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, a applicant 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 applicant. In the event of disapproval, the applicant may appeal to the City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

**Sec. 60-52. Special Districts.**

**(a) Downtown Arts and Cultural District (DAC):** Property located in a(n) DAC district shall be developed in accordance with this Zoning Code, including the following regulations:

**(1) Purpose:** The goal of the DAC 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 City 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.

(2) **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.

(3) **Building and Area Regulations:** No building shall be constructed in the DAC district except in conformance with the following requirements, which allow the combination of residential and nonresidential uses in a single building.

CHARACTERISTIC	REQUIREMENT
<b>Minimum Lot Size</b>	N/A
<b>Minimum Lot Width</b>	N/A
<b>Front Setback, Downtown Core</b>	<ul style="list-style-type: none"> <li>Local or Collector Street: 0 to 10 feet (build-to line) <ul style="list-style-type: none"> <li>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</li> </ul> </li> <li>Arterial Street: N/A (0 feet minimum setback)</li> </ul>
<b>Minimum Front Setback, Outside of Downtown Core</b>	<ul style="list-style-type: none"> <li>Local and Collector street: 10 feet</li> <li>Arterial street: 15 feet</li> </ul>
<b>Side Setback</b>	<ul style="list-style-type: none"> <li>N/A, except for: <ul style="list-style-type: none"> <li>Corner lot, side street: Side setback same as front setback, including accommodations for outdoor dining and architectural features</li> </ul> </li> </ul>

<b>Rear Setback</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• For double frontage lots, same as front setback</li> </ul>
<b>Maximum Building Height</b>	65 feet
<b>Minimum Parking</b>	<ul style="list-style-type: none"> <li>• Residential uses: 2 spaces per dwelling unit</li> <li>• 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)</li> </ul>

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

(4) **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.

(5) **Right-of-Way Encroachments:** All floors of all buildings at grade level and above shall comply with all setback requirements, except that:

- 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.
- 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.

(6) **Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which

is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(7) 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 located on any property zoned DAC for the purpose of primarily providing outdoor storage.

(b) **Mixed Use District (MU):** Property located in a(n) MU district shall be developed in accordance with this Zoning Code, including the following regulations:

(1) **Purpose:** The MU 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 shall be paid to buffering and transitions.

(2) **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.

(3) **Building and Area Regulations:** No building shall be constructed in a(n) MU 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. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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
	<ul style="list-style-type: none"> <li>MIXED-USE BUILDINGS INCLUDING BOTH RESIDENTIAL AND NONRESIDENTIAL USES</li> <li>SINGLE-USE BUILDINGS (BUILDINGS CONTAINING ONLY NONRESIDENTIAL OR ONLY MULTIFAMILY USES) ON THE SAME LOT WITHIN AN INTEGRATED DEVELOPMENT</li> </ul>
<b>Minimum Lot Area</b>	N/A
<b>Minimum Lot Width</b>	N/A
<b>Minimum Front Setback</b>	<ul style="list-style-type: none"> <li>Local and Collector street: 10 feet</li> <li>Arterial street: 15 feet</li> </ul>
For illustrations of side and rear setback requirements and building height adjacent to residential, see <b>Appendix, Figures 8 through 10</b>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>Interior lot: N/A</li> <li>Corner lot, street side: <ul style="list-style-type: none"> <li>Local, Collector, or Arterial street: 15 feet</li> <li>Highway: 25 feet</li> </ul> </li> <li>Adjacent to a residential zoning district as defined in subsection (b)(3) above: 25 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>10 feet</li> <li>Adjacent to a residential zoning district as defined in subsection (b)(3) above: 25 feet</li> <li>For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>No limit except adjacent to a residential zoning district as described in subsection (b)(3) above, as follows: <ul style="list-style-type: none"> <li>Two stories of up to 35 feet when 25 feet to 100 feet from a residential property line;</li> <li>45 feet when more than 100 feet from a residential property line, with 1 foot of additional height allowed for each 1 foot of setback provided beyond 100 feet</li> <li>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 subsection (b)(3) above to prevent views from nonresidential to residential property</li> </ul> </li> </ul>
<b>Open Space</b>	For a mixed-use building containing dwelling units, in lieu of meeting parkland dedication requirements in accordance with City regulations, 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 subsection (b)(3) below
<b>Minimum Parking</b>	<ul style="list-style-type: none"> <li>• Residential uses: <ul style="list-style-type: none"> <li>• 1.5 spaces for each 1-bedroom unit</li> <li>• 2.0 spaces for each 2-bedroom unit</li> <li>• 2.5 spaces for each unit with 3 or more bedrooms</li> </ul> </li> <li>• Nonresidential uses in a mixed-use building including residential uses: 1 space for each 250 square feet</li> <li>• 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</li> <li>• Nonresidential uses in a single-use building: Varies by use; see Article XII</li> </ul>
<b>Concept Plan</b>	Required with application for MU zoning

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

(4) **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.

(5) **Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(6) 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:

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:
  - A. 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
  - B. The items being stored do not exceed four feet (4.0') in total height as stored or displayed, except as authorized in subsection c 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; or
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; or
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.

**(7) 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 subsection (b)(3) 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 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:
    - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
    - B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.

(8) **Alternate Screening Permitted:** A applicant 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

applicant. In the event of disapproval, the applicant may appeal to the City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

(9) **Open Space Requirement:** 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; and
- 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.

(c) **Planned Development District (PD):** Property located in a(n) PD district shall be developed in accordance with this Zoning Code, including the following regulations:

(1) **Purpose:** The PD 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 Hill Country views; (5) promote the efficient use of land and public facilities and services; and (6) further the vision of the Comprehensive Plan. 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.

- (2) **Application and Review Process, Generally:** A complete application for a PD district shall be processed in accordance with this section. All information required by City and the amount of the appropriate fee shall be specified on City's application form.
- (3) **Mandatory Pre-Application Conference:** Prior to submitting a PD application, the applicant shall meet with the Director 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.
- (4) **Minimum Development Size:** The minimum tract size for any request for PD 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 City Council. The appeal shall be reviewed and may be approved by Council in advance of the filing of the application for PD zoning with the Department.
- (5) **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. 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 PD district.
- (6) **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. In addition, the application shall include the proposed area and height requirements for each tract of land within the PD.

(7) **Parking:** Parking for all uses in the PD district shall comply with the requirements in Article XII 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.

(8) **Application:** An application for PD 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 district 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 maintenance of any common areas by an association of homeowners or property owners, if applicable, not including the legal documents establishing the association; and
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.

(9) **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.

(10) **Application Review Fee:** The required application review fee, as established by City Council, shall accompany the application.

(11) **Review Process:** Upon receipt of complete application, the application for PD zoning shall be reviewed under the process governing the review of an application for rezoning as described in Article IX and Section 211.007, Texas Local Government Code, including notification of surrounding property owners, public hearings before the Planning and Zoning Commission and City Council, and testimony from the applicant, the Director, and others who have an interest in the matter, facts, and opinions concerning the proposed use and conditions to which such use would be subject.

(12) **Zoning Map Reference:** A PD district approved in accordance with the provisions of this section, following two readings of the ordinance, shall be referenced on the City's *Official Zoning Map*. A list of approved Planned

Developments, together with the category of uses permitted within them and the concept plan, shall be maintained in the Department.

**(13) Amendment to a Planned Development District:** Any changes in the ordinance adopting a PD district or the PD concept plan 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 Director may, upon written application and explanation of the change by the owner of the property and review and recommendation by the Department, approve minor amendments to a PD concept plan as described in Subsection (a) above without a public hearing.

c. **Major Amendments (Text):** 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 Section 211.007, Texas Local Government Code, and Article IX.

d. **Reapplication:** If an application for the creation of a PD is denied by 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 and approved by City Council.

(d) **Public and Institutional District (PI):** Property located in a(n) PI district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The purpose of the PI 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.
- (2) **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.
- (3) **Building and Area Regulations:** No building shall be constructed in a PI 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. RE, R-1, R-1A, or R-2 zoning;
  - b. RM 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
<b>Minimum Lot Width</b>	N/A
<b>Minimum Front Setback</b>	N/A
For illustrations of side and rear setback requirements and building height adjacent to residential, see <b>Appendix, Figures 8 through 10</b>	
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> </ul>

	<ul style="list-style-type: none"> <li>• Adjacent to a residential zoning district as defined in subsection (d)(3) above: 25 feet</li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Adjacent to a residential zoning district as defined in subsection (d)(3) above: 25 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• 35 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (d)(3) above, one foot (1.0') of additional building height permitted for each 1 foot (1.0') of setback from the residential zoning district</li> <li>• An installation of a public or private utility exempt from this requirement</li> </ul>
<b>Minimum Parking</b>	Varies by use; see Article XII

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

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

- No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.
- 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.
- 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 a detached carport or garage.

**(5) Outdoor Storage:**

- Outdoor storage shall be permitted in the PI district subject to the requirements herein.
- 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; or
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.

**(6) 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 subsection (d)(3) 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:
    - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
    - B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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. Chain link fencing with slats shall be an acceptable method of screening, with or without landscaping.
5. A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the building code.

**(7) Alternate Screening Permitted:** An applicant may make application to the Commission to use alternate screening methods which may include 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 applicant. In the event of disapproval, the applicant may appeal to City Council by requesting such appeal in writing not later than 5 days following the date of the action of the Commission.

**(e) Airport District (AD):** Property located in a(n) AD district shall be developed in accordance with the following and other City ordinances, rules, and regulations, including the Airport Hazard Zoning Ordinance, as adopted by the Airport Zoning Board:

- (1) Purpose:** The AD district includes the Kerrville-Kerr County Municipal Airport (“Airport”) and areas in close proximity to the airport. This district is designed to accommodate the Airport plus uses associated and/or compatible with its operation.
- (2) Uses:** Aviation uses, manufacturers, suppliers, businesses that use Airport services, activities to accommodate persons traveling to and from Kerrville by private aircraft, and industrial and manufacturing uses compatible with an

airport environment. Refer to **Table 1, Land Use Table** for a specific list of uses allowed in the AD district.

(3) **Building and Area Regulations:** No building shall be constructed in an AD 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. RE, R-1, R-1A, or R-2 zoning;
- b. RM 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	USES NOT LOCATED ON AIRPORT PROPERTY
<b>Minimum Lot Width</b>	N/A	N/A
<b>Minimum Front Setback</b>	25 feet	25 feet
		For illustrations of side and rear setback requirements and building height adjacent to residential, see <i>Appendix, Figures 8 through 10</i>
<b>Minimum Side Setback</b>	15 feet	<ul style="list-style-type: none"> <li>• Interior lot: N/A</li> <li>• Corner lot, street side: 15 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (e)(3) above: 50 feet</li> </ul>

<b>Minimum Rear Setback</b>	25 feet	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Adjacent to a residential zoning district as defined in subsection (e)(3) above: 50 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	N/A except that buildings shall comply with Federal Aviation Administration (FAA) requirements	<ul style="list-style-type: none"> <li>• 45 feet</li> <li>• Adjacent to a residential zoning district as defined in subsection (e)(3) above: <ul style="list-style-type: none"> <li>• Two stories up to a maximum of 35 feet when 25 feet to 100 feet from a residential property line;</li> <li>• 45 feet when more than 100 feet from a residential property line,</li> <li>• 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 subsection (d)(3) above to prevent views from nonresidential to residential property</li> </ul> </li> <li>• Buildings shall also comply with Federal Aviation Administration (FAA) requirements</li> </ul>
<b>Minimum Parking</b>	N/A	Varies by use; See Article XII

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

**(4) Location of Structures Beyond Setback:** No structure in excess of thirty inches (30") in height may exist between the front wall of any building and the front property line, except that ornamental fencing up to six feet (6.0') in height is permitted. Ornamental fencing does not include chain link fencing, which is prohibited. No element of the fence may create a visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.

**(5) 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; or
  3. 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. 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.

**(6) Screening Adjacent to Residential Zoning:**

- a. The owner or developer of property zoned AD 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 subsection (d)(3) 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:
    - A. Solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or
    - B. Chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.

**(7) Alternate Screening Permitted:** For either the screening of outdoor storage or the screening of residential property, an applicant 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 applicant. In the event of disapproval, the applicant may appeal to the City Council by requesting such appeal in writing no later than 5 days following the date of the action of the Commission.

(f) **Agricultural District (AG):** Property located in a(n) AG district shall be developed in accordance with this Zoning Code, including the following regulations:

- (1) **Purpose:** The AG 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 principal uses. Single-family uses on large lots are allowed in the AG district; however, at such time as the land is proposed to be divided for the sale of lots, the requirements of the Subdivision Code may 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.
- (2) **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.
- (3) **Area and Height Regulations:** No building shall be constructed in an AG district except in conformance with the following requirements:

CHARACTERISTIC	REQUIREMENT
Minimum Lot Size	5 acres
Minimum Lot Width	N/A
Minimum Front Setback	<ul style="list-style-type: none"> <li>• 25 feet</li> </ul>

	<ul style="list-style-type: none"> <li>• Agricultural fields shall be located a minimum of 10 feet from the exterior property line of the tract</li> </ul>
<b>Minimum Side Setback</b>	<ul style="list-style-type: none"> <li>• Interior lot: 5 feet</li> <li>• Corner lot, street side: <ul style="list-style-type: none"> <li>• 15 feet</li> <li>• 19 feet to a garage door</li> </ul> </li> </ul>
<b>Minimum Rear Setback</b>	<ul style="list-style-type: none"> <li>• 25 feet</li> <li>• For a double frontage lot, same as front setback</li> </ul>
<b>Maximum Building Height</b>	<ul style="list-style-type: none"> <li>• Main building used for residential purposes: 35 feet</li> <li>• Agricultural buildings: 45 feet</li> </ul>
<b>Minimum Parking</b>	2 spaces per dwelling unit

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

**(4) 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.

## **ARTICLE IX. SUPPLEMENTARY DEVELOPMENT REQUIREMENTS FOR CERTAIN USES**

### **Sec. 60-60. Supplementary Development Requirements.**

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.

**(1) 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:

- a. A minimum street frontage of one hundred twenty feet (120.0') is required for the site on which the use will occur;
- b. The principal 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;

- c. No outdoor sales or storage shall be permitted in conjunction with gasoline sales facilities;
- d. Pump islands shall be located a minimum of twenty-five feet (25.0') from any street right-of-way;
- e. 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;
- f. 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;
- g. Any canopy placed over the pump island may not extend closer than fifteen feet (15.0') to any street right-of-way;
- h. 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;
- i. All lighting shall be designed and installed to prevent glare or light from being emitted onto adjacent properties;
- j. 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;
- k. This use is prohibited within one hundred feet (100.0') of the 100-year flood plain. 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 shall 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.

(2) **Mini-Storage Facilities:** Mini-Storage warehouses and self-storage units shall comply with the following requirements:

a. **Use, Parking, and Access:**

1. 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 subsection 2., provided immediately below;
2. 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;
3. One manager or caretaker apartment is authorized for use by an on-site manager or security guard.
4. All driveways, parking, loading, and vehicle circulation areas shall be paved in accordance with City specifications.
5. 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;
6. A continuous marked fire lane is required throughout the project per the City's fire code;
7. In addition to the fire lane required by the City's 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.

**b. Design Criteria:**

1. 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;
2. Public access doors to the storage units shall not face the public right-of-way;
3. The leasing office or manager or caretaker apartment shall not exceed one story in height;
4. Building facades facing public rights-of-way 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;
5. 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').
6. 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.

**(3) Day Care Services, Adult and Children:** a property used for day care services, including nursery schools, preschools, day care centers for both children and adults, and similar uses shall comply with the following requirements:

- a. The facility shall comply with the minimum state requirements for such facilities;
- b. 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;

- c. No portion of any play or instruction area shall be located within the required front setback and/or side setback adjacent to a street; and
- d. 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.

**(4) Automobile Service and Repair, Major or Minor and Automobile Parts**

**Store:** Properties providing both major and minor service and repair functions or **sale of automobile parts and accessories** as defined herein for vehicles such as passenger cars, pick-ups, and vans shall comply with the following requirements:

- a. All maintenance shall be performed entirely within the bays of any maintenance facility.
- b. No outdoor storage of vehicle parts or supplies, including tires and petroleum products shall be permitted.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

g. 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.

(5) **Car Wash:** A property primarily used for a car wash as defined herein shall comply with the following requirements:

- a. Car wash facilities shall be designed to utilize water recirculation systems;
- b. 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;
- c. 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;
- d. 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; and
- e. 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 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 car wash facility.

(6) **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.

a. **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:

1. **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.*

2. **Restaurant:** Each remote order station at a restaurant with drive-through service shall provide stacking space for vehicles awaiting service as follows:

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.*

b. **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.

(7) **Adult Group Homes:** A property used for the purpose of an adult group home shall be developed in accordance with the following requirements:

- a. 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, Texas Human Resources Code, to the extent that the development of a community home is not exempt from this Zoning Code. Where applicable provisions of state or federal law establish more restrictive regulations of community homes than this section, including, spacing and occupancy regulations, the more restrictive state or federal law shall apply.
- b. 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.
- c. Prior to operating any adult group home, 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 will be in compliance with this section and all other applicable provisions of this Zoning Code. Said site plan shall be considered as follows:

1. If use of the property as an adult group home does not require the approval of a Conditional Use Permit or an ordinance changing the zoning regulations of the property, the site plan must first be approved by the Commission prior to commencement of operation of the home; or
2. If the use of the property as an adult group home 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 CUP or ordinance changing the zoning of the property.

d. An adult group home shall be developed as follows:

1. All passenger loading and unloading areas and outdoor recreation areas shall be located as to avoid conflict with vehicular traffic.
2. Access from public streets and/or sidewalks to the facility shall 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.
3. 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.
4. No adult group home located in a residential zoning district may be located any closer than 1,500 lineal feet from a community home defined in Charter 123 of the Texas Human Resources Code, as amended; personal care facility; assisted living center; or child care center.
5. Any adult group home authorized to be located in a residential zoning district 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.

(8) **Community Gardens:** A property used for the purpose of a community garden shall comply with the following:

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- a. The property on which the garden is located may be publicly or privately owned;
- b. A community garden may be placed and maintained on a roof structure provided that it meets the building and fire code;
- c. Any lighting shall be shielded so that substantially all directly emitted light falls within the property;
- d. 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;
- e. Compost or and other organic material shall not be visible from an adjacent property, and shall be screened from view by shrubbery, an enclosure, or fence;
- f. The garden shall be routinely managed to control for and prevent the harborage of rodents and other pests;
- g. The garden shall be routinely managed to control for and prevent odors;
- h. A community garden shall be designed, maintained, and operated to prevent runoff from irrigation, fertilizer, and other substances from traveling onto adjacent property;
- i. Trash receptacles shall be provided and screened on at least three (3) sides so as to prevent public view; and
- j. An accessory structure, to include a greenhouse, shed, farm stand, or a similar structure:
  1. May be placed and used on the property without the presence of a primary structure;
  2. Shall comply with the setbacks that would be applicable to an accessory structure for the zoning district;
  3. May only be used for the storage of equipment and materials directly required for the operation of the community garden; and

4. Shall 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.

(9) **Home Occupation:** 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.

a. **General Provisions:**

1. These regulations found within this subsection apply within a residential zoning district, as listed in Article VIII, "Residential Zoning Districts" of this Zoning Code.
2. These regulations do not apply to:
  - A. A boarding home facility, as that term is defined within Chapter 30 of the Code of Ordinances; or
  - B. Cottage food production that meets the qualifications imposed under state law and subject to other City ordinances, rules, or regulations.

b. **Standards of Operation:** A home occupation shall comply with the following:

1. 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.

Attachment A

2. The outdoor storage of materials, goods, supplies, or equipment relating to the home occupation is prohibited.
3. Any alteration to the exterior of a dwelling, which changes its residential appearance or character, is prohibited.
4. The installation, storage, or use of any equipment or machinery not normally found as part of a household or general office is prohibited.
5. The outdoor display of merchandise for sale is prohibited.
6. 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.
7. The storage or use of toxic, explosive, flammable, combustible, corrosive, radioactive, or other hazardous materials not normally found within a residential area is prohibited.
8. Sales to customers who visit the residence may occur but not more than four (4) times per calendar years.
9. Deliveries related to the home occupation by a vehicle of more than two (2) axles is prohibited.
10. 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.
11. A home occupation may not use more than one (1) non-illuminated, on-site sign, which shall either be: (a) flush-mounted to the primary residential structure and not exceed one square foot in size; or, (b) 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.

c. **Uses prohibited as a home occupation.** The following uses are prohibited as a home occupation:

1. Vehicle repair and service of any type, to include boats, recreational vehicles, and internal combustion engines;
2. Uses involving the breeding, boarding, or kenneling of animals;
3. Repair services for large appliances or equipment;
4. Uses involving manufacturing and/or assembling;
5. Uses involving the sale of fire arms, ammunition, or explosives;
6. Medical offices and/or clinics; or
7. Barber and/or beauty shops including nail salons.

d. **Administration:** The City Manager shall make all determinations as to whether any aspect of a proposed home occupation complies with the requirements of this section. If the City determines that a proposed or existing home occupation does not comply with this section, a person engaged in the home occupation may submit an application for a Conditional Use Permit in accordance with the Zoning Code.

e. **Existing home occupation:** A home occupation legally in existence as of the date of adoption but that does not fully comply with this section is deemed a legal nonconforming use and may continue in accordance with Article XIII 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.

**(10) Manufactured Homes:**

- a. **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.
- b. **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.

- c. **Permit Application:** A person desiring to obtain the permit required by this section shall submit a complete application to the Department 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 is provided and the permit fee paid.
- d. **Permit Approval:** Not later than 30 days following the receipt by the City of a complete application, the City shall either grant or deny the permit. If denied, the City shall state the reason for denial. Permit applications which are not denied on or before 30 days following the receipt by the City of complete application shall be deemed approved.
- e. **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 other ordinances, rules, or regulations may apply.
- f. **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 shall comply with the following development regulations:
  - 1. The tongue and/or towing gear, axles, and wheels shall be removed;
  - 2. 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 a material as required by the building code so that there is no visible gap between the finished floor and the ground;
  - 3. The home shall meet all requirements of this Zoning Code for setbacks and off-street parking;
  - 4. The home shall be attached to a permanent foundation system as defined in state law such that the home is permanently affixed to the real property on which the home is located. Such permanent foundation

system shall be installed and inspected in compliance with state law; and

5. The home shall 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 shall be extended in a continuous manner along the side of the home to the front door.
- g. **Manufactured Housing Sales and Industrialized (Modular Building/Home) Sales Lots:** Property used for the retail sale of manufactured housing and industrialized buildings shall comply with the following development regulations:
  1. A landscaping berm, vegetation, or other landscaping features shall be installed to screen all portions from the first floor to the ground of any building located along the street frontage;
  2. All areas in which units are kept for repair shall be screened with a wall or fence as follows:
    - A. The wall or fence be at least six feet (6.0') and no more than eight feet (8.0') in height constructed of one, or a combination of: (a) solid masonry materials similar in color and design to the main building, or a solid fence constructed of weather-resistant wood fencing materials; or (b) chain link or ornamental fencing behind an irrigated landscape screen constructed of materials chosen from the *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.
    - B. The height of the wall or fence shall be measured from the highest established grade along the common property line.

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

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

E. A required screening wall or fence shall test plumb and square at all times unless otherwise dictated by the building code.

3. The majority of the units that face the street front(s) must have the front door of the building face the street; and
4. A distance of not less than twelve (12) feet shall be kept between homes located on the street frontage row, with distances between other homes maintained in accordance with applicable fire regulations.

**(11) Mobile Homes:**

- a. It shall be unlawful to place a mobile home on any property located within the City.
- b. 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.

**(12) 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 state law and City regulations regarding construction design and standards and its building code. The phrases "industrialized housing" and "industrialized buildings" as used in this section shall have the same meaning as set forth in state law.

**(13) Travel Trailers and Recreational Vehicles:** The use of a travel trailer or recreational vehicle shall be subject to the following regulations:

- a. The use of a travel trailer or recreational vehicle as a permanent residence or business anywhere within the City is prohibited.
- b. It shall be a defense to a violation of subsection (a), above, if:
  1. 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
  2. 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
  3. The trailer or recreational vehicle is:
    - A. Parked on a lot developed with a dwelling unit;
    - 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 14 days.
  4. One (1) travel trailer or one (1) recreational vehicle is located on property which is being used for the seasonal retail sale of holiday trees. This section shall only be valid between November 5 and December 31.

**(14) Temporary Construction Trailers and Buildings:** 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 City 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 14 days.

(15) **Temporary Residential Sales Offices and Model Homes:** 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:

a. **Model Home - Sales Office:**

1. **Permitting:** A model home used as a temporary sales office shall require a permit, an inspection, and a certificate of occupancy.
2. **Lot:** The model home shall only be constructed on a platted lot.
3. **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.
4. **Landscaping:** Landscaping typically associated with residential development shall be provided and maintained at all times.
5. **Site Plan:** A site 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.
6. **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.

b. **Temporary Building - Trailer Sales Office:**

1. **Permitting:** A building or trailer used as a temporary sales office shall require a permit, an inspection, and a certificate of occupancy;

2. **Lot:** The building or trailer shall only be placed or constructed on a platted lot;
3. **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;
4. **Site Plan:** A site 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;
5. **Design:** The design of the residential sales office shall be residential in character 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;
6. **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 a material as required by the building code** 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.
7. **Building Compliance:** All buildings or trailers used as residential sales offices shall comply with state law (Texas Manufactured Housing Standards Act) regarding construction design and standards and the building code requirements.

8. **Conversions:** A temporary residential sales office shall not be used for or converted to residential habitation.
9. **Removal:** Following the expiration of the permit, the owner shall remove the building or trailer from the lot within 14 days and at the owner's expense.

(16) **Other Uses:** The following uses and development requirements are subject to other City ordinances, rules, or regulations, which regulate such uses:

- a. **Small Wind Energy Systems.**
- b. **Sexually Oriented Businesses.**
- c. **Wireless Telecommunication Facilities.**
- d. **Amateur Radio Antennas.**

## **ARTICLE X. ZONING CHANGES AND AMENDMENTS TO THE ZONING CODE**

### **Sec. 60-65. Limited Zoning Amendments (Site Specific/Map 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 should meet with the Director to receive information regarding application procedures and requirements.
- (2) **Application:** An application for a zoning change pursuant to this section may be made by an owner of the property or by an authorized representative of the owner, and/or by the City. Such application shall be filed with the Department on forms approved by the Director and include the applicable fee. An application for an amendment to the zoning regulations initiated by the City shall be completed by the Director.

- (3) **Complete Application Required:** No application shall be considered until it is determined by the Director 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 Department and the required application fee has been paid.
- (4) **Review Process:** Upon receipt of a complete application for a zoning change request, the application shall be reviewed under the process governing the review of an application for rezoning under Section Chapter 211, Texas Local Government Code, including notification, a report from the Director, 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 Director 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:
  - a. A review of the specifics of the application;
  - b. A summary of any public comment received; and
  - c. The recommendation of the Director regarding the application, or if the Director has no recommendation, a statement to that effect.
- (6) **Recommendation of the Planning and Zoning Commission:** After receiving the report and recommendation of the Director, including a summary of public comment received, and after conducting and closing the public hearing, the Planning and Zoning Commission shall issue a final report on the application to City Council, which shall contain one of the following recommendations:
  - a. Approve as requested;
  - b. Approve with modifications recommended by the Commission; or

c. 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 Council to consider the application pursuant to an agenda item, the applicant shall appeal the Commission's decision in writing to City Council within 10 days after the Commission's recommendation to deny.

(8) **Action by 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 the Director, City Council may take one of the following actions:

- a. Deny the application;
- b. Approve an ordinance adopting the zoning changes requested by the applicant;
- c. Approve an ordinance adopting the zoning changes as recommended by the Commission; or
- d. Approve an ordinance adopting the zoning change as determined by Council.

(9) **Recess of the Public Hearing:** After commencement of a public hearing, the Planning and Zoning Commission or City Council may recess a public hearing from time to time in accordance with state law.

**Sec. 60-66. Change to Less Restrictive Zoning or Enlarging Area of Request Prohibited.**

In no case shall 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 Section 211.007, Texas Local Government Code, until a new public notice is given and public hearing held on such less restrictive zoning change.

**Sec. 60-67. 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 shall apply only if protests in proper form are received from owners of at least twenty percent (20%) of either:
  - a. The area of the lots or land covered by the proposed change; or
  - b. 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 this section shall be deemed to be in proper form and effective only if it:
  - a. 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;
  - b. Is signed by the owner(s) of the property;
  - c. 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;
  - d. Is delivered to the Director prior to the taking of any vote of the Planning and Zoning Commission or to the City Secretary prior to the taking of any vote of City Council on the matter.

**Sec. 60-68. Computing Area of Land Owned.**

In computing the percentage of ownership of land referred to in this section:

- (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; and
- (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.

**Sec. 60-69. Withdrawal of Protest.**

An owner may withdraw a protest filed pursuant to this section at any time prior to the taking of a vote by 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.

**Sec. 60-70. 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 Director 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.

**Sec. 60-71. Postponement of Public Hearing.**

An applicant for a zoning amendment pursuant to this article 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 shall be:

- (1) Made in writing by the applicant not later than 72 hours prior to the time which the meeting is scheduled to convene;

- (2) Accompanied by the applicable fee necessary to reimburse the City for publishing the required public notice for the later meeting; and
- (3) If notice was originally sent pursuant to Section 211.007, Texas Local Government Code, the applicable fee necessary to reimburse the City for sending a notice of postponement to those originally notified.

**Sec. 60-72. Reapplication after Denial.**

No application for a zoning change, including 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, shall be accepted by the Department earlier than one year after the date of final action on the prior application by the last of the Planning and Zoning Commission or City Council to act, unless:

- (1) The Commission determines the use for which the new application is made is not the same or a 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 City Council on the prior application, whichever body was the last to act, until a new application can be filed.

**Sec. 60-73. Major Changes (Text Amendments) 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 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:** City Council or the Planning and Zoning Commission, with or without the request of any citizen, may initiate such changes.

**(2) Public Hearings; Notice; Final Action:** The Commission and City Council shall provide public notice, conduct public hearings, and take all action related to the adoption of any comprehensive changes in accordance with Section 211.007, Texas Local Government Code. 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.

**Sec. 60-74. 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 Section 60-73, above.

## ARTICLE XI. CONDITIONAL USE PERMITS

### **Sec. 60-80. “Conditional Use” Defined.**

For purposes of the Zoning Code, a “conditional use” is a use of property designated in the Land Use Matrix 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.

### **Sec. 60-81. 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 this Zoning Code shall be deemed a conditional use in any district and subject to the provisions of this article.

### **Sec. 60-82. 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.

### **Sec. 60-83. 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 CUP, an applicant or the applicant’s authorized representative should meet with the Director to receive information regarding application procedures and requirements.
- (2) **Application:** An owner or developer who desires to use property located in the City in a manner which is defined as a conditional use shall file an application with the Department for a CUP on forms approved by the Department.
- (3) **Complete Application Required:**

- a. 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 CUP has been submitted to the Department and the required application fee has been paid.
- b. An application for a CUP shall include a site plan.

(4) **Review Process:** Upon receipt of a complete application as determined by the City for a CUP, the application shall be reviewed under the process governing the review of an application for rezoning including notification, a report from the Director, 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 Department:** Upon receipt of a complete application for a Conditional Use Permit, the Director shall review and prepare a report and recommendation regarding the application, which shall be forwarded to the Commission for consideration, and which shall contain:

- a. A review of the specifics of the application;
- b. A summary of any public comment received;
- c. Proposed conditions to be applied if the CUP is to be granted; and
- d. The recommendation of the Director regarding the application, or, if the Director has no recommendation, a statement to that effect.

(6) **Recommendation of the Planning and Zoning Commission:** After the close of the public hearing described in this section, the Commission shall consider the application and forward to City Council a recommendation:

- a. To grant the Conditional Use Permit subject to the conditions recommended by staff, with or without addition or modification; or
- b. 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 of a CUP, 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 City Council in writing within 10 days after the Commission's recommendation to deny.

(8) **Action of City Council:** After the close of the public hearing described in this section, City Council shall take the following action:

- a. 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, City Council may impose such development standards and safeguards as necessary to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and 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; or
- b. Deny the application.

(9) **Recess of the Public Hearing:** After commencement of a public hearing, the Planning and Zoning Commission or City Council may recess a 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, the Commission or Council shall clearly provide the specific date and time as to when the public hearing will reconvene.

(10) **Effective Date of Conditional Use Permit:** A Conditional Use Permit shall be deemed effective upon the date approved by City Council unless specified otherwise within the permit.

(11) **Property Owner Protest:** If an application for a CUP is protested in accordance with Section 211.006, Texas Local Government Code, the proposed

CUP must receive the affirmative vote of at least three-fourths (3/4) of all members of City Council in order to be approved.

**Sec. 60-84. 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 shall apply only if protests in proper form are received from owners of at least twenty percent (20%) of either:
  - a. The area of the lots or land covered by the proposed change; or
  - b. 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 this section shall be deemed to be in proper form and effective only if it:
  - a. 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;
  - b. Is signed by the owner(s) of the property;
  - c. 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;
  - d. Is delivered to the Director 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.

**Sec. 60-85. 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.

**Sec. 60-86. 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 City Council on the ordinance adopting the change by:

- (1) Delivering to the Director 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.

**Sec. 60-87. Withdrawal of Application.**

An applicant may withdraw an application for a conditional use permit 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 Director 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 conditional use permit which was previously the subject of a withdrawn application shall be treated as a new application and accompanied by a new application fee.

**Sec. 60-88. Postponement of Public Hearing.**

An applicant for a Conditional Use Permit pursuant to this article 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 shall be:

- (1) Made in writing by the applicant not later than 72 hours prior to the time which the meeting is scheduled to convene;
- (2) Accompanied by the applicable fee necessary to reimburse the City for publishing the required public notice for the later meeting; and
- (3) If notice was originally sent pursuant to Section 65-84, Texas Local Government Code, the applicable fee necessary to reimburse the City for sending a notice of postponement to those originally notified.

**Sec. 60-89. Reapplication after Denial.**

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, shall be accepted by the Department earlier than one year after the date of final action on the prior application by the Planning and Zoning Commission or City Council, whichever is later to act, unless:

- (1) The Commission determines the use for which the new application is made is not the same or a 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 City Council on the prior application, whichever body was the last to act, until a new application can be filed.

**Sec. 60-90. Termination of Conditional Use Permit.**

A Conditional Use Permit shall terminate and become null and void as follows:

- (1) **Failure to Commence the Use:** Upon a finding by the Director that the conditional use for which the Conditional Use Permit was issued has not commenced within 180 days after the effective date of the CUP or the date set forth in the CUP, whichever is applicable. For purposes of this paragraph, the use shall be deemed to have commenced:
  - a. If no new construction or renovation of an existing building is required, when actual use for the purposes described in the permit commences; or
  - b. If new construction or renovation of an existing building is required before the use can commence, when a complete 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 Director 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 Director that actual use of the property for the purpose for which the CUP was approved:
  - a. Has not occurred for a period of 180 days after the commencement of the actual use for which the CUP was approved; and
  - b. 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 Director 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 60-91, 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.

**Sec. 60-91. Appeal of Termination for Non-Compliance.**

**a. Notice.** Upon a finding of the Director 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 in Section 60-91, the Director shall send written notice that the permit will be terminated 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 Director citing the provisions of the permit or the City ordinance or regulation which has been violated.

**b. Appeal.** The owner of the property may file a written appeal of the Director's decision with City Council by delivering to the City Secretary a summary of the property owner's basis for appeal not later than ten 10 days from receipt of the Director's notice. The appeal shall be heard at the next regular City Council meeting which occurs on or after the tenth day following the receipt of the notice of appeal. The appeal to City Council shall be conducted in accordance with procedures adopted by City Council. On appeal, City Council shall take one of the following actions, and Council's such action will be considered final:

- (1) Uphold the decision of the Director and terminate the permit;
- (2) Uphold the decision of the Director, 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) Grant the appeal.

**c. Use Following Termination.** Upon the termination of a conditional use permit following an appeal, or under section 60-90 if no appeal is taken, any use

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permitted or conditionally permitted in the district may be established in accordance with the procedures of this Code.

**Sec. 60-92. Existing Conditional Use Permits.**

In addition to Conditional Use Permits issued on or after date of adoption, CUP issued prior date of adoption, shall be subject to termination in accordance with this article.

**Sec. 60-93. 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 Department. 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.

**Sec. 60-94. 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 Department not later than 15 days prior to the date the period for commencement of actual use ends. 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.

## **ARTICLE XII. OFF-STREET PARKING REQUIREMENTS**

**Sec. 60-101. General Parking.**

(a) **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.

(b) **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's Development Standards.

**(c) 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.

**(d) 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 shall be reviewed by and approval gained from 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.

**(e) Encroachment on Easements and Rights-of-Way.** A private parking space, or parking lot, excluding a parking structure, retaining wall or similar structure, may encroach on an easement or right-of-way unless restricted from such usage by law, ordinance, regulation, limitations in the easement dedication language, or 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, or parking lot, shall be solely responsible for the cost of any repair or maintenance of the parking surface, landscaping, private vehicles, or other parking improvements resulting from construction or repairs that take place within the boundaries of the easement. Manholes, water valves, and other surface access points for utilities may not be located in any designated parking spaces.

**(f) Calculations.** The following rules shall apply in computing the parking requirements:

**(1) 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.

**(2) 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.

(3) **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.

(4) **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.

(g) **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:

(1) **New Use:** The new use shall not commence until the required additional off-street parking is provided, if the building is not located in the **Downtown Arts and Culture District or the Downtown Core**; or

(2) **Downtown Property:** If the building is located in the **Downtown Arts and Culture District or the Downtown Core** 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.

## **Sec. 60-102. 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:

(a) **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.

(b) **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.

(c) **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 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:

(1) **Complementary Use:** Complementary uses are uses which generally operate at different time periods, so that one use is inactive when the other is active.

(2) **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.

(3) **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.

### **Sec. 60-103. 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:

(a) **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 **Table 2, Schedule of Off-Street Parking Requirements.**

(b) **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.

(c) **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.

(d) **Parking for Residential Uses, Including Multifamily Residential.** Parking spaces, to meet the requirements of this Zoning 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.

#### **Sec. 60-104. 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 USE DESCRIPTION	REQUIREMENT
<b>NONRESIDENTIAL USES</b>		
1	Amusement Center, Indoor	Four (4) spaces per court or bowling lane, plus one (1) space per 100 square feet of

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		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
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)

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<b>9</b>	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)
<b>10</b>	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
<b>11</b>	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
<b>12</b>	Day Care (Child or Adult)	One (1) space for each employee, plus one (1) space for each 500 square feet of gross floor area
<b>13</b>	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

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		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)
20	Hotel/Motel	One (1) space per guest room, plus one (1) space per 200

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		feet of gross floor area for restaurant, meeting rooms, office, and related facilities, excluding pool/common areas (see applicable parking standards, this table)
<b>21</b>	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)
<b>22</b>	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 XII for additional parking requirements for this use
<b>23</b>	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
<b>24</b>	Office, General (Business or Professional)	One (1) space per 300 square feet of gross floor area
<b>25</b>	Office, Medical	One (1) space per 200 square feet of gross floor area
<b>26</b>	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)

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<b>27</b>	Restaurants	One (1) space per four (4) seats or one (1) space per 100 square feet of gross floor area, whichever is greater
<b>28</b>	Retail	One (1) space per 300 square feet of gross floor area, excluding non-public space such as restrooms, office, or storage space
<b>29</b>	Retail, Large Items (Furniture Store, Appliance Sales or similar)	One (1) space per 400 square feet
<b>30</b>	School, 0 through Pre-K	See Day Care, this table
<b>31</b>	School, Elementary and Intermediate	Two (2) spaces per classroom
<b>32</b>	School, Secondary	Six (6) spaces per classroom plus the required spaces for office use (see applicable parking standard, this table)
<b>33</b>	School, College or University	One (1) space per two (2) students, plus one (1) space per student housing unit (room)
<b>34</b>	Short-term Rental Unit	One (1) space per bedroom, plus parking required for the manager, if living off-site
<b>35</b>	Stables, Commercial	One (1) space per 2 stalls
<b>36</b>	Veterinary Services	One (1) space per 300 square feet of gross floor area
<b>RESIDENTIAL USES</b>		
<b>37</b>	Dwelling, Single-Family Detached, Patio Home, Duplex	Two (2) spaces per unit
<b>38</b>	Single-Family with Accessory Dwelling Units	Two (2) spaces for the main residence plus two (2)

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		spaces for the accessory dwelling
39	Townhome	Two (2) spaces per dwelling unit plus 0.25 spaces per dwelling unit for guest parking, to be provided in groupings distributed throughout the development
40	Multifamily (Apartment, Condominium)	<ul style="list-style-type: none"> <li>• 1.5 spaces for each 1-bedroom unit</li> <li>• 2.0 spaces for each 2-bedroom unit</li> <li>• 2.5 spaces for each unit with 3 or more bedrooms</li> </ul> <p>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</p>
<b>SPECIAL STANDARDS FOR MIXED USE BUILDINGS</b>		
41	Dwellings, Mixed-Use	<ul style="list-style-type: none"> <li>• 1.5 spaces for each 1-bedroom unit</li> <li>• 2.0 spaces for each 2-bedroom unit</li> <li>• 2.5 spaces for each unit with 3 or more bedrooms</li> </ul>
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

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		residential nonresidential uses and
<b>USES NOT LISTED</b>		
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.		

## ARTICLE XIII. NONCONFORMING LOTS, USES, STRUCTURES, OR SITE ELEMENTS

### Sec. 60-110. 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 date of adoption of this Code or subsequent amendment hereto, that does not conform to the requirements of this code on the date of adoption or amendment. The following definitions shall apply to situations which are legally nonconforming as a result of the date of adoption of this 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, parking, screening, or landscaping, which does not fully conform to the standards and regulations set forth in this Zoning Code.

### Sec. 60-111. Continuation of Existing Lots, Uses, Structures, or Site Elements.

Except as otherwise set forth in the this Zoning Code or other regulations of the City, 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 use does not conform with the provisions of the Zoning Code for the zoning district in which the property is located. Such uses shall be considered valid nonconforming uses.

**Sec. 60-112. 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

**Sec. 60-113. 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 Zoning 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 areas 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.

**Sec. 60-114. 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.
- (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.

**Sec. 60-115. Conforming Use May 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.

**Sec. 60-116. 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, provided such repair and maintenance does not result in an increase in the building, parking, storage, facility

area, or capacity existing at the time the use of the building or facility became nonconforming, shall not constitute an enlargement of the nonconforming use.

**Sec. 60-117. Redesign or Renovation of Buildings or Equipment.**

The following redesign or renovation of buildings and/or equipment 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:
  - a. An approved building permit is issued for the work to be performed; and
  - b. The work is commenced not later than six (6) months after cessation of the nonconforming use if such cessation is necessary to perform the renovation project; and
  - c. The work is completed and the nonconforming use is recommenced within two years after the cessation of the nonconforming use; and
  - d. 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;
  - e. 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;
  - f. 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:
  - a. An approved building permit is issued for the work to be performed; and
  - b. The equipment is located on the same property as the equipment being replaced;

- c. The equipment does not require an enlargement of the structure in which the equipment is located; and
- d. 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.

**Sec. 60-118. Nonconforming Site Element.**

A nonconforming site element, 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. Further:

- (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.
- (2) The Director may administratively approve an amendment to an approved landscape plan for a nonconforming property to allow a change in landscape materials.

**Sec. 60-119. Discontinuance of a Nonconforming Use.**

Except as permitted by Sections (4) of this Article, no building, structure, or land shall 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 two years 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;
- (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.

**Sec. 60-120. Reconstructing Damaged Structures, or Site Elements and Recommencing Nonconforming Uses.**

(a) 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:

(1) The area of the structure when rebuilt shall not exceed its area prior to the date of the damage or destruction; and

(2) The reconstructed building(s) do not create a greater nonconformity than existed prior to the damage or destruction;

(3) An approved building permit is issued for the work to be performed;

(4) 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 Board 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

(5) 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.

**Sec. 60-121. Intentional Acts or Omissions.**

Notwithstanding the provisions of this article, 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.

**Sec. 60-122. 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 occupying 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 non-conformity; and
- (3) No new parking shall be constructed beyond the minimum number necessary to meet the requirement for the conforming uses within a building.

**Sec. 60-123. 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:
  - a. The CUP shall be deemed to have terminated if all regulations set forth in the CUP are the same as those set forth in this Zoning Code for the same use in the same zoning district; or
  - b. The use shall be deemed to be a nonconforming use to the extent that the use and development regulations set forth in the CUP 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 CUP was granted requires a CUP in the zoning district in which the property is located, the previously issued CUP shall remain in full force and effect;

provided, however, such permit shall be subject to termination as set forth in Article X.

**(3) Conditional Use No Longer a Permitted or Conditional Use:** If a use for which a CUP was previously granted becomes neither a permitted use nor a use for which a CUP may be granted after date of adoption, such use shall be deemed to be a nonconforming use, and the CUP shall be subject to termination:

- a. In accordance with this article; and
- b. In accordance with Article XIII.

## **ARTICLE XIV. PERMITS AND CERTIFICATES OF OCCUPANCY**

### **Sec. 60-125. 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.

### **Sec. 60-126. Building Permits.**

No building permit shall issue until the Department has determined that the use for which the application is made is an allowable use.

## **ARTICLE XV. ENFORCEMENT; PENALTIES**

### **Sec. 60-130. 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) **Building Official:** The City Building Official, in addition to the authority and responsibility set forth in the building codes, 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 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 Officer(s) shall have the primary responsibility for achieving voluntary compliance with this Zoning Code pertaining to the health, safety, and welfare of the citizens.

(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.

## **ARTICLE XVI. PRESERVING RIGHTS IN PENDING LITIGATIONS AND VIOLATIONS UNDER EXISTING ORDINANCES**

### **Sec. 60-135. Effect of Ordinance.**

The passage of this Zoning Code does not legalize any presently illegal use unless such use falls within a zoning district where it becomes conforming with the date of adoption. 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 Code 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.

## **ARTICLE XVII. VALIDITY, SEVERABILITY**

### **Sec. 60-140. Severability clause.**

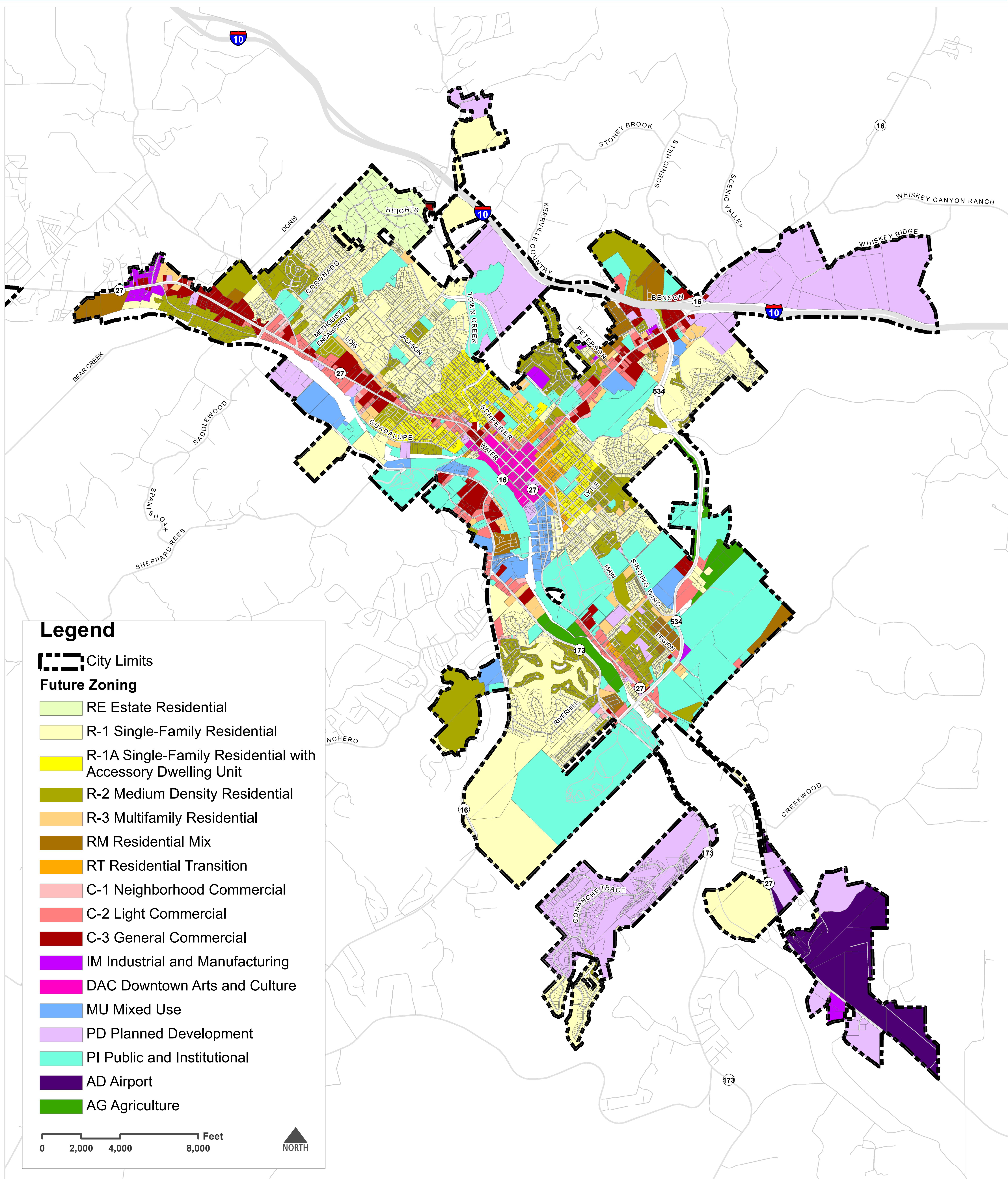
If any section, paragraph, subdivision, clause, phrase, or provision of the ordinance adopting the Zoning Code shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

## **ARTICLE XVIII. EFFECTIVE DATE.**

### **Sec. 60-145. 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.

# Kerrville Future Zoning Map - *DRAFT*



July, 2019

LAND USES	Residential Districts							Nonresidential Districts				Special Districts				Notes		
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG		
Accessory Building or Structure	P	P	P	P <sub>1</sub>	P	P <sub>1</sub>	P	P	P	P	P	C	C	P	P	P	<sup>1</sup> Not permitted for patio homes or townhomes	
Accessory Dwelling (see Dwelling Unit, Single-Family with Accessory Dwelling Unit)																		
Agricultural Services											P				P	P		
Agriculture, General	P															P		
Airport															P			
Alcoholic Beverage Sales for Off-Premise Consumption								P	P	P		P	P					
Amateur Radio Antenna								See Ordinance 2005-11										
Ambulance Service, Private										P	P		P	P				
Ambulatory Surgical Center								P	P	P	P				P			
Amenity Center	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>	P <sub>2</sub>						P <sub>2</sub>	P <sub>2</sub>				<sup>2</sup> For single-family and multifamily residential uses	
Amusement Center, Indoor									P	P			P	P				
Amusement Center, Outdoor									C	P			C	P				
Antenna								See Wireless Telecommunications Facilities, Ordinance 2003-35										
Antique Store								P	P	P		P	P					
Apartment (See Dwelling, Multifamily)																		
Appliance Repair/Sale, Used Appliances								P	P	P	P							
Appliance Store								P	P	P		P	P					
Art Studio/Gallery								P	P	P		P	P					
Artisan's/Craftsman's Workshop								P	P	P	P	P			P			
Assisted Living Facility							P <sub>2A</sub>		C <sub>2A</sub>	C <sub>2A</sub>	P <sub>2A</sub>		P <sub>2A</sub>	P <sub>2A</sub>			<sup>2A</sup> City's health & Safety standards, if any, apply. Must have license required by Code Section 30-6(4)	
Automated Teller Machine (ATM)								P	P	P	P	P	P		P			
Automobile Dealership, New Auto Sales									P	P								
Automobile Dealership, Used Auto Sales									C	P								
Automobile Parts Store									P <sub>3</sub>	P <sub>3</sub>							<sup>3</sup> Subject to requirements of Article IX 60-60(4)	
Automobile Rental or Leasing									P	P	P							
Automobile Service and Repair, Major									P <sub>3</sub>	P <sub>3</sub>							<sup>3</sup> Subject to requirements of Article IX 60-60(4)	
Automobile Service and Repair, Minor									P <sub>3</sub>	P <sub>3</sub>	P <sub>3</sub>						<sup>3</sup> Subject to requirements of Article IX 60-60(4)	
Automobile Towing/Wrecker Service										C	P							
Automotive Body Shop										C	P							
Bail Bonding Agency									P	P								
Bank or Financial Institution								P <sub>4</sub>	P <sub>4</sub>	P <sub>4</sub>	P <sub>4</sub>	P <sub>4</sub>	P <sub>4</sub>		P <sub>4</sub>		<sup>4</sup> Drive-thru subject to requirements of Article IX 60-60(6)	
Bar or Cocktail Lounge									P	P			P	P		C		
Barber or Beauty Shop							P	P	P	P		P	P					
Bicycle and Bicycle Accessory Sales and Repair								P	P	P		P	P					
Boarding Home Facility	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>		P <sub>5</sub>	P <sub>5</sub>					<sup>5</sup> Must meet the requirements of Chapter 30, Code of Ordinances. Structure must meet the standards, i.e. lot size, structure height, lot coverage, set backs, etc., for the zoning district within which it is located.	
Boat (Marine) Dealership										P	P							
Book Store									P	P			P	P				
Brewpub									P	P			P	P		C		
Building Contractor, General									C	P	P							
Building Contractor, Maintenance and Repair									C	P	P							
Building Contractor, Temporary Field Office	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>	P <sub>6</sub>		<sup>6</sup> Subject to requirements of Article IX 60-60(14)	
Building Contractor, Trade Specialist									C	P	P							
Building Contractor's Storage Yard										P								
Cabinetmaking Shop									C	P	P							
Car Title Loan Business									C	P								
Car Wash, Full-Service or Self-Service									P <sub>7</sub>	P <sub>7</sub>							<sup>7</sup> Subject to requirements of Article IX 60-60(5)	
Caretaker's Residence	P	P	P	P	P	P	P	C	P	P		C	C	P	C	P		
Cemetery	C	C	C	C	C	C	C	C	C	C	C		P	P	P			

LAND USES	Residential Districts							Nonresidential Districts				Special Districts					Notes
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG	
Check Cashing Business										C	P						
Church, Temple, Mosque, or Place of Worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Civic, Fraternal, Philanthropic, Charitable, or Nonprofit Organization								P	P	P	P	P	P	P	P	P	
Clothing and Apparel Store								P	P	P	P	P	P	P	P	P	
College or University, Private								P	P	P	P	P	P	P	P	P	
College or University, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Community Garden	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	P <sub>8</sub>	<sup>8</sup> Subject to requirements of Article IX 60-60(8)
Community Home	P <sub>8A</sub>	P <sub>8A</sub>	P <sub>8A</sub>	P <sub>8A</sub>	P <sub>8A</sub>	P <sub>8A</sub>	P <sub>8A</sub>										8A (1) Must be at least one-half mile from another Community Home measured in a direct line from the property line of each Community Home. (2) Motor vehicles that exceed the number of bedrooms may not be kept on the property or in the right-of-way of any street adjacent to the property.
Concrete/Asphalt Batch Plant, Permanent										C						C	
Condominium (See Dwelling, Multifamily)																	
Continuing Care Facility								C	C	P		P	P				
Convenience Store with Fuel Sales									P <sub>9</sub>	P <sub>9</sub>	P <sub>9</sub>	C <sub>9</sub>	C <sub>9</sub>		P <sub>9</sub>		<sup>9</sup> Subject to requirements of Article IX 60-60(1)
Convenience Store without Fuel Sales								P	P	P	P	P	P		P		
Country Club	C	C	C													C	
Custom Manufacturing (See Manufacturing, Custom)																	
Dance Hall/Event Center									P		P	P					
Day Care Services, Adult							C <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>		P <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>			<sup>10</sup> Subject to requirements of Article IX 60-60(3)
Day Care Services, Children							C <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>		P <sub>10</sub>	P <sub>10</sub>	P <sub>10</sub>			<sup>10</sup> Subject to requirements of Article IX 60-60(3)
Department or General Merchandise Store								P	P	P		P	P				
Detention Facility														C			
Dinner Theatre								P	P			P	P		P		
Distillery									P	P		P	P				
Distribution Center (See Warehousing and Distribution)																	
Dormitory, sorority or fraternity house							P	P	P	P <sub>10A</sub>	P <sub>10A</sub>	P <sub>10A</sub>		P <sub>10A</sub>	P <sub>10A</sub>	P <sub>10A</sub>	10A allowed within these district by right only when located within one-half mile from an higher educational institution
Driving Instruction School									P	P							
Drug Store									P	P	P		P	P		P	
Duplex (See Dwelling, Duplex)																	
Dwelling, Duplex							P	P	P								
Dwelling, Live/Work								P	P	P	P	P	P	P	P		
Dwelling, Multifamily							P	P	C		P		P	P			
Dwelling, Patio Home (Zero Lot Line Home)							P	P									
Dwelling, Single-Family Detached	P	P	P	P		P	P										
Dwelling, Single-Family Detached with Accessory Dwelling Unit	C	C	P	P <sub>11</sub>		P <sub>11</sub>	P										<sup>11</sup> Accessory Dwelling Unit in R-2, R-M only on lots of at least 5,000 square feet
Dwelling, Small-Lot Single-Family Detached					P		P										
Dwelling, Townhome					P		P					P	P				
Electronic Sales/Service								P	P	P		P	P				
Equipment Rental, Heavy, No Outdoor Storage									P	P							
Equipment Rental, Heavy, With Outdoor Storage										P							
Equipment Rental, Light, No Outdoor Storage								P	P	P							
Equipment Rental, Light, With Outdoor Storage								P	P	P							
Fabric Store								P	P	P		P	P				
Fabrication Processes										P				P			
Fair/Rodeo Grounds or Exhibition Hall or Arena									C	C				C			
Farm Supply Store, Retail									P	P				C			
Farmers' Market								P	P			P	P		P		
Feed, Grain, or Hay Storage and Sale, Bulk/Wholesale									P					P			
Fine Arts Classes								P	P	P		P	P				
Fitness Center								P	P	P		P	P				

LAND USES	Residential Districts							Nonresidential Districts				Special Districts					Notes
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG	
Flea Market, Indoor										P	P	P	P				
Flea Market, Outdoor/Open Air Market										C	C						
Florist								P	P	P	P	P	P				
Food Processing (craft)								P	P	P	P	P	P				
Food Processing (manufacturing)										P							
Food Truck Park								C	C	C	C	C	C		C		
Fuel Sales, Bulk										P <sub>9</sub>							<sup>9</sup> Subject to requirements of Article IX 60-60(1)
Fuel (Gasoline/Propane) Sales, Retail								P <sub>9</sub>	P <sub>9</sub>			C <sub>9</sub>	C <sub>9</sub>				<sup>9</sup> Subject to requirements of Article IX 60-60(1)
Funeral Services								P	P	P		P	P				
Furniture, Home Furnishings, and Home Decorating and Decor Store								P	P	P		P	P				
Furniture Repair and Sale, Used								P	P	P		C	C				
Garden Center/Nursery With Outside Storage								P	P	P		P	P				
Garden Center/Nursery, Without Outside Storage								P	P	P		P	P				
Golf Course	C	C	C													C	
Grocery Store								P	P	P		P	P				
Guest House	P	P	P	P <sub>1</sub>		P <sub>1</sub>	P										<sup>1</sup> Not permitted for patio homes or townhomes
Guidance Services				P		C	C	C	P		P	P					
Gunsmith and Locksmith Shop								P	P	P		P	P				
Halfway House	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>		P <sub>5</sub>	P <sub>5</sub>				<sup>5</sup> Must meet the requirements of Chapter 30, Code of Ordinances. Structure must meet the standards, i.e. lot size, structure height, lot coverage, set backs, etc., for the zoning district within which it is located.
Hardware Store								P	P	P		P	P				
Home Improvement Center										P							
Home Occupation	P <sub>12</sub>	P <sub>12</sub>	P <sub>12</sub>	P <sub>12</sub>	P <sub>12</sub>	P <sub>12</sub>	P <sub>12</sub>					P <sub>12</sub>	P <sub>12</sub>			P <sub>12</sub>	<sup>12</sup> Subject to requirements of Article IX 60-60(9)
Homeless Shelter													P				
Hospital										P			P				
Hotel (See also, Motel)										P		P	P		P		
Independent Living Facility for Seniors					P			C	C	C	P		P	P			
Jewelry Store								P	P	P			P	P			
Job and Vocational Training Center								P	P	P	P	P	P	P			
Junkyard	See Chapter 58, Kerrville Code of Ordinances																
Kennel, Up to 11 Animals, Indoor Pens										P	P	P					
Kennel, 12 or More Animals, Indoor or Outdoor Pens										P	P					P	
Landscape Nursery, Commercial/Wholesale										P						P	
Laundromat								P	P	P		P	P				
Laundry/Dry Cleaning Drop-Off/Pick-Up Station								P <sub>4</sub>	P <sub>4</sub>	P <sub>4</sub>		P <sub>4</sub>	P <sub>4</sub>				<sup>4</sup> Drive-thru subject to requirements of Article IX 60-60(6)
Laundry/Dry Cleaning Plant									C	P	P						
Limousine/Taxi Service									P	P							
Livestock Sales, Wholesale														C			
Luggage and Leather Goods Store								P	P	P		P	P				
Lumber Yard									P	P							
Machine Shop										P				P			
Mailing Service								P	P	P		P	P	P	P		
Manufactured Home or Manufactured Housing						P <sub>13</sub>											<sup>13</sup> Subject to requirements of Article IX 60-60(10)
Manufactured Housing Sales								C <sub>13</sub>	P <sub>13</sub>								<sup>13</sup> Subject to requirements of Article IX 60-60(10)
Manufacturing, Custom (see Artisan's/Craftsman's Workshop)																	
Manufacturing, Assembly									P					C			
Manufacturing, General									P					C			
Microrbrewery								P	P			P	P				
Mining and Mineral Extraction														C			
Mini-Storage								P <sub>14</sub>	P <sub>14</sub>	P <sub>14</sub>							<sup>14</sup> Subject to requirements of Article IX 60-60(2)
Minor Emergency/Urgent Care/Outpatient Medical Clinic								P	P	P		P	P				

LAND USES	Residential Districts							Nonresidential Districts				Special Districts					Notes
	R-E	R-1	R-1A	R-2	R-3	R-M	R-T	C-1	C-2	C-3	IM	DAC	MU	PI	AD	AG	
Modular Home	P	P	P	P		P	P									P	
Motel											P		P	P			
Motor Freight/Trucking Company											C						
Motorcycle, All Terrain Vehicle, Personal Watercraft Dealership										P	P						
Movie Theater										P			P	P			
Museum								P	P	P	P		P	P	P	P	
Musical Instrument Sales and Repair									P	P	P		P	P			
Newspaper										P	P		P	P			
Nursing Home							p	C	C	C	P		P	P			
Office, General (Business or Professional)								P	P	P	P		P	P		P	
Office, Medical								P	P	P	P		P	P			
Office Furniture, Equipment, and Supply Store									P	P			P	P			
Outdoor Storage of Equipment and Materials as a Primary Use											P						
Parking Lot or Structure, Accessory						P		P	P	P	P		P	P	P	P	
Parking Lot, Stand-Alone								C	C	P	P		P	P	P	P	
Parking Structure									P				P	P	P	P	
Pawnshop With Outside Storage										P							
Pawnshop, No Outside Storage									P	P			P	P			
Payday Loan Business									C	P							
Pet and Pet Supply Sales								P	P	P			P	P			
Pet Grooming								P	P	P	P		P	P			
Photography Studio								P	P	P			P	P			
Photography/Camera Supply Store								P	P	P			P	P			
Portable Building Sales											P						
Print Shop								P	P	P	P		P	P			
Public or Institutional Facility or Use	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	
Quadruplex (See Dwelling, Multifamily)																	
Radio or Television Station or Broadcasting Studio with Tower										P	P						
Radio or Television Station or Broadcasting Studio without Tower								P	P	P	P		P	P			
Recreational Skills Classes								C	P	P	P		P	P			
Recreational Vehicle Dealership									P	P							
Recreational Vehicle or Trailer Park						C				C			C				
Rectory/Parsonage	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	
Repair Shop, Household Items								P	P	P	P		P	P			
Repair Shop, Personal Items								P	P	P			P	P			
Research and Development Lab									P	P				C			
Residential Care Service	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>	P <sub>5</sub>		P <sub>5</sub>	P <sub>5</sub>				5 Subject to Article 1, Chapter 30, and Article IX 60-60(7)
Restaurant, Food and Beverage Shop								P	P	P	P		P				
Restaurant, General, With Drive-Thru or Drive-In Service								P <sub>4</sub>	P <sub>4</sub>			P <sub>4</sub>	P <sub>4</sub>		P <sub>4</sub>		4 Drive-thru subject to requirements of Article IX 60-60(6)
Restaurant, General, Without Drive-Thru Service								P	P	P			P	P		P	
Salvage, Reclamation, Recycling of Materials										C							
Sand, Gravel, or Stone Extraction														C			
Sand, Gravel, or Stone Storage and Sales										C			C			C	
School, Private, Elementary	C	C	C	C	C	C	C	C	C				P				
School, Private, Intermediate and Secondary	C	C	C	C	C	C	C	C	C				P				
School, Public, Elementary	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	
School, Public, Intermediate and Secondary	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	
Second-hand/Used Goods Store With Outside Storage										P							
Second-hand/Used Goods Store, No Outside Storage								P	P	P			P	P			
Security Service								P	P	P			P	P		P	
Security Systems Installation and Monitoring Company								P	P	P			P	P			
Sexually Oriented Business								See Chapter 30, Kerrville Code of Ordinances									
Short-term Rental Unit	C	C	C	C	P	C	P					P	P			C	
Showroom, in Conjunction with Warehousing and Distribution										P				P			





**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance 2019-16 Second Reading. An Ordinance ordering a special election to be held on November 05, 2019, for the purpose of submitting propositions to voters for proposed amendments to the City Charter; establishing early voting locations and polling places for this election; making provisions for the conduct of the election; and providing for public review

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 29, 2019

**SUBMITTED BY:** Mike Hayes

**EXHIBITS:** [20190723\\_Ordinance\\_2019-16 City Charter amendments Election.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Last year, City Council established a Charter Review Commission ("CRC") in accordance with Section 14.07 of the Kerrville City Charter ("Charter"). Thereafter, Council appointed members to the CRC and charged it with reviewing the Charter. The CRC completed its review of the Charter and submitted its Report of the 2019 Kerrville Charter Review Commission ("Report") at a Council meeting held on July 16, 2019. Council expressed a desire to move forward with calling a special election at the next uniform election date, which occurs on November 5, 2019, for the purpose of allowing City voters to vote on the proposed amendments.

Ordinance No. 2019-16 was approved on first reading by a 4-0 vote on July 23, 2019.

**RECOMMENDED ACTION:**

Consideration of the Ordinance upon second reading, the approval of which will order a special election for a vote on amendments to the Charter.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2019-16**

**AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD  
ON NOVEMBER 5, 2019, FOR THE PURPOSE OF SUBMITTING  
PROPOSITIONS TO VOTERS FOR PROPOSED AMENDMENTS TO  
THE CITY CHARTER; ESTABLISHING EARLY VOTING LOCATIONS  
AND POLLING PLACES FOR THIS ELECTION; MAKING  
PROVISIONS FOR THE CONDUCT OF THE ELECTION; AND  
PROVIDING FOR PUBLIC REVIEW**

**WHEREAS**, Section 14.07 of the Charter of the City of Kerrville, Texas (“Charter”), requires City Council to appoint a Charter Review Commission (“CRC”) every five years for the purpose of reviewing the Charter; and

**WHEREAS**, in November 2018, City Council created the CRC and then in January 2019, appointed persons to the CRC and charged it with reviewing and proposing amendments to the Charter; and

**WHEREAS**, the CRC held a series of meetings, all of which were open to the public and that included a public hearing; and

**WHEREAS**, the CRC prepared and presented its written report to Council in a public meeting, said report titled *Report of the 2019 Kerrville Charter Review Commission* (“Report”), which specified proposed Charter amendments to City Council; and

**WHEREAS**, Council reviewed the Report, listened to a presentation from the Chair of the CRC, and engaged CRC members in a discussion of the proposed amendments and the rationale for such amendments; and

**WHEREAS**, after considering the Report, Council now believes that Kerrville voters, in accordance with Section 9.004 of the Texas Local Government Code, should vote on the amendments as specified by the Report, in the form of propositions, at the next uniform election date to be held on November 5, 2019; and

**WHEREAS**, during the time leading up to the November 5, 2019, election, Council believes it necessary to make the amendments available for public review on the City’s website, in the office of the City Secretary, and at the Butt-Holdsworth Memorial Library; and

**WHEREAS**, City Council finds it in the public interest to order a special election, to be held in conjunction with next uniform election date on November 5, 2019, for a vote of the electors as to proposed amendments to the Charter;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:**

**SECTION ONE.** City Council accepts the *Report of the 2019 Kerrville Charter Review Commission*.

**SECTION TWO.** Council orders that a special election be held by the City of Kerrville, Texas (“City”) on November 5, 2019. At this special election, ballot propositions will be submitted to the qualified voters of the City for proposed amendments to the Charter, in accordance with applicable provisions of the City Charter and State law.

**SECTION THREE.** The following measures, with blue, underlined language being additions (added) to the Charter and strike-through language being deletions (~~deleted~~) from the Charter, shall be submitted to the qualified voters of the City at the special election in the form of the propositions as provided for in Section Four, below, and in accordance with Section 9.004 of the Texas Local Government Code, Section 14.06 of the Charter, and other applicable laws:

**Measure A**

**Section 1.07. - Sale of Liquor Prohibited**

The City may regulate or otherwise prohibit the sale of liquor in all or part of the residential areas of the City as authorized by this charter provision and State law.

**Measure B**

**Section 2.02. - Qualifications for Councilmembers.**

Each member of the City Council, in addition to having other qualifications required by law:

- a. Shall be a qualified voter of the State of Texas;
- b. Shall be at least eighteen (18) years of age;
- c. Shall be a resident of the City for at least twelve (12) consecutive months preceding the election day; provided, however, that any person who shall have been a resident for a period of not less than twelve (12) consecutive months immediately preceding the election of any territory not formerly within the corporate limits of the City, but which is annexed under the provision of this charter, shall be eligible for said office; ...

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### **Section 2.03. - Term of Office.**

a) The members of the City Council shall hold their offices for a term of two years and until their successors have been elected and duly qualified in accordance with this Charter. Five Councilmembers will be elected at large, two in one year for Places One and Two, and the following year, three will be elected for Places Three, Four, and Mayor, respectively.

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### **Section 3.01. - Canvass of Election; Meetings of the Council, Boards, and Commissions; Compliance with Open Meetings Act.**

Following each municipal election, the Council shall meet at the usual place for holding its meetings, canvass the election in accordance with state law, and the newly elected members shall assume the duties of office without party or partisan mark or designation. Council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the City Secretary upon request of the Mayor, the City Manager, or a majority of the members of the Council. Any such notice shall state the subject or subjects that shall be considered. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered; but the Council may by a majority vote of all the members authorize a closed meeting. Council and its boards, commissions, and committees shall comply fully with the provisions of the Texas Open Meeting Law Act as amended.

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### **Sections 4.01 - 4.08**

#### **Section 4.01. Municipal Elections.**

~~The regular election for members of City Council shall be held as provided by state law, or as provided by ordinance adopted in accordance with state law. The Council may, in accordance with state law, order special elections.~~

#### **Section 4.02. Elections.**

~~The City shall conduct all elections in accordance with state law.~~

#### **Section 4.03. Application for Candidaey.**

~~Any person who lawfully qualifies and is a registered voter, may file an application for election for a Placee on the City Council. The name of such candidate and Place for which he is filing will be affixed by the City Secretary at the time of issuance of an application form. Such application shall include a petition signed by not less than 100 qualified and registered voters of the City. The application and the signatures thereon as well as the affidavits of the circulators shall meet the requirements of state law. All papers comprising an application shall be assembled and filed with the City Secretary in accordance with state law. Signatures are not required where the application includes a filing fee of \$100.00. The City Secretary shall review the petition as required by state law and if the petition is found to be insufficient, the City Secretary shall return it immediately to the person who filed it, with a written statement certifying why the petition is found to be "insufficient." Within the time authorized by state law such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. If the application complies with this section and state law, the City Secretary shall place such name on the ballot. Application forms shall be obtained from the City Secretary, as they are promulgated by the Texas Secretary of State.~~

#### **Section 4.04. Placees.**

~~There shall be five places: One, Two, Three, Four, and Mayor.~~

#### **Section 4.05. Ballots.**

~~The names of candidates shall be placed on the ballot in accordance with state law.~~

#### **Section 4.06. Election of Councilmembers by Plurality.**

~~At the regular municipal election, the voters shall vote for one candidate for each place listed on the ballot. The candidate for each place listed on the ballot who shall have received the greatest number of votes for that place cast in such election shall be declared elected; and in case of a tie vote, by lot.~~

#### **Section 4.07. Laws Governing City Elections.**

~~All City elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws of this Charter to provide for some feature of the City elections, then the City Council shall have the power to provide for such deficiency, and no informalities in conducting a City election shall invalidate the same, if it be conducted fairly and~~

~~in substantial compliance with the general laws, where applicable, and the Charter and ordinances of the City.~~

#### **Section 4.08. - Canvassing Elections.**

~~The City shall conduct an election canvass following a general or special election in accordance with state law.~~

#### **Section 4.01. - Municipal Elections.**

All City elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas.

#### **Section 4.02. - Election of Councilmembers by Plurality, places.**

There will be five places: One, Two, Three, Four, and Mayor. At the regular municipal election, the voters may vote for one candidate for each place listed on the ballot. The candidate for each place listed on the ballot who receives the greatest number of votes for that place cast in such election shall be declared elected; and in case of a tie vote, by lot.

#### **Section 4.03. - Application for Candidacy.**

Any person, who lawfully qualifies and is a registered voter, may file an application for election for a Place on the City Council. The name of such candidate and Place for which he is filing will be affixed by the City Secretary at the time of issuance of an application form. Such application must include a petition signed by not less than 100 qualified and registered voters of the City. The application and the signatures thereon as well as the affidavits of the circulators must meet the requirements of state law. All papers comprising an application must be assembled and filed with the City Secretary in accordance with state law. Signatures are not required where the application includes a filing fee of \$100.00. The City Secretary shall review the petition as required by state law and if the petition is found to be insufficient, the City Secretary shall immediately notify the person who filed it, with a written statement certifying why the petition is found to be "insufficient." Within the time authorized by state law such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. If the application complies with this section and state law, the City Secretary shall place such name on the ballot. Application and petition forms must be obtained from the City Secretary, as they are promulgated by the Texas Secretary of State.

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#### **Section 5.04. - Petitions for Recall.**

... The petition must contain the number of valid signatures of qualified voters totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, or (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, ~~but in no case fewer than the signatures from three hundred (300) qualified voters registered to vote in the City~~. Each signer of such recall petition shall personally sign their name thereto and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month, and the year their signature was affixed.

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#### **Section 5.11. - Initiative; Petition; Procedure.**

- a. ... Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, or (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, ~~but in no case fewer than the signatures from three hundred (300) qualified voters registered to vote in the City~~. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance. The petition, its form and content, shall be the same as for recalls as provided in Section 5.05 above. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 5.06 above.

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#### **Section 5.12. - Referendum; Petition; Procedure; Effect Prior to Election.**

- a. ... Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, or (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, ~~but in no case fewer than the signatures from three hundred (300) qualified voters registered to vote in the City~~. The petition, its form and content, shall be the same as for recalls as provided in Section 5.05 above. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 5.06 above.

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## Section 5.12. - Referendum; Petition; Procedure; Effect Prior to Election.

a. ...Council shall either repeal the referred ordinance or submit the referred ordinance to the qualified voters of the City at the next uniform election date as authorized by law within thirty (30) days after the date the petition was finally determined sufficient.

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## Section 7.01 City Attorney; Qualifications

a. The City Council shall appoint a City Attorney from recommendations of the City Manager, or by any member of the City Council. The City Attorney shall receive for his services such compensation as may be determined by the City Council. The City Attorney shall be in charge of all legal questions as may arise within the City, or by members of the City Council. The City Attorney shall be a qualified attorney who is duly licensed to practice law in the State of Texas. The City Attorney shall be the chief legal advisor of and attorney for the City and all departments and officers thereof in matters relating to their official powers and duties. It shall be the City Attorney's duty either personally or by such assistants as the City Attorney may delegate, to perform all services incident to the legal matters of the City. The City Attorney will attend such City Council meetings as needed when requested; to give advice in writing when so requested by the Council or City Manager, or by a department head when needed to clarify positions or actions. The City Attorney will act as legal counsel, or defend or prosecute as the case may be, all offenses against the law as defined by ordinances, or other laws of the City or state, as may be required. The City Attorney will review all contracts, bonds and other instruments in writing in which the City is concerned, and endorse on each his approval of the form and correctness thereof, and perform such other duties of a legal nature as maybe determined by the City Council. In addition to the duties imposed upon the City Attorney by this Charter or required of the City Attorney by ordinance or resolution of the City Council, the City Attorney shall perform any duties imposed upon the legal officers of the Municipal Court when or if needed. The City Attorney shall have authority to appoint one or more assistants, subject to approval of the City Council. The performance of the City Attorney and assistants shall be reviewed annually by the City Council, and their reappointment or dismissal shall be made at that time. The City Attorney and his assistants, may be removed at any time by majority vote of the City Council. The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall review all contracts and other instruments in writing in which City Council is concerned, endorse approval of the form and correctness of such, and perform other duties of a legal nature as maybe

determined by City Council. The City Attorney shall receive for services such compensation as may be fixed by City Council for regular and special duties and shall hold office at the pleasure of Council. The City Attorney, or such other assistant attorneys selected by the City Attorney with the approval of City Council, shall represent the City in all legal matters, to include prosecution within municipal court. ~~Netwithstanding the above provisions, the~~

- b. The City Council or the City Attorney, following written notice to Council, may engage special legal counsel to represent the City of Kerrville in any specific matter or for the performance of any specifically delineated duties otherwise to be performed by the City Attorney at any time it deems necessary and appropriate.
    - c. At least annually, City Council shall review the performance of the City Attorney.

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#### **Section ~~10.01~~3.08. - Creation of Boards, Commissions, and Committees.**

- a. The City Council may create, and provide for, and dissolve such Boards, Commissions, and/or Committees as the City Council may deem appropriate or necessary to accomplish and further any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City or its inhabitants. In establishing any such Board, Commission, or Committee, the Council shall determine the qualifications as necessary.

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#### **Section ~~13.07~~13.06. - Extensions.**

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section ~~16.04~~13.03. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

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## **Section 14.09. Meaning of Words and Designations.**

All words and designations used in this Charter are to be taken and construed in the sense in which they are understood in common language, taking into consideration the context and subject matter relative to which they are employed. The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or as may be amended or superseded". The use of the word "City" in this Charter shall mean the City of Kerrville, Texas, and the use of the word "Charter" shall mean this Home Rule Charter.

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## **Section 5.02. - Commencement of Petition; Petitioners' Committee; Affidavit.**

Any three (3) qualified voters of the City may commence recall, initiative, or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners committee and be responsible for preparing and circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and naming the Councilmember(s) to be recalled or setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered.

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## **Section 2.01. - The City Council.**

Except as otherwise provided in this Charter, all powers of the City shall be vested in a Council of five (5) members, to be known as the Kerrville City Council. The members of the Council shall be elected from the City of Kerrville at large in a manner prescribed elsewhere in this Charter without party or partisan mark or designation. The Mayor is a member of the Council and may be referred to in this Charter as a "Councilmember."

### **Measure C**

## **Section 2.02. - Qualifications for Councilmembers.**

e. At the time that a candidate's application for a place on the ballot is submitted, or thereafter, such candidate shall not be related within the second degree of affinity or third degree of consanguinity to anyone employed by the City and who holds an executive position with the City, which is defined as the head of

any department or division within the City. The City Manager shall indicate such positions within his or her budget.

#### **Measure D**

##### **Section 2.03. - Term of Office.**

b. No Councilmember may serve more than three (3) full terms in succession.

#### **Measure E**

##### **Section 2.03. - Term of Office.**

c. Any Councilmember, upon filing an application to run for mayor, shall have automatically resigned his or her office effective on the day following the canvass for such election.

#### **Measure F**

##### **Section 2.04. - Vacancies.**

Vacancies in the City Council, including a vacancy resulting from a recall election, shall be filled by the Council for the remainder of the unexpired term. The Council shall appoint a qualified elector to fill a vacancy within ~~thirty (30)~~ forty-five (45) days after such vacancy occurs, as determined by state law. For purposes of this section and the Charter, a “qualified elector” or “qualified voter” means a “registered voter” in accordance with state law.

#### **Measure G**

##### **Section 2.05. - Compensation for Councilmembers.**

Councilmembers ~~shall serve without an established salary; however, they will be for Places One, Two, Three, and Four are~~ authorized to receive ~~the sum of \$25.00 \$200.00 for each Council meeting in which they attend to offset the “out of pocket” expenses incurred~~ each month. ~~The expense fees are not to be construed as being a salary, but an authorized allowance for each regular meeting.~~ Councilmembers may be reimbursed for other reasonable expenses directly associated with their service to the City, subject to controls established by the Council. Councilmembers are not authorized to receive any other benefit.

## Measure H

### **Section 3.02. - Mayor and Mayor Pro Tem.**

Following the canvass of a regular election, the Council shall choose one of its members (other than the Mayor) as Mayor Pro Tem. The Mayor shall preside at meetings of the Council and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him or her by this Charter and the ordinances of the City. He or she shall be recognized as the head of the City government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor is authorized to act in accordance with federal and state law and City policy. If a vacancy occurs in the Office of Mayor, the Council shall appoint a successor Mayor for the remaining term, in accordance with Section 2.04. If the Mayor is absent or [disabled] incapacitated such that he or she is unable to perform the duties of office, the Mayor Pro Tem shall act as Mayor for the duration of the period of such absence or disability. If the Mayor Pro Tem is also absent or disabled, then the Council shall elect a Presiding Officer to act in the place of the Mayor Pro Tem.

## Measure I

### **Section 3.07. - Publication of Penal Ordinances.**

a. ~~A penal ordinance is one wherein certain acts or omissions are defined as a crime, and a punishment provided therefor. A general ordinance, the violation of which is a misdemeanor as under any other ordinance, is not a penal ordinance.~~

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### **Section 5.06. - Recall; Petition; Procedure.**

b. *Amendment.* ~~A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the City Secretary within five (5) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 4.05, and within five (5) days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners committee by certified mail or by hand delivery to a committee member as in the case of an original petition. If the City Secretary finds a petition insufficient for lack of the required number~~

of valid signatures, the petitioner may file one supplementary petition by the deadline in accordance with state law and Sections 5.04 and 5.05. The City Secretary shall notify the petitioner as to the sufficiency of the petition not later than the fifth regular business day after the date of its receipt.

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#### **Section 5.12. - Referendum; Petition; Procedure; Effect Prior to Election.**

- b. Pending the holding of such election, the ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any Any election for a referendum under this Charter shall be held in accordance with state law on the first authorized uniform election date ~~that occurs after the seventieth (70th) day~~ after the decision by the City Council.

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#### **~~Section 9.03. - Municipal Court Clerk.~~**

~~There shall be a clerk or clerks of said Court who shall be appointed and who may be removed by the City Manager. The said Clerk shall have authority to administer oaths and affirmations.~~

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### **ARTICLE XI. - TAXATION**

#### **~~Section 11.01. - Power to Tax.~~**

~~The City Council shall have the power, not inconsistent with state laws, as amended from time to time, to levy, assess and collect taxes upon taxable properties, real, personal tangible, and intangible; and to levy, assess and collect occupation, sales, and other taxes.~~

#### **~~Section 11.02. - Property Subject to Tax.~~**

~~The City Council through the passing of such ordinances as may be required, formulate the procedures for assessing and collecting all authorized taxes.~~

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### **Section 13.01. - Powers of the City.**

~~In addition to the City's power to buy, own, construct, maintain, and operate utilities and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public (see powers made part of this Charter in Section 1.02), the City shall have such further powers as may now or hereafter be granted under the Constitution and of the State of Texas.~~

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### **Section 14.01. - Publicity of Records.**

All records of the City, except those protected by executive sessions, or state and federal statutes, shall be open to inspection by any person during the regular posted office hours of the City Hall and in accordance with the Texas Public Information Act.

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### **Section 14.06. - Amending the Charter.**

~~Amendments to this Charter may be framed and submitted to the voters of the City in any manner provided by state law.~~

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### **Section 5.01. - General Authority.**

- b. *Initiative.* The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget, ~~or any~~ capital program, ~~or relating to~~ appropriation of money, ~~issuing issuance~~ of bonds, setting of utility rates, ~~and~~ levy of taxes, ~~or annexations~~, salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state ~~statute or case~~ law.
- c. *Referendum.* The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget, ~~or any~~ capital program, ~~or relating to~~ the appropriation of money, ~~issuing issuance~~ of bonds, setting of utility rates, ~~and~~ levy of taxes, ~~or annexations~~, salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state ~~statute or case~~ law.

## Measure J

### **Section 5.10. - Result of Recall Election.**

b. Where a vacancy(s) occurs due to a recall election, the remaining Councilmembers, including where the remaining Councilmembers number two or less, shall appoint a qualified elector(s) for the recalled place(s), which such person(s) may serve only through the ~~canvassing of the next municipal election remainder of the unexpired term. The appointed person(s) may choose to become a candidate at such election but in any case, the person elected at the election will only serve through the remainder term, if applicable.~~

## Measure K

### **Section 5.12. - Referendum; Petition; Procedure; Effect Prior to Election.**

a. Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ~~[ten]~~ thirty (~~[10]~~30) days after the date the ordinance sought to be reconsidered was adopted.

## Measure L

### **Section 6.01. - City Manager.**

The Council shall appoint an officer whose title shall be City Manager and who shall be chief executive and the head of the administrative branch of the City government. By ~~written notice to City Council letter filed with the City Secretary~~, the City Manager shall designate ~~, subject to approval of the Council~~, a qualified City executive administrative officer to exercise the powers and perform the duties of city manager during periods of his or her temporary absence or disability. The Council may annul such designation at any time and appoint another ~~officer for the~~ City executive to serve until the City Manager ~~shall return from his absence or until his disability shall cease to perform his or her duties~~. ...

## Measure M

### **Section 6.01. - City Manager.**

...The City Council shall annually review the performance of the City Manager, and The the City Manager shall receive such compensation as may be fixed by the City Council

## Measure N

### **Section 7.01 City Attorney; Qualifications**

- d. City Council may not remove a City Attorney who has been in the service of the City for more than one year prior to a regular City election within sixty (60) days subsequent to such election except by a four-fifths vote of the members of City Council.

## Measure O

### **Section 8.01. - Development and Submission of City Budget and Budget Message.**

a. *Development.* The City Manager shall prepare each year a budget to cover all proposed expenditures of the government of the City for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall also show as definitely as possible each of the various projects for which appropriations are set up in the budget and the estimated amount of money carried in the budget for each of these projects. The budget shall also contain ~~a complete financial statement of the City showing all outstanding obligations of the City, the cash on hand to the credit of each and every fund, the~~ funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

b. *Accounting Practices.* The City Manager shall prepare and present the budget according to budget award guidelines currently established by the Government Finance Officers Association, or its successor organization.

c. *Submission.* On or before the 31st day of July of each year, the City Manager shall submit to the City Council and City Secretary a budget for the ensuing fiscal year and an accompanying budget message. The full text of the proposed

budget and message shall be made available for public review in the office of the City Secretary, at the City's library, and prominently linked on the City's website.

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### **Section 8.03. Budget Message.**

~~The City Manager's budget message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the City Manager deems desirable.~~

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### **Section 8.043. - City Council Action on Budget.**

b. *Amendment Before Adoption.* After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, ~~provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.~~

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### **Section 8.043. - City Council Action on Budget.**

d. *"Publish" defined.* As used in this section and this article, the term "publish" refers to making the information available on the City's website and otherwise complying with state law ~~means to print in the contemporary means of information sharing, which includes, a newspaper of general circulation which is published in the City, and on the City's website.~~ In addition, the budget shall be made available in the office of the City Secretary and in the City's library.

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## Section 8.045. - Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable ~~or the City Council may require~~ for effective management and an understanding of the relationship between the budget and the City's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy; ~~and~~ all proposed expenditures, ~~including the amount of salary or compensation of officers and employees~~ and debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for ~~actual and estimated~~ income and expenditures of the current and ~~fiscal year and actual income~~ preceding ~~expenditures of the~~ fiscal year. It shall indicate in separate sections:

- a. ~~The Proposed revenues and goals and expenditures for current operations during the ensuing fiscal year; for each city fund detailed for each fund; by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;~~
- b. ~~Proposed goals and performance measures for each operational department; and~~
- c. ~~b~~Proposed long term financial planning in the form of a five year forecast of revenues and expenditures for the General and Water Funds and at least five years of capital project expenditures and associated financing sources; longer term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performances related to goals; and
- e. ~~The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the City, and methods to measure outcomes and performance related to the goals. For any fund, the total proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.~~

## Section 8.067 - Amendments After Adoption.

d. *Transfer of Appropriations.* ~~At any time during the fiscal year, the City Council may by ordinance transfer part of all the unencumbered appropriation balance from one department, fund, or organizational unit to the appropriation for other departments or organizational units or a new appropriation.~~ The ~~manager~~ City Manager may transfer appropriated funds among line items within a ~~department~~ fund, ~~or organizational unit and shall report such transfers to the Council in writing in a timely manner as long as the transfer results in a \$0.00 net impact to the fund.~~

## Measure P

### Section 9.02. - Municipal Court Judge.

The Municipal Judge, whether one or more, shall preside over the Municipal Court. He or she shall be appointed by the City Council and must be a qualified attorney who is duly licensed to practice law within the State of Texas. The Judge shall be appointed for a term not to exceed two (2) years, and shall hold office at the pleasure of the City Council. If for any reason the Judge shall temporarily fail to act, the Mayor or Mayor Pro Tem of the City is hereby authorized to appoint a replacement who shall act in the place of the Judge and who shall have all of the powers and discharge all of the duties of said office. During either twelve (12) month period beginning at the date of appointment, more than two (2) consecutive or six (6) total absences over and above prior approved vacation and sick leave, shall be cause for automatic removal from office by the City Council. The Judge, or anyone acting in his place, shall receive such compensation as may be determined by the City Council.

## Measure Q

### Section 10.013.08. - Creation of Boards, Commissions, and Committees.

b. Irrespective of the City Council's authority, the Mayor is authorized, on his or her own initiative and without Council action, to create and make appointments to an ad hoc committee(s).

## Measure R

### Section 13.0201. - Franchises—Powers of the City Council.

The City Council shall have power by ordinance to grant, amend, renew, and extend all franchises, and to regulate all public utilities of every character within the City of Kerrville, and for such purposes is granted full power. ~~All ordinances granting, amending, renewing, or extending franchises for public utilities, shall be~~

~~read at three (3) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after final passage, unless otherwise provided by state law; and pending such time, the ordinance shall be published by caption (not full text) as prescribed by state law once each week for four (4) consecutive weeks in the official newspaper published in the City of Kerrville, and the expense of such publication shall be borne by the proponent of the franchise.~~ No public utility franchise shall be transferred except upon the approval of the City Council expressed by ordinance; and copies of all transfers and mortgages or other documents affecting the title or use of public utilities shall be filed with the City Manager within ten (10) days after the execution thereof. Such franchise shall not be transferred indirectly through the acquisition of the capital stock of the grantee company by another corporation, except through the approval by City Council and the filing of all documents relating to the purchase of such stock, including the corporation affiliations of the purchasing company.

### Measure S

#### **Section 14.03. Official Bonds.**

~~The Director of Finance, and such other officers or employees as the Council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds may be paid by the City.~~

**SECTION FOUR.** The ballots for the City election must comply with the Texas Election Code and shall have the measures described in Section Three, above, stated as propositions as follows:

**Measure A shall be placed on the ballot in the form of the following Proposition:**

#### **PROPOSITION A**

Amendment to the City Charter authorizing the prohibition of the sale of liquor in all or parts of residential areas of the City.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure B shall be placed on the ballot in the form of the following Proposition:**

## PROPOSITION B

Amendments to the City Charter to provide clarity as to meaning and intent and eliminating inconsistencies.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure C shall be placed on the ballot in the form of the following Proposition:**

## PROPOSITION C

Amendment to the City Charter creating a qualification for City Council prohibiting the candidate from being related within the second degree of affinity or third degree of consanguinity to anyone employed in an executive position with the City.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure D shall be placed on the ballot in the form of the following Proposition:**

## PROPOSITION D

Amendment to the City Charter prohibiting a councilmember from serving in office for more than three full successive terms.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure E shall be placed on the ballot in the form of the following Proposition:**

## PROPOSITION E

Amendment to the City Charter requiring any councilmember, upon filing an application to run for mayor, to automatically resign his or her office effective the day following the canvass for such election.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

**Measure F shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION F**

Amendment to the City Charter requiring City Council to fill a vacancy within forty-five (45) days after such vacancy occurs.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure G shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION G**

Amendments to the City Charter prohibiting councilmembers and the mayor from receiving any benefit other than reimbursement for reasonable expenses and a monthly payment in the amount of \$200.00 for councilmembers and \$400.00 for the mayor respectively.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure H shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION H**

Amendment to the City Charter providing that when the Mayor is incapacitated such that he or she is unable to perform the duties of office that the Mayor Pro Tem shall act as Mayor for the duration the disability.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure I shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION I**

Amendments to the City Charter revising and deleting provisions which are redundant of or inconsistent with State law.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure J shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION J**

Amendments to the City Charter providing that when a vacancy is filled by appointment the appointee serves only through the remainder of the unexpired term

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure K shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION K**

Amendments to the City Charter increasing the time for submitting a petition for referendum on an ordinance from within ten days of the adoption of the ordinance to within thirty days of the adoption of the ordinance.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure L shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION L**

Amendments to the City Charter requiring the city manager to designate a qualified City executive to perform the duties of city manager by written notice to the City Council.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure M shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION M**

Amendment to the City Charter requiring the City Council to annually review the performance of the City Manager.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure N shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION N**

Amendment to the City Charter providing that, within sixty (60) days of any regular election, a vote to remove a City Attorney who has been in the service of the City for more than one year requires a four-fifths vote of the members of City Council.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure O shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION O**

Amendment to the City Charter simplifying the budget process and requiring compliance with state law and the industry standards and best practices prescribed by the Government Finance Officers Association.

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

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**Measure P shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION P**

Amendment to the City Charter requiring the municipal court judge to be a qualified attorney licensed to practice law in the State of Texas.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure Q shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION Q**

Amendment to the City Charter authorizing the Mayor, on his or her own initiative and without Council action, to create and make appointments to ad hoc committees.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure R shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION R**

Amendment to the City Charter revising the approval process for ordinances granting, renewing, or extending franchises to be consistent with the process of adopting all other ordinances of the City.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

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**Measure S shall be placed on the ballot in the form of the following Proposition:**

**PROPOSITION S**

Amendment to the City Charter deleting the requirement that the Director of Finance and other various officers of the City give a bond to the City.

FOR\_\_\_\_\_ AGAINST\_\_\_\_\_

**SECTION FIVE.** The method of voting will be by the Hart Voting System, which is an electronic touch screen voting system.

**SECTION SIX.** The municipal polling place for such election will be the Kathleen C. Cailloux City Center of the Performing Arts, 910 Main Street, Kerrville, Texas 78028.

**SECTION SEVEN.** On election day, Tuesday November 5, 2019, the polls shall remain open from 7:00 AM to 7:00 PM. Early voting shall also be conducted at the Kathleen C. Cailloux City Center of the Performing Arts, 910 Main Street, Kerrville, Texas, 78028 as follows: October 21 and October 22, 2019, from 7:00 AM to 7:00 PM; October 23, October 24, and October 25, 2019, from 8:00 AM to 6:00 PM; and October 28 through November 1, 2019, inclusive, from 7:30 AM to 6:00 PM.

**SECTION EIGHT.** In order to afford the public with the opportunity to review the proposed Charter amendments, the City Secretary shall be responsible for placing the proposed amendments on the City's website and making copies of the amendments available for public review in the office of the City Secretary and at the Butt-Holdsworth Memorial Library.

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2019.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2019.**

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 29-2019. A resolution setting forth the ad valorem (property) tax rate to be considered for adoption for the 2019 tax year; calling two public hearings prior to the adoption of said rate; and calling a public hearing prior to the adoption of the fiscal year 2020 budget as required by both the City's charter and state law

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jul 31, 2019

**SUBMITTED BY:** Amy Dozier

**EXHIBITS:** [20190813\\_Resolution\\_29-2019 Set Proposed Tax Rate FY2020.pdf](#)  
[20190813\\_Resolution\\_Budget Public Notice.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

**FY2020 Proposed Budget**

The FY2020 Proposed Budget includes expenditures of \$78,246,549 and revenues of \$59,768,413. Local Government Code and the City Charter require a public hearing for the proposed budget. The public hearing is scheduled for Tuesday, August 27, 2018 at 6:00 p.m. at 701 Main Street, Kerrville, Texas. Additionally, the Charter requires that the City Secretary publish a "general summary" of the budget and a notice stating the times and places where copies of the budget are available for inspection by the public and the time and place for a public hearing on the budget. A sample of the proposed public hearing notice is attached.

The FY2020 Proposed Budget was filed on July 31, 2019 with the City Secretary. Copies are available for public viewing at the City Secretary's office in City Hall at 701 Main Street, Kerrville, Texas, the Butt-Holdsworth Memorial Library at 505 Water Street, Kerrville, Texas or on the City's website at [kerrvilletx.gov](http://kerrvilletx.gov).

Ad Valorem Tax Rate

The proposed total ad valorem tax rate of \$.5400 per \$100 of assessed value is lower than the \$0.5514 tax rate for the previous year. The rate exceeds the effective tax of \$0.5222, but is lower than the rollback rate of \$0.5620.

**RECOMMENDED ACTION:**

Approve Resolution No. 29-2019.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 29-2019**

**A RESOLUTION SETTING FORTH THE AD VALOREM (PROPERTY) TAX RATE TO BE CONSIDERED FOR ADOPTION FOR THE 2019 TAX YEAR; CALLING TWO PUBLIC HEARINGS PRIOR TO THE ADOPTION OF SAID RATE; AND CALLING A PUBLIC HEARING PRIOR TO THE ADOPTION OF THE FISCAL YEAR 2020 BUDGET AS REQUIRED BY BOTH THE CITY'S CHARTER AND STATE LAW**

**WHEREAS**, state law requires that City Council hold two public hearings prior to the adoption of an ad valorem (property) tax rate which, if adopted and applied to the total taxable value of property located within the City of Kerrville, would impose an amount of taxes that exceeds either the lower of the effective tax rate or the rollback rate; and

**WHEREAS**, City Council is considering the adoption of an ad valorem tax rate which exceeds the effective tax rate but not the rollback rate, such that Council must hold two public hearings in accordance with state law; and

**WHEREAS**, pursuant to the City Charter and state law, City Council must also hold a public hearing regarding the proposed budget; and

**WHEREAS**, City Council now establishes dates for public hearings on the adoption of the proposed 2019 tax rate and the proposed fiscal year 2020 budget;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE. Tax Rate.** The City Manager and City Attorney are directed to prepare an ordinance for consideration by City Council, which if adopted, will adopt and impose a total ad valorem (property) tax rate for the tax year 2019 at a rate not to exceed **\$0.5400** per \$100 valuation. The adoption of this rate will levy a tax rate greater than the effective rate. This proposed tax rate is currently scheduled to be adopted by passage of an ordinance, the second and final reading of which is scheduled to occur on September 24, 2019.

**SECTION TWO. Public Hearings for Tax Rate.** City Council will hold two public hearings, the first being scheduled for 6:00 p.m., August 27, 2019; and the second scheduled for 6:00 p.m., September 10, 2019. Council will hold both public hearings at City Hall, 701 Main Street, Kerrville, Texas, in order to receive public comment on the proposed tax rate.

**SECTION THREE. Publication of Budget.** In accordance with Section 8.04 of the City Charter, the City Secretary is directed to publish a general summary of the budget and a notice stating the time and places where this message and full budget are available for public inspection.

**SECTION FOUR. Public Hearing for Budget.** Pursuant to Section 8.04 of the City Charter and state law, a public hearing on the proposed budget is scheduled for 6:00 p.m. on August 27, 2019.

**SECTION FIVE. Notices.** The City Secretary is directed to provide notice of the above specified public hearings in accordance with state law and the City's Charter.

**PASSED AND APPROVED ON** this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2019.

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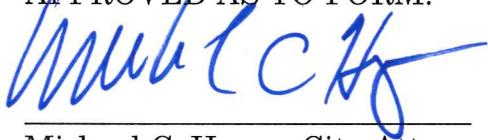
Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney

# City of Kerrville

## Public Hearing Notice

### CITY OF KERRVILLE NOTICE OF PUBLIC HEARING ON PROPOSED BUDGET

The Kerrville City Council will hold a public hearing on the FY2020 Proposed Budget on Tuesday, August 27, 2019 at 701 Main Street, Kerrville, TX at 6:00 pm in the City Council Chambers.

**The budget's proposed ad valorem tax rate is \$0.5400 per \$100 of assessed value, which is lower than last year's tax rate of \$0.5514. The rate exceeds the effective tax rate of \$0.5222 and is lower than the rollback rate of \$0.5620.**

Copies of the FY2020 Proposed Budget are available for review at City Hall (City Secretary's Office) located at 701 Main Street between 8 am and 5 pm Monday through Friday, the Butt-Holdsworth Memorial Library at 505 Water Street during regular library hours and the City's website at [www.kerrvilletx.gov](http://www.kerrvilletx.gov).

Pursuant to Section 8.04(a) of the City Charter, the City Council is publishing the following table as a general summary of the City of Kerrville FY2020 Proposed Budget. This illustration shows revenues and expenditures for each of the City's two main operating funds. The balance of the funds are combined into a single presentation labeled "Other Funds."

	FY2019 Budget	FY2020 Budget	Proposed Increase (Decrease)
<b>General Fund</b>			
Revenues	\$27,203,510	\$ 28,762,077	\$ 1,558,567
Expenditures	<u>27,203,510</u>	<u>28,762,077</u>	<u>1,558,567</u>
Revenues Over (Under) Expenditures	-	-	
<b>Water and Sewer Fund</b>			
Revenues	12,530,732	13,035,594	504,862
Expenditures	<u>12,530,732</u>	<u>13,035,594</u>	<u>504,862</u>
Revenues Over (Under) Expenditures	-	-	
<b>Other Funds</b>			
Revenues	28,679,871	17,970,743	(10,709,128)
Expenditures	<u>35,368,897</u>	<u>36,448,877</u>	<u>1,079,980</u>
Revenues Over (Under) Expenditures	(6,689,026)	(18,478,134)	
<b>Total Funds</b>			
Revenues	68,414,113	59,768,413	(8,645,700)
Expenditures	<u>75,103,139</u>	<u>78,246,548</u>	<u>3,143,409</u>
Revenues Over (Under) Expenditures	\$ (6,689,026)	\$ (18,478,135)	

The FY2020 Proposed Budget is a balanced budget where current revenues meet or exceed expenditures for all major funds. Expenditures in the Other Funds section exceed revenues primarily due to capital projects that were funded in previous years, but will be constructed in FY2020.



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointment of two board members to the Zoning Board of Adjustment  
(This item is eligible for Executive Session, Section 551.074: Personnel Matters.)

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jun 10, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20190813\\_Appointment\\_Zoning Board of Adjustments.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

A regular member position and an alternate position are vacant on the Zoning Board of Adjustment.

**RECOMMENDED ACTION:**

Appoint members.

## **ZONING BOARD OF ADJUSTMENT**

	<u>Original Appt.</u>	<u>Re-Appointment</u>	<u>Expiration Date</u>
IRVIN, ROBERT, Chair	06-12-18	02-12-19	09-30-20
PARKS, ROBERT, Vice-chair	12-09-14	10-25-16* 02-13-18**	09-30-19
BRINKMAN, PABLO	06-12-18*	02-12-19**	09-30-20
LIGON, SAM	10-22-13	02-13-18	09-30-19
VACANT			

## ALTERNATES:

ZOHLEN, PAUL 03/12/19 09-30-20

**VACANT**

## CITY STAFF:

Drew Paxton 258-1178 (O)  
Executive Director of Development Services

**Qualifications:** The board shall be composed of five members all of whom shall be residents and qualified voters of the city of Kerrville.

Alternate Members: Two alternate members will be appointed who shall be qualified voters of the city to serve concurrent terms as the regular members. The 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 to be heard by the board shall always be heard by a minimum of four members.

Powers and Duties: 1. The board 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 the zoning code.

2. The board shall grant, upon written request, variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by the zoning code, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

Term of Office: Two years. The members shall be appointed by a majority vote of the members of the city council. No member or alternate member shall serve more than three consecutive full terms on the board without having at least one full year off of the board between terms.

Quorum: Three members

Number of Members: Five with two alternates

Meeting Time & Place: At the call of the chairperson and at such other times as the members of the board shall determine.

Absences: Cause for removal of a member of the board by the city council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of three called meetings of the board or 25 percent of the called meetings of the board.

Established by: Ordinance No. 1997-07

Revised: March 14, 2019

\* Appointed as alternate

\*\* Appointed as full member



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Section 551.074: Personnel Matters; Appointment to the Zoning Board of Adjustment

**AGENDA DATE OF:** August 13, 2019      **DATE SUBMITTED:** Jun 28, 2019

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

One regular member requires appointment, and one alternate requires appointment. Current alternate Paul Zohlen is eligible to serve as a regular member. Two applications received: Ernest Garza, and Katherine Marlow.

**RECOMMENDED ACTION:**

Appoint members.