

## PART II - CODE OF ORDINANCES

### Chapter 53 - ZONING

#### ARTICLE I. IN GENERAL

#### **ARTICLE I. IN GENERAL**

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#### **Sec. 53-1. Authority.**

This chapter is adopted pursuant to the police powers of the city and under the authority of the city Charter and the constitution and general laws of the state, including particularly V.T.C.A., Local Government Code § 211.001 et seq.

(Ord. No. 438, § 1, 11-24-2003)

#### **Sec. 53-2. Title.**

This chapter shall be known, and may be cited, as the Zoning Ordinance of the City of Kyle, Texas.

(Ord. No. 438, § 2, 11-24-2003)

#### **Sec. 53-3. Purpose and intent.**

The primary purposes of this chapter are to promote the health, safety, and the general welfare of the city and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the health, safety and general welfare of the present and future citizens of the city; and to establish a framework of zoning guidelines and criteria which will provide for and support the development of a quality living and work environment by incorporating provisions requiring all future development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protection for both the public and persons having an ownership interest in property affected by these regulations. This chapter should be administered and applied to result in development superior to that otherwise achievable and to promote the following purposes:

- (1) Assist the safe, orderly, healthful and coordinated development of the city;
- (2) Conserve existing and future neighborhoods;
- (3) Protect and conserve the value of real property throughout the community;

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- (4) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
- (5) Protect and preserve places and areas of historical and cultural importance and significance to the community;
- (6) Prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality development and innovative design;
- (7) Lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic;
- (8) Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- (9) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;
- (10) Promote compatible residential, commercial and industrial uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of adjoining properties;
- (11) Standardize the procedure and requirements for zoning, building permits, and certificates of occupancy to provide administrative efficiency and property owner rights; and
- (12) Provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the city.

(Ord. No. 438, § 3, 11-24-2003)

#### **Sec. 53-4. Jurisdiction and intent.**

- (a) The requirements of this chapter shall apply to all property within the city; provide for the implementation of the site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the city master plan.
- (b) The intent of this chapter is to supplement the minimum standards for the development of land within the city as contained in [chapter 41](#), pertaining to subdivision, applicable building, plumbing and electrical codes, and city standard details and specifications. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. Such will produce a monotonous urban setting and is not encouraged.

(Ord. No. 438, § 4, 11-24-2003)

#### **Sec. 53-5. Definitions.**

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning. The term "herein" means in this chapter. The term "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The terms "used or occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

*100-year floodplain. See Regulatory 100-year floodplain.*

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*Access* means a way of approaching or entering a property.

*Accessory structure* means, in a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, bath or greenhouse as a hobby (not as a business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any longterm or paying guests.

*Accessory use* means a use that is customarily a part the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof, including, but not limited to, garages, bathhouses, greenhouses, or a storage or tool shed. See *Accessory structure*.

*Adjacent* means abutting and directly connected to or bordering.

*Alcoholic beverage*, means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

*Alcoholic beverages, off premises*, means alcoholic beverages that are sold for off-premises consumption. Alcoholic beverages for off-premises consumption may be bought and sold only within the following zoning districts; CBD-2, RS, W, CM and E, in connection with a use for which alcoholic beverage sales is authorized under this chapter.

*Alcoholic beverages, on premises*, means alcoholic beverages that are sold for on-premises consumption. Alcoholic beverages for on-premises consumption may be bought and sold only within the following zoning districts; CBD-2, RS, W, CM and E, in connection with a use for which alcoholic beverage sales is authorized under this chapter.

*Alley* means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street.

*Amortization* means a method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period of time.

*Amusement, indoor*, means an amusement enterprise wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, including a bowling alley, billiard parlor, and similar activities.

*Amusement, outdoor*, means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including a golf driving range, archery range, miniature golf course and similar activities.

*Animal* means any animate being that is not a human.

*Annexation* means the incorporation of land area into the city with a resulting change in the boundaries of the city.

*Antique shop* means a business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

*Apartment* means a room or group of rooms used as a dwelling for a one-family unit, which includes full kitchen facilities for the preparation of meals and cooking therein.

*Apartment hotel* means a building used or intended to be used as a home for 12 or more families, who are permanent residents, living independently of each other, in which building may be located on the first floor living units for transient guests, and/or retail sales and service.

*Apartment house, apartment building or apartments* means a building or portion thereof used or intended to be used as a home for five or more families or households living independently of each other and equipped for preparation of food.

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*Applicant* means a person applying for zoning approval under this chapter.

*Approval* means the final approval in a series of required actions. For instance, the approval date of a planned unit development zoning application is the date of council approval of the final site plan.

*Art studio or gallery* means a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

*Assisted-retirement living* means a use providing 24-hour supervision and assisted living for more than 15 residents not requiring regular medical attention. This classification includes personal care homes for the physically or mentally impaired, and persons 60 years of age or older.

*Attendant building* means a building used to house the work place of the manager or attendant of a public or private parking lot.

*Attendant documents* means materials needed to address the specific requirements of this chapter, which the applicant feels necessary to explain the submittal.

*Auto repair, major*, means a business specializing in major repair of motor vehicles entirely within an enclosed building, including any use listed in this definition, as well as any use not listed as minor vehicle servicing:

- (1) Auto glass, seat cover and muffler shop;
- (2) Auto painting or body rebuilding shop;
- (3) Tire retreading and capping;
- (4) Body, fender, clutch, transmission, differential, axle, spring and frame repairs;
- (5) Major overhauling of engines requiring removal there from of cylinder head or crankcase pan and any associated engine rebuilding;
- (6) Repair of radiator requiring removal from the vehicle;
- (7) Repair of truck, trailer, farm or industrial equipment, or other machinery/supplies;
- (8) Brake work, other than minor maintenance such as disc pad replacement and minor brake adjustment.

*Auto repair, minor*, means a business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle conducted entirely within an enclosed building, including the following:

- (1) Servicing of spark plug, batteries, distributors and distributor parts and including minor engine tune-ups;
- (2) Tire servicing and flat repair but not recapping or regrooving;
- (3) Radiator cleaning and flushing (on a vehicle);
- (4) Fuel pump, oil pump, and related maintenance;
- (5) Minor servicing of carburetors;
- (6) Emergency wiring repairs;
- (7) Minor motor adjustment not involving removal of the head or crank case;
- (8) Quick oil and filter change;
- (9) Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios;
- (10) Lubrication, greasing, and washing;

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(11) Disc pad replacement and minor brake adjustment.

*Auto sales facility* means one or more buildings and an open, dust-free, all-weather surface other than a street, alley, or other public place, used for the display, wholesale or retail sale, with repair and renovation authorized entirely within an enclosed building, and temporary storage of vehicles for repairs or renovation not to exceed 90 days.

*Auto sales, outdoor*, means an open, dust-free, all weather area, other than a street, alley or other public place, used for the display and sales of new or used automobiles. Where no repair work, except those actions normally associated with vehicle operator service, is done on the cars to be displayed and sold on the premises. A sales office is normally located on the premises and such shall be limited to, an area less than ten percent of the total sales lot.

*Bar* means any business establishment required to have a state license for the sale of alcoholic beverages other than beer, for on-premises consumption.

*Bed and breakfast* means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for paying overnight guests.

*Billboard* means a sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than 12 feet or a width greater than 18 feet, including supports.

*Block* means an area enclosed by streets, normally to be divided into lots to be occupied by or intended for buildings; or if the same word is used as a term of measurement, the term "block" means the distance along one side of a street between the nearest two streets that interest said street on said side.

*Board* means the city board of adjustment.

*Board of adjustment* means a committee appointed by the council to consider appeals from certain administrative actions pursuant to V.T.C.A., Local Government Code § 211.008, and that is given the authority set forth in this chapter and in V.T.C.A., Local Government Code § 211.009.

*Boardinghouse* means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

*Buffer* means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

*Building* means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind.

*Building acre* means the area within the total subdivision boundary upon which living unit equivalents (LUEs) can be built and is calculated by subtracting from the total area of the subdivision the sum total of floodplain area, park area, hike and bike trail area and street right-of-way area (i.e., buildable acre equals total acres of subdivision less sum total of floodplain area, park area, hike and bike trail area and right-of-way area).

*Building area* means the gross area covered by a structure when placed on the lot.

*Building ordinance* means the building codes and related ordinances of the city providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the city, including, but not limited to, the electrical code, plumbing code, building code, and minimum housing code, adopted by the city council from time to time, pursuant to [chapter 8](#).

*Building permit* means a permit issued by the city which is required prior to commencing construction or reconstruction of any structure.

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*Building plot* means the land, lots or tract of land upon which buildings are located, or upon which they are to be constructed, including yards.

*Building setback line* means the lines designating the interior limit of the area of a lot within which structures may be erected. The building lines provide the boundaries of the buildable area of any given lot and the foundation and wall of any structure or building shall not be erected between a building setback line and the corresponding lot line. Every part of the building setback line shall be open and unobstructed, except for ordinary projections of windowsills, eaves, roof extensions and other architectural features not to exceed 18 inches into the building setback line. Air conditioning compressors may be permitted within side yard building setback dimension when placed adjacent to wall of structure or building.

*Cafe* or *cafeteria* means a commercial establishment where snacks or meals are vended for consumption indoors or on the premises.

*Caliper* means the trunk diameter of a tree at three feet above natural grade.

*Carport* means a structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles.

*Cemetery* means land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

*Centerline of a waterway* means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by:

- (1) The low flow line; or
- (2) The center of the two-year floodplain.

*Child care center, intermediate*, means a facility (including nonresidential structures) which provides custodial care and supervision for less than 24 hours a day for between seven and 12 children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

*Child care center, large*, means a facility where over 12 children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

*Child care center, small*, means a private residence where the occupant provides custodial care and supervision during daylight hours for a maximum six children at any one time. The maximum of six children includes the family's natural or adopted children under the age of 14. The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

*Child care or child development facilities* means any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four or more children under 16 years of age at any one time, who are not members of the immediate family or any natural person operating any such place, during any part or all of the 24 hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under 16 years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, 24 hours a day.

*Church* or *rectory* means a place of worship and religious training of recognized religions including on-site housing of ministers, rabbis, priests, nuns and similar staff personnel.

*City building official* or *building official* means the designated building official for the city.

*City council* or *council* means the city council of the city.

*City engineer* means the city engineer for the city or his designated representative.

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*City limits or within the city* means the, or within the, incorporated boundaries of the city.

*City manager* means the chief administrative officer of the city or his designated representative.

*City staff* means the officers, employees and agents of the city assigned and designated from time to time by the city manager and/or council, including but not limited to, the city engineer, to review, comment and/or report on zoning applications.

*City standard details and specifications* means a library of city approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

*Cleaning or laundry self-service shop* means an establishment providing customers with self-service laundry and/or dry cleaning facilities, and does not include a commercial laundry or cleaning plant.

*Cleaning shop or laundry, small*, means a custom cleaning shop not exceeding 2,500 square feet of floor area.

*Clinic* means a public or private station or establishment for the examination and treatment of out patients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

*Clothing manufacture* means cutting, sewing and forming garments, millinery and accessories, when no noise, dust, vibration, odor or other undesirable or obnoxious condition is created to affect adjacent property.

*Club*. See *Social club*.

*Cold storage plant* means a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or to commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

*College or university* means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

*Commercial amusement, indoor*, means an enterprise conducted solely within one or more buildings or permanently enclosed area whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. The term "indoor commercial amusements" include zoos, carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests, rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool parlors, and similar enterprises.

*Commercial amusement, outdoor*, means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. The term "outdoor commercial amusements" include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows and similar enterprises.

*Commercial garage* means any premises and structure used for housing more than five motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

*Common area* means privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

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*Common open space* means that portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

*Communication services* means an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms. The term "communication services" excludes broadcast towers.

*Community center, private*, means a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, subdivision, planned unit development, or membership group.

*Community center, public*, means a building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

*Compounding or fabrication, light*, means the making of jewelry, compounding of perfume, small instruments or pharmaceuticals, and similar work or processes.

*Comprehensive or master plan*. The comprehensive plan of the city and adjoining areas adopted by the planning and zoning commission and approved by the city council, including all its revisions. The comprehensive or master plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water, sewer, etc. The term "comprehensive or master plan" means the overall development plan for the community adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for the following:

- (1) Land intensities;
- (2) Land subdivision;
- (3) Circulation; and
- (4) Community facilities, utilities and services.

*Conditional use* means an additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the city council.

*Condominium* means a building or group of buildings in which dwelling units are owned individually, while the structure and common areas and facilities are owned by all the owners on a proportional, individual basis.

*Construction plans* means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

*Contiguous* means property whose property lines are separated by only a street, alley, easement, right-of-way or buffer.

*Convalescent home* means any structure used or occupied by three or more persons recovering from illness or being provided geriatric care for compensation.

*Corner lot* means a lot located at the intersection of and abutting on two or more streets.

*Country club* means an area of 20 acres or more containing a golf course and a clubhouse and available only to private specific membership, such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

*County appraisal district* means the Hays County appraisal district.



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*Court* means an open, unoccupied space, bounded on more than two sides by the walls of a building. The term:

- (1) "Inner court" means a court entirely surrounded by the exterior walls of a building.
- (2) "Outer court" means a court having one side open to a street, alley, yard or other open space.

*Critical root zone* means a circular area around a significant tree equal to one foot in radius for each one-inch caliper, and the center of the circular area located at the trunk.

*Cultural services* means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

*Dance hall or nightclub* means an establishment offering to the general public facilities for dancing and entertainment for a fee and subject to licensing and regulation by the city.

*Day camp* means a facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

*Developed area* means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

*Developer* means the legal owner of land to be improved and/or subdivided or his authorized representative.

*Development* means the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, or the deposit of refuse, waste or fill. The term "development" does not include the following:

- (1) Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming.
- (2) Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover.

*District* means a zoned section of the city for which regulations governing the use of buildings and premises; the height of buildings; the size of yards; and the intensity of use are uniform.

*Dormitory* means any structure specifically designed to house student tenants associated with a university, college, or other school having and maintaining an educational curriculum and course requirements equal to or better than the standards established for public colleges and schools by the state.

*Double frontage lot.* See *Reverse frontage lot*.

*Drainageway.* See *Waterway*.

*Drive approach* means a paved surface connecting the street to a lot line.

*Drive-in eating establishment* means any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises, or to be taken away for consumption at other places.

*Driveway* means the surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

*Dwelling* means any building or portion thereof built on-site which is designed for or used exclusively for residential purposes.

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*Four-family* or *fourplex* means a detached building designed and constructed with four separate living units under a single roof for occupancy by four families.

*Multifamily* means a single structure designed to accommodate five or more households.

*Multiple-family* means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as five or more dwelling units or apartments or which is occupied as a home or residence of five or more families.

*Single-family* means a detached building having accommodations for occupancy by not more than one family.

*Three-family* or *triplex* means a detached building designed and constructed with three separate living units under a single roof for occupancy by three families.

*Two-family* or *duplex* means a detached building designed and constructed with two separate living units under a single roof for occupancy by two families.

*Dwelling unit* means a building or portion of a building arranged, occupied or intended to be occupied as a residential unit designed to accommodate one household for living, sleeping, eating, cooking and sanitation.

*Easement* means a grant by the property owner for the use of a strip of land for a stated purposes.

*Environment* means the aggregate of social and physical conditions that influence the life of the individual and/or community.

*Exterior side yard* means a yard which faces and is parallel to a side street.

*Extraterritorial jurisdiction* or *ETJ* means that geographic area outside the corporate boundaries of the city as established pursuant to V.T.C.A., Local Government Code §§ 42.021 and 42.022.

*Family* means any number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage, adoption, or guardianship, and occupying a dwelling unit.

*Family home* means a facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

*Family home* or *group home* means a dwelling unit used as a single housekeeping unit where not more than six physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation provided by not more than two persons. The term "family home" means a community based residential home operated in accordance with the Community Homes for Disabled Persons Location Act and its amendments.

*Farm accessory building* means a structure, other than a dwelling, on a farm as herein defined, for the housing protection or storage of the usual farm equipment, animals and crops.

*Farm, ranch, garden* or *orchard* means an area of three acres or more which is used for the primary purpose of growing of vegetables, fruits, trees, hay, livestock feed and/or grain, and/or for the raising thereon of poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

*Filing date* means, with respect to zoning applications, the date of the first public hearing before the planning and zoning commission regarding such zoning application.

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*Filling or retail service station* means an establishment where gasoline, oil and grease, or automobile accessories are sold, supplied, or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, or where electric storage batteries are charged and cared for, or a place where any two or more such activities are carried on or conducted as the principal use of the establishment.

*Financial services* means services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

*Floodplain* means that land which lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by a flood insurance rate map (FIRM) issued or approved by Federal Emergency Management Act (FEMA), or in absence of such, as established as part of the land development by licensed professional engineer and approved by the city. It is land that is required to be kept open and nonurbanized in order to maintain upstream floodplain characteristics and ensure continued adequate drainage of adjacent land.

*Floor area ratio (FAR)* means the maximum square footage of total floor area permitted for each square foot of land area.

*Food and beverage sales store* means a retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items, usually serving a significant market area. The sale of beer for off-premises consumption is allowed, if not otherwise prohibited.

*Food and beverage sales store or convenience store* means a retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. This activity can include the retail sale and self-service dispensing of gasoline or other fuels in appropriate zoning districts. The sale of beer for off-premises consumption is allowed in specific districts.

*Food sales* means an establishment primarily engaged in the retail sale of food or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, retail bakeries, and candy shops.

*Fraternity, sorority or group student housing* means a building occupied by and maintained exclusively for students affiliated with an academic or vocational institution.

*Front yard* means a space extending the full width of the lot between any building set back line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

*Frontage* means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

*Frontage block* means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

*Garage* means an enclosed structure in which one or more motor vehicles are parked for residential purposes.

*Gasoline station, full-service*, means a place where gasoline, other fuels, oil and grease and/or accessories are sold and dispensed to the retail motor vehicle trade, and where one or more of the following activities are conducted: motor vehicles are serviced and repaired; stored batteries are recharged and cared for; or vehicle tires are stored, serviced or exchanged.

*Gasoline station, limited-service*, means a place where the services provided are limited to the retail sale, either self-service or attendant dispensed, of gasoline, other fuels and petroleum products for the motor vehicle trade.

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*General acute care hospital* means a health care facility that provides inpatient or outpatient services delivered to patients experiencing acute illness or trauma as licensed by the state as a general or special hospital. See *Licensed general hospital*.

*Golf course, commercial*, means a golf course or driving range privately owned but open to the public for a fee and operated as a commercial venture.

*Grade* means the following:

- (1) The slope of a road, street, other public way or utility line specified in terms of percent;
- (2) The topographic relief of a parcel of land;
- (3) The average elevation at ground level of the buildable area of a lot or parcel of land.

*Grading* means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

*Half-story* means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

*Halfway house* means a dwelling unit used as a single-housekeeping unit for not more than six persons who have demonstrated a tendency towards alcoholism, drug abuse, antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons.

*Height* means the vertical distance from the highest point on a structure to the average ground elevation where the foundation meets ground.

*Heliport* means landing facility for a rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft.

*Helistop* means a landing pad for occasional and infrequent use by a rotary wing aircraft not exceeding a gross weight of 6,000 pounds.

*Home for aged* means a home where elderly people are provided with lodging and meals without nursing care.

*Home occupation* means a commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, without the installation of machinery or additional equipment other than that customary to normal household operations, without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic. It is an accessory to a residential use subject to the following limitations:

- (1) The home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioners;
- (2) The residential character of the lot and dwelling shall be maintained, the exterior of the dwelling shall not be structurally altered, and no additional buildings shall be added on the property to accommodate the home occupation;
- (3) The occupation shall not produce external noise, vibration, smoke, odor, fumes, electrical interference or waste runoff outside the dwelling unit or on the property surrounding the dwelling unit; and
- (4) No vehicle used in connection with the home occupation which requires a commercial driver's license to operate shall be parked on any street adjacent to the property.

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*Homeowners or unit owners association* means any association or organization of co-owners within a condominium or townhouse project, including the council of co-owners of a condominium or townhouse management association, or the owners of lots within a subdivision; organized for the primary purpose of managing and maintaining the common areas and common open space in any such project, or otherwise owned by the association. An organization, association, or other entity formed and controlled by the developer, project owner or general partner for this purpose will be included in this definition.

*Hotel* means a building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barbershop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boardinghouse, a lodginghouse, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture.

*Impervious cover* means roads, parking areas, buildings, rooftop landscapes, patios, decking, and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

*Improvements* means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

*Incinerator* means a furnace or apparatus for burning waste materials such as trash, wood and other flammable items for the purpose of reducing their weight and bulk.

*Institution for the care of substance dependent persons* means an institution offering resident or outpatient treatment to alcoholic or narcotic patients.

*Interior lot* means a lot other than a corner lot and, bounded by a street on only one side.

*Kennel* means a place in which five or more dogs or cats at least six months of age are kept, boarded or trained, by the owners of the dogs or cats or by persons providing facilities and care with or without compensation.

*Kindergarten or preschool* means any private school, operated for profit or not, attended by four or more children at any one time during part of a 24-hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

*Laundry services* means an establishment engaged in providing laundering, dry cleaning, or dyeing services. Typical uses shall include bulk laundry and cleaning pants, and linen supply services.

*Legal lot* means a lot recorded in the official county records pursuant to and in compliance with the subdivision regulations and/or state law in effect at the time of the creation of the lot.

*Licensed general hospital* means a shortterm, acute care, general hospital that:

- (1) Is an institution duly licensed in and by the state in which it is located and is lawfully entitled to operate as a general, acute care hospital;
- (2) For compensation from or on behalf of its patients, is primarily engaged in providing inpatient diagnostic and therapeutic services for the diagnosis, treatment and care of two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy by or under the supervision of physicians;

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- (3) Has organized, functioning departments of medicine and surgery;
- (4) Provides 24-hour nursing service by or under the supervision of licensed registered nurses;
- (5) Regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent;
- (6) Is not predominantly a skilled nursing facility, nursing home, custodial care home, health resort, spa or sanatorium, place for rest, place for the aged, place for the treatment or rehabilitative care of mental or nervous conditions, place for the treatment or rehabilitative care of alcoholism or substance abuse or addiction, or place for hospice care.

*Light manufacturing* means an establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding uses that are not traditionally classified as light industrial or manufacturing. Uses defined as traditional light industrial and manufacturing are set forth in this chapter.

*Livestock auction* means barns, pens and sheds for the temporary holding and sale of livestock.

*Loading space* means an off-street space for the parking of a vehicle while loading or unloading merchandise or materials from commercial or industrial vehicles.

*Local health district* means the county health district.

*Local utility line* means the facilities provided by a municipality or a franchised utility company for the distribution or collection of gas, water, surface drainage water, sewage, electric power, telephone or cable service, including pad and pole mounted transformers.

*Lot* means a separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also *Legal lot*.

*Lot depth* means the average horizontal distance between the front and rear lot lines.

*Lot lines* means the lines bounding a lot as defined in this section.

*Lot width*. See *Minimum lot width*.

*Manufactured home* means a complete living unit, manufactured at a location away from the lot on which it will be located, as defined in V.T.C.A., Occupations Code § 1201.001 et seq.

*Manufactured home park* means a unified development for manufactured housing spaces arranged on a tract of land in compliance with this chapter and [chapter 41](#), pertaining to subdivision, with the individual lots or parcels being held under a common ownership and rented or leased to the occupants.

*Manufactured home subdivision* means a unified development for manufactured housing spaces arranged on a tract of land in compliance with this chapter and [chapter 41](#), pertaining to subdivision, with the individual lots or parcels being developed and sold to occupant owners.

*Manufactured housing*. See *Manufactured home*.

*Master plan* means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for:

- (1) Land intensities;
- (2) Land subdivision;
- (3) Circulation; and
- (4) Community facilities, utilities and services.

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*Mini-storage warehouse* means a building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored therein. The size of each individual storage unit of a mini-storage warehouse shall be limited to 2,000 cubic feet.

*Minimum lot width* means the horizontal dimension (arc length if a curved line) shown on the plat along the street line.

*Mobile home* means a movable or portable structure constructed prior to June 15, 1976, that is eight feet, or more, in width and 40 feet, or more, in length constructed to be towed on its own integral chassis, as defined in V.T.C.A., Occupations Code § 1201.003.

*Modular component* means a structure or building module as defined in V.T.C.A., Occupations Code § 1202.001(5), that is inspected and permitted by and under the jurisdiction and control of the department of licensing and regulations, that is transportable in one or more sections and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems contained in the component. The term "modular component" does not include a mobile home or a manufactured home.

*Motel* means a building or group of detached, semidetached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

*Multi-family residential, restricted* means multiple-family residences, containing five or fewer dwelling units which are located above the first floor of a structure that has a nonresidential use, such as an office or retail shop, operating on the first floor.

*Multiple building complex* means more than one principal building on a building plot or lot.

*Natural channel* means the topography of a waterway prior to construction, installation of improvements or any regarding.

*Natural drainage* means a stormwater runoff conveyance system not altered by development.

*Natural state* means substantially the same conditions of the land which existed prior to its development, including but not limited to the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

*Neighborhood* means the area of the city characterized by residential land uses which is bounded by:

- (1) Physical features, such as river, major street, lack of access, buffer; and/or
- (2) Political features, such as voting districts, subdivision boundaries.

*Neighborhood automobile service station* means an establishment primarily engaged in automotive-related service. The following are permitted automotive-related services within such definition: automobile washing, minor automotive repair services, service stations, the sale of fuel, lubricants (including oil change facilities), parts and accessories, or any incidental minor repair services to motor vehicles.

*Neighborhood park* means a publicly owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the city or under authority granted by the city.

*Nightclub* means an establishment required to have a state permit for the sale of alcoholic beverages and in which 50 percent or more of the monthly gross revenues are from the sale of alcoholic beverages; or any business or commercial establishment in which alcoholic beverages are consumed and live entertainment is provided.

*Nonconforming lot* means a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision or amendment of the ordinance from which this chapter is derived, but which fails by

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reason of such adoption revision or amendment to conform to the present requirements of the zoning district.

*Nonconforming structure or building* means a structure or building the size dimensions or location of which was lawful prior to the adoption, revision or amendment of the ordinance from which this chapter is derived, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

*Nonconforming use* means any use lawfully existing at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform to the regulations of the district in which it is situated.

*Occupancy* means the use or intended use of land or a building by any person.

*Occupant car ratio (OCR)* means the minimum number of parking spaces without parking time limits required for each living unit, establishment or use.

*Official county records* means the official records of Hays County, Texas.

*Off-site improvements* means any required improvement which lies outside of the property being developed.

*Off-street parking as expansion of retail or commercial use* means an off-street parking lot located adjacent or contiguous to a retail, commercial or office district.

*Off-street parking space* means an area of privately owned land not less than nine feet by 18½ feet not on a public street or alley, with an all-weather surface. A public street, private street or joint-use driveway shall not be classified as such, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space; provided that, not more than 25 percent of any required off street parking spaces may be compact parking spaces of not less than 128 square feet (eight feet by 16 feet) exclusive of the driveways connecting said space with the street or alley.

*Open or outdoor storage* means the keeping, in an unroofed area, of any goods, junk, material, merchandise, in the same place for more than 24 hours.

*Open space* means an area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches, and plant material.

*Overland drainage* means stormwater runoff which is not confined by any natural or manmade channel such as a creek, drainage ditch, storm sewer, or the like.

*Park or playground* means an open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public for neighborhood use, but not involving lighted athletic fields for nighttime play.

*Parking lot* means a parking area to accommodate the vehicles which utilize any multiple family, retail, commercial, office, business or industrial property.

*Parking space* means an area that is not a street, alley or public right-of-way that is used or designed to be used for motor vehicle parking, that is not less than nine feet by 18½ feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. Compact parking spaces shall be 128 square feet exclusive of the driveways connecting said space with the street or alley.

*Parking structure or garage* means a structure devoted to the parking or storage of automobiles for a fee and may include a facility for servicing of automobiles provided such facility is primarily an internal function for use only by automobiles occupying the structure and creates no special problems of ingress or egress.



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*Pasturage* means land used primarily for the grazing of animal stock.

*Paved area* means an area surfaced with asphalt, concrete or similar pavement, providing an all-weather surface. Gravel is not an acceptable paved surface.

*Performance standard* means a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

*Permit issuing authority* means the building official or other city officer, employee or agent designated by lawful authority to issue the applicable permit.

*Permitted use* means a use specifically allowed in the applicable zoning districts without the necessity of obtaining a conditional use permit.

*Personal care facility* means a facility that provides supervised living arrangements for persons with physical or mental disabilities, which by reason of federal or state law, is not subject to the limitations set forth in deed restrictions of single-family zoning districts.

(1) The term "personal care facility" includes a community-based residential home operated by:

- a. The Texas Department of Mental Health and Mental Retardation;
- b. A community center operated under V.T.C.A., Health and Safety Code § 534.001 et seq., which provides services to disabled persons;
- c. A nonprofit corporation; or
- d. Any entity certified by the state department of human resources as a provider under the intermediate care facilities for the mentally retarded program.

(2) The term "personal care facility" includes homes for the handicapped as defined in 42 USC 3602(h).

*Personal service* means an establishment engaged in providing services of a personal nature. Typical uses includes beauty shops and barbershops, tailor, and shoe repair services.

*Personal service shop* means an establishment for the purpose of supplying limited personal services such as, but not limited to, barbershops or shoe, boot, or beauty shops.

*Pharmacy* means a use where medicines are compounded or dispensed under the supervision of a licensed pharmacist.

*Planned unit development* means a zoning district which permits development of three acres or more under single or multiple ownership pursuant to a master plan and which requires specific approval by the city council. It is a development of land under unified control, planned and developed as a whole in a single development operation or a programmed phasing of developments, including streets, utilities, lots or building sites, structures, open spaces and other improvements. This district may permit mixed uses of land (e.g., industrial, commercial, residential) within a single or multiple subdivisions as part of or pursuant to a master plan which seeks to minimize adverse impacts when development occurs to protect the environment and nearby neighborhoods.

*Planting area* means any area designed for landscape planting having a minimum of ten square feet of actual plantable area and a minimum inside dimension on any side of 18 inches.

*Playfield or stadium* means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course football field or stadium which may be lighted for nighttime play.

*Property owners association (POA) neighborhood park* means a privately owned parcel of land, within a subdivision, dedicated solely for recreational use by persons in such subdivision and their guests, and maintained by the residents of said subdivision.

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*Postal facilities* means postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

*Primary structure* means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

*Privacy fence* means an opaque fence or screen at least six feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half inch.

*Private club* means an establishment required to have a state issued alcoholic beverage permit for the sale, storage or vending of alcoholic beverages to its members.

*Private garage* means an accessory building housing vehicles owned and used by occupants of the main building.

*Product assembly services* means an establishment engaged in the on-site assembly of nonhazardous products.

*Product development services, general*, means development and testing of nonhazardous products related to research services. See *Research services, general*.

*Product development services, hazard*, means development and testing of products related to research services, which products could pose a health or safety risk outside of the structure in which the services are provided. See *Research services, hazard*.

*Professional office* means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions licensed by the state.

*Property owners association* means an incorporated, nonprofit organization operating under recorded land agreements through which:

- (1) Each lot and/or homeowner in a subdivision or planned unit development or PUD is automatically a member;
- (2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property; and
- (3) The charge, if unpaid, becomes a lien against the property.

*Psychiatric and rehabilitation hospital* means hospitals known and licensed as psychiatric and substance abuse hospitals are primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders. The treatment often requires an extended stay in the hospital. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. Psychiatric, psychological, and social work services are available at the facility. These hospitals usually provide other services, such as outpatient services, clinical laboratory services, diagnostic X-ray services, and electroencephalograph services. The primary activities of firms in this industry are:

- (1) Psychiatric hospitals, except convalescent.
- (2) Alcoholism rehabilitation hospitals.
- (3) Children's hospitals, psychiatric or substance abuse.
- (4) Detoxification hospitals.
- (5) Drug addiction rehabilitation hospitals.
- (6) Hospitals for alcoholics.

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- (7) Hospitals, addiction.
- (8) Hospitals, mental, except mental retardation.
- (9) Hospitals, psychiatric, except convalescent.
- (10) Hospitals, psychiatric pediatric.
- (11) Hospitals, substance abuse.
- (12) Mental hospitals, except mental retardation.
- (13) Mental health hospitals.
- (14) Rehabilitation hospitals, alcoholism and drug addiction.

*Public means:*

- (1) With respect to land and interests in land within the city limits, the city;
- (2) With respect to land and interests in land within the extraterrestrial jurisdiction limits, the general public; and
- (3) With respect to the provision of any services or products by a business establishment, the general public.

*Public grounds or building* means a facility such as office buildings, and maintenance yards and shops required by branches of local, state or federal government for service to an area such as highway department yard or a city, county or school service center.

*Public use* means places of noncommercial public assembly or administrative functions where the primary activity is contained within a building, including but not limited to churches, schools and government buildings.

*Quarry* means a tract of land of 50 acres or more for which any portion is used as a commercial operation for the extraction, processing, sale or use of soil, sand, shale, gravel, limestone, or other similar rock materials, but not oil or natural gas, for any commercial purpose.

*Quarry operations* means the operations necessary to develop and operate a quarry, including but not limited to mining, drilling, blasting, crushing, processing, or other similar activities, and the accessory buildings, structures, machinery and facilities related thereto as more particularly described in article VI, division 2 of this chapter.

*Radio, television, microwave and similar towers* means structures supporting antennas for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennas installation for home use of radio or television.

*Railroad spur or siding* means a siding for spotting and unloading or loading boxcars or other railroad cars and which area is connected to a public street by a drive for access.

*Railroad tracts* means the right-of-way for railroad tracts, and includes siding, spurs, loading facilities, docks, yards or maintenance areas. The term "railroad tracts" does not include passenger stations.

*Rear yard* means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

*Recyclable materials* means materials including, but not limited to, scrap steel, aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle parts, and machinery that have no economic value except as composition or salvage material.

*Recycling collection use* means use of a property as a location where glass, paper, plastics and/or aluminum cans are only deposited in containers, with no sorting or processing on site, and usually occurring as an accessory use on the property.

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*Recycling operation* means the collection, buying, storage, or processing of recyclable materials such as glass, paper, plastics, liquids, wood or metals, which are then sorted or processed for use or shipment for the purpose of reuse and manufacture, excluding smelters and refining operations.

*Recycling operations, indoor*, means a recycling operation which is fully enclosed within permanent walls and roof of a building or, if windows and doors are present, which is capable of enclosure to ensure compliance with the required performance standards in the construction/manufacturing or transportation/utilities districts as appropriate. The outside storage of recyclable materials in conjunction with the recycling operation inside a building is prohibited in a W district. A dust collection system may be located outside the main building.

*Recycling operations, outdoor*, means a recycling operation which occurs in the open, or partially within a building and partially in the open.

*Regulatory 100-year floodplain* means the 100-year floodplain as defined by the Federal Emergency Management Act (FEMA).

*Religious assembly* means a use, located in a permanent or temporary building, providing regular organized religious worship and religious education incidental thereto.

*Replacement trees* means new landscape trees to be planted by the developer to replace significant trees removed during the development of property. A list of approved replacement trees can be obtained at the office of the city.

*Required yard* means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

*Research services, general*, means establishments engaged in research of an industrial or scientific nature not involving or requiring the use of any biological, chemical or other agent that could cause a hazard to adjacent property. Typical uses include electronics research laboratories, and development and testing of computer software packages.

*Research services, hazard*, means establishments engaged in research of an industrial or scientific nature involving or requiring the use of biological, chemical or other agents capable of causing a hazard to property or persons outside the structure in which conducted.

*Reserve strip* means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

*Restaurant* means an establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption. Typical uses include diners, dinner houses, but not a drive-in/drive-thru or fast-food restaurant.

*Restaurant, drive-thru* means an establishment where food and/or beverages are sold in a form ready for consumption, where a portion of the pick-up and consumption of food may take place from an automobile. The term "drive-thru restaurant" includes fast-food restaurants.

*Retail food store* means a retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware and other similar items which are purchased for use and/or consumption off the premises. The term "retail food store" may be a drive-in or supermarket.

*Retail sales* means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include department stores, furniture stores, or establishments providing the following products or services:

- (1) Home furnishings and appliances, household cleaning and maintenance products;
- (2) Drugs, cards, stationery, notions, books, tobacco products, cosmetics, or specialty items;

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- (3) Apparel, jewelry, fabrics, and like items;
- (4) Cameras or photography services;
- (5) Household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services, or office supplies;
- (6) Bicycles, wallpaper, carpeting and floor covering; or
- (7) Automotive parts and accessories (excluding service and installation).

*Reverse frontage lot* means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

*Right-of-way* means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use. The term "right-of-way," for land platting purposes, means that every right-of-way hereinafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

*Safety services* means a facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

*Salvage processing* means the method or action to enhance recyclable materials for reuse, including, but not limited to, separating, baling, flattening, shredding, crushing, cleaning, or cutting for the purpose of preparing recyclable materials for reuse, excluding a smelter operation.

*Same ownership* means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

*School, business*, means a business organized to operate for a profit and offering instruction and training in a service or art such as secretarial school, barber college, beauty school or commercial art school, but not including a commercial trade school.

*School, commercial trade*, means a business organized to operate for a profit and offering instruction and training in a trade such as welding, bricklaying, machinery operation, mechanics and similar trades.

*School, public, private or denominational*, means a school under the sponsorship of a public, religious or private entity and having a curriculum that is equal to or better than the minimum curriculum requirements specified by the state, or by an institution or organization that establishes curriculum standards that are accepted by the state, for public elementary or secondary schools, or for colleges or universities, as applicable, including preschools and kindergarten schools, but not including trade or commercial schools.

*Secondary use* means a support use to the principal, permitted use that remains incidental to the principal use, both in building square footage and, when applicable, in gross sales. A space that utilizes 90 percent of its space for the primary, permitted use purposes, can use the balance for the secondary use.

*Servants' quarters* means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

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*Setback line* means a line which marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot. See *Building setback line*.

*Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. See article VIII of this chapter for related definitions and development standards pertaining to sexually oriented businesses.

*Shopping center* means a composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

*Shrub* means any self-supporting woody evergreen and/or deciduous species.

*Side yard* means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

*Sign* means any device or surface on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected, illuminated, or in any manner outlined or attached and used for advertising purposes.

*Significant tree* means a living tree that the city desires to preserve to the greatest extent possible. A list of significant trees can be provided by city staff.

*Single-family, attached*, means the use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

*Single-family, detached*, means the use of a lot for only one dwelling unit.

*Single-family dwelling* means a building designed for or occupied exclusively by one household. See *Single-family, detached*.

*Site plan* means a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities and other structures to be constructed.

*Slope* means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

*Social club* means a building or portion thereof or premises used or operated for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business.

*Specialty surgical and diagnostic hospital* means a licensed hospital that offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care. These hospitals are primarily engaged in providing diagnostic and medical treatment to inpatients with a specific type of disease or medical condition (except psychiatric or substance abuse). The term "specialty surgical and diagnostic hospital" includes hospitals providing longterm care for the chronically ill and hospitals providing rehabilitation, restorative, and corrective services to physically challenged or disabled people are included in this industry. These establishments have an organized staff of physicians and other medical staff to provide patient care services, diagnostic X-ray services, clinical laboratory services, treatment facilities, and/or other definitive medical treatment. Special surgical diagnostic hospitals maintain inpatient beds and provide patients with food services that meet their nutritional requirements. These hospitals may provide other services, such as outpatient services, operating room services, physical therapy services, educational and vocational services, and psychological and social work services.

*Square foot or square feet* means the square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

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*Stable* means an accessory building for quartering horses when the stable building is set back from all adjacent property lines at least 50 feet, is at least 100 feet from any adjacent residence and when the site contains minimum area of one acre.

*State health department* means the Texas Department of Health or the Texas Commission on Environmental Quality (TCEQ), as applicable.

*Storage and distribution* means an establishment offering wholesaling, storage, and warehousing services of nonhazardous materials in enclosed structures.

*Storage garage* means any premises and structure used exclusively for the storage of more than five automobiles.

*Story* means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

*Street* means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

*Street line* means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

*Street side yard* means the side yard of a corner lot abutting the street right-of-way.

*Structural alterations* means any change in the supporting members of a building, such as load bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

*Structural integrity* means the ability of a structure to maintain stability against normal forces experienced by said structure.

*Structure* means any building or anything constructed or erected on the ground or which is attached to something located on the ground. The term "structure" includes buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

*Structure, principal,* means the principal structure which fulfills the purpose for which the building plot is intended.

*Subacute hospital* means hospital care designated for patients who have been hospitalized for an acute illness and who need additional care before returning home. Subacute patients do not require intensive hospital treatment, but can benefit from additional restorative care, therapies or educational programs. Typically, patients who will benefit from subacute care have undergone major surgeries, such as hip or knee replacements, or have had strokes, pneumonia or other illnesses that qualify them for skilled care. A subacute care unit helps patients stay near their families and loved ones while receiving the medical attention they need.

*Subdivision* means the division or redivision of land into two or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the city, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

*Swimming pool, commercial,* means a swimming pool with accessory facilities that is not a part of the municipal or public recreational system or a private swim club and that is available to the general public for a fee.

*Swimming pool, private,* means a swimming pool constructed for the exclusive use of the residents of a single-family, duplex, multiplex or multifamily dwelling, or other residential dwelling, located and

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fenced in accordance with city regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

*Tavern* means an establishment required to have a state permit for the sale and on-premises consumption of beer, that is not licensed or permitted to sell any other alcoholic beverage.

*Telephone exchange* means switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

*Temporary field or construction office* means a structure or shelter used in connection with a development or building project, for housing on site the temporary administrative and supervisory functions, and for sheltering employees and equipment, related to the development.

*Tourist home* means a building other than a hotel where lodging is provided and offered to the public for compensation for not more than 20 individuals and open to transient guests.

*Townhouse* means a structure on an individual lot, which is one of a series of three or more dwelling units designed for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other between individual dwelling units. A condominium apartment (as defined in V.T.C.A., Property Code ch. 82) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it. Any project including three or more such condominiums or townhouses shall be considered a townhouse project.

*Traffic impact analysis (TIA)* means a study of the impacts of a development on the city's transportation system.

*Trailer camp or park* means an area designed, arranged or used for the parking or storing of one or more auto trailers and/or recreational vehicles which are occupied or intended for occupancy as temporary living quarters by individuals or families.

*Transportation services* means a facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

*Tree* means any self-supporting woody plant species which normally grows to an overall minimum height of 15 feet.

*Tree survey* means a scaled drawing accurately showing the location, caliper and critical root zone of significant trees in relation to the property boundaries.

*Upholstery shop* means a business establishment engaged in the installation of soft covering material such as fabric and underpayment for furniture and other objects. Except however, with respect to motor vehicles, it shall only include interior upholstering. In no event shall an upholstery shop include the manufacture or building of furniture or other objects.

*Urbanization* means the process of constructing public improvements required to support suburban or urban land use.

*Utilities other than listed* means any utility requiring a franchise, such as closed circuit television, distribution of steam, hot or chilled water or similar service requiring the use of public streets or easements.

*Variance* means an adjustment in the application of the specific regulations of this chapter to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

*Variety store* means a retail commercial establishment which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing and other general merchandise.



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*Veterinary hospital* means an establishment offering veterinary services and clinics for pets, small and/or large animals. Typical uses include pet clinics, care, treatment and temporary housing of livestock and large animals, with temporary housing of large animals permitted in an attached or adjacent roofed building, with three or more sides having walls or a solid fence extending from the foundation to at least three-quarters of the distance to the roofline.

*Veterinary services* means an establishment offering veterinary services and clinics for pets and small domestic animals, with all activities and work indoors.

*Video rental store* means an establishment engaged in the sale or rental of motion pictures or games.

*Vines* means any woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

*Warehouse* means an establishment engaged in the storage of merchandise or commodities in an enclosed structure.

*Watershed* means area from which stormwater drains into a given basin, river or creek.

*Waterway* means any natural or manmade channel conducting stormwater from a two year storm event at a depth of eight inches or more and at a rate of five cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

*Wood yard* means a tract of property used for the storage of wood either for use as firewood or as a building material. Usually the area is fenced for safety and security reasons.

*Working days* means Monday through Friday exclusive of the city's recognized holidays.

*Wrecking yard* means any lot, tract, or building or structure upon which used automobiles or parts of used automobiles or other motor vehicles are stored for the primary purpose of obtaining parts for resale as an automotive or motor vehicle part.

*Yard* means an open space at grade between the principal and accessory buildings and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

*Yard depth* means the shortest distance between a lot line and a yard line.

*Yard, front*, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps, balconies or bays, or unair-conditioned porch. On corner lots the front yard shall be considered as parallel to the street upon which the yard has its least dimension.

*Yard line* means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

*Yard, rear*, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or unair-conditioned porches, accessory dwellings or detached garages.

*Yard, side*, means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, or any projections thereof.

*Zero-lot-line lot* means a single-family lot that has a side wall along or near one of the lot lines so that a usable yard of a minimum of ten feet from the side lot line to the building line is created on the other

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side of the lot. In no case shall any part of a structure or building, including architectural features, be constructed so as to encroach upon or over the vertical extension of a lot line.

*Zoning* means the division of a municipality into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement, spacing and size of land and buildings in order to achieve that compatibility.

*Zoning map* means the official map showing the division of the city into districts which is a part of this chapter.

*Zoning, spot*, means the zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

*Zoning strip* means, typically, commercial and/or retail zoning proposed to accommodate commercial or retail development, fronting a portion of a major street, usually one lot deep.

*Zoo, private*, means a facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

*Zoo, public*, means a publicly owned zoo or similar facility owned and operated by a governmental entity or nonprofit zoological society where live animals, birds and reptiles are domiciled and displayed.

(b) Any definition not expressly prescribed herein shall, until such time as defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

(Ord. No. 438, § 5, 11-24-2003; Ord. No. 438-42, § 3, 2-7-2005; Ord. No. 526, § 1, 1-8-2008; Ord. No. 539, § 1, 5-20-2008; Ord. No. 643, §§ 3, 4, 2-1-2011; Ord. No. 668, § 1, 8-16-2011)

#### **Sec. 53-6. Application.**

The provisions of this chapter shall, except as specifically provided otherwise in this chapter, apply to all land within the jurisdiction of the city.

(Ord. No. 438, § 6, 11-24-2003)

#### **Sec. 53-7. Exemptions.**

The provisions of this chapter shall not:

- (1) Prohibit the continuation of plans, construction or designed use of a building for which a building permit was lawfully issued and which:
  - a. Is completed in its entirety within one year from the effective date of the ordinance from which this chapter is derived; and
  - b. For which construction shall have been started within 90 days after the effective date of the ordinance from which this chapter is derived; provided that any such building, construction or use that is not in compliance with this chapter shall be a nonconforming use; or
- (2) Apply to permits or commitments given by the city with reference to construction of public utility buildings prior to the passage of the ordinance from which this chapter is derived shall be observed.

(Ord. No. 438, § 7, 11-24-2003)

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**Sec. 53-8. Enforcement of regulations.**

- (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits that is developed, or proposed to be developed, after the effective date of the ordinance from which this chapter is derived, until all then applicable requirements of this chapter have been satisfied and accepted by the city.
- (b) This chapter may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to, any other authorized enforcement or action taken, any person who violates any term or provision of this chapter, with respect to any land or development within the city, by fine and penalties as provided herein.

(Ord. No. 438, § 8, 11-24-2003)

**Secs. 53-9—53-32. Reserved.**