

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

December 16, 2013 – 7:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENEED ON DECEMBER 16, 2013 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS.

A. The meeting was called to order at 7:00 p.m. and the roll of appointed officers was taken. Commissioners present were:

Chairman, Debra Mergel	Barbara Freeman, Commissioner
Tom Eustace, Commissioner	George Ohler, Commissioner
Joyce Berube, Commissioner	Rick Faircloth, Commissioner

Commissioner, Michael O’Neal, was not present at this meeting.

The following City of Jersey Village City Council Members were present:

Mayor, Rod Erskine	City Manager, Mike Castro, PhD
Council Member, Justin Ray	City Secretary, Lorri Coody
Council Member, Harry Beckwith III, PE	City Attorney, Bobby Gervais
Council Member, Sheri Sheppard	
Council Member, Jill Klein	

Council Member Place 2 is Vacant.

Staff in attendance: Mark Bitz, Fire Chief; Eric Foerster, Chief of Police; Isabel Kato, Finance Director; Danny Segundo, Director of Public Works; Michael Brown, Director of Parks and Recreation, Courtney Rutherford, Assistant City Secretary; Christian Somers, Building Official; and Deborah Capaccioli-Paul, Engineering Technician.

B. Conduct Joint Public Hearing with City Council on the proposal to amend the City’s zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility.

Mayor Erskine called the item and Chairman Debra Mergel announced a quorum for the Planning and Zoning Commission. Mayor Erskine opened the Joint Public Hearing at 7:09 p.m., stating that the purpose of the meeting was to give those in attendance the right to speak and be heard concerning the proposal to amend the City’s zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility. Mayor Erskine then called those signing up to speak as follows:

Ed Richter, 37 cherry Hills, Jersey Village, Texas (281) 777-7506 – Mr. Richter stated that one’s home should be one’s sanctuary. He told Council and P&Z that prior to moving to the Village that he owned a nice home in a nice neighborhood until a car wash was built nearby. He said that the car wash brought many problems – thefts, loud music, trash, etc. As a result, he sold his home and moved to Jersey Village. He is upset to learn that he is now faced with a similar situation. He opposes the car wash.

Deborah Finlay, 30 Cherry Hills, Jersey Village, Texas (281) 844-8117 – Mrs. Finley spoke to the car wash issue. She asked that Council not make a decision on this item until more information is available concerning the amount of sound that will be emitted from such an establishment. She asked that studies be made to determine an acceptable level. She stated a list of reasons why she is opposed to the car wash. A few of the reasons are as follows:

- | | |
|---------------------------|-----------------------------------------------|
| 1. Noise pollution | 5. Hours of Operation |
| 2. Chemicals | 6. Distance from the back of the neighborhood |
| 3. Environmental Concerns | 7. Landscaping |
| 4. Traffic Concerns | 8. Property values |

Bill Schuster, 8 Peachtree Court, Jersey Village, Texas (832) 407-9011 – Mr. Schuster, while he signed up to speak, he did not address Council. He donated his time to Mrs. Deborah Finlay.

John Xidezis, 1 Spyglass Court, Jersey Village, Texas (832) 746-7370 – Mr. Xidezis told Council that he is concerned about the car wash and the noise, traffic, pollution and chemicals it will bring. He is concerned for the wildlife, especially around the lake. He is also concerned that the chemicals will damage the clay roofs within the nearby neighborhood. He believes there are other opportunities for this location. He opposes the car wash.

Kurt Futrell, 11 cherry Hills Drive, Jersey Village, Texas (281) 890-2616 – Mr. Futrell spoke to Council about the car wash. He told a story about a woman in the neighborhood who posted a sign for a garage sale, which are not allowed. Nonetheless, the posting brought many unwanted cars into the neighborhood. He told the story because he believes that he car wash will also bring unwanted cars and traffic into the neighborhood. He closed his presentation by asking Council – Would you like your property to back up to a car wash?

Laurie Reid, 52 Cherry Hills, Jersey Village, Texas (713) 937-4564 – Ms. Reid is against the car wash. She explained that she has spent a lot of time and money on her back yard and does not want it to back up to a car wash. She confirmed that she too is concerned about all of the things that have been mentioned about the car wash.

With no one else desiring to speak at the hearing, Mayor Erskine and Chairman Mergel closed the joint public hearing at 7:28 p.m. Mayor Erskine called the next item on the agenda as follows:

C. Conduct Joint Public Hearing with City Council on the proposal to amend the City’s comprehensive zoning ordinance regarding the management of anticipated residential teardown and rebuilding activities in the City of Jersey Village.

Mayor Erskine called the item and Chairman Debra Mergel announced a quorum for the Planning and Zoning Commission. Mayor Erskine opened the Joint Public Hearing at 7:29 p.m., stating that the purpose of the meeting was to give those in attendance the right to speak and be heard concerning the proposal to amend the City’s comprehensive zoning ordinance

regarding the management of anticipated residential teardown and rebuilding activities in the City of Jersey Village.

With no one desiring to speak at the hearing, Mayor Erskine and Chairman Mergel closed the joint public hearing at 7:30 p.m., and the Planning and Zoning Commission retired from the City Council Meeting at 7:30 p.m. to conduct its posted meeting agenda and prepare the final report in connection with this joint public hearing and the joint public hearing held previously.

Chairman Mergel reconvened the meeting at 7:33 p.m. and called the next item as follows:

D. Consider approval of the minutes for the meetings held on November 18, 2013 and December 5, 2013.

Commissioner Freeman moved to approve the minutes for the meetings held on November 18, 2013 and December 5, 2013. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, Ohler, and Faircloth
Chairman Mergel

Nays: None

The motion carried.

E. Discuss and take appropriate action regarding the preparation and presentation of the Final Report to Council on the proposal to amend the City's comprehensive zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility.

Chairman Mergel introduced the item. Discussion was had regarding the concerns of the residents presented during the Joint Public Hearing. There was lengthy discussion regarding the noise level from the Car Wash, as well as, lighting and the chemicals that will be used.

City Attorney, Bobby Gervais, reminded the Commission that this item is only to approve the text change in the code to allow for a car wash upon the granting of a Specific Use Permit. All concerns for noise, lighting, hours of operation and chemicals at a car wash would be addressed in the actual Specific Use Permit if it were granted.

Discussion was had regarding the types of businesses currently zoned for this area that do not require a Specific Use Permits and the noise level, traffic and lighting issues that could result from other commercial businesses in this zoning district.

With no further discussion Commissioner Eustace moved to proceed with final report and present to Council as prepared approving to amend the City's comprehensive zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility.

Commissioner Faircloth seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Freeman, and Faircloth
Chairman Mergel

Nays: Commissioner Berube

Abstain: Commissioner Ohler

The motion carried.

Upon passage of this motion, the Final Report was signed for presentation to Council. A copy of the Final Report is attached to and made a part of these minutes as Exhibit “A.”

F. Discuss and take appropriate action regarding the preparation and presentation of the Final Report to Council on the proposal to amend the City’s comprehensive zoning ordinance regarding the management of anticipated residential teardown and rebuilding activities in the City of Jersey Village.

Chairman Mergel introduced the item. Christian Somers, the Building Official, explained that this item has been discussed at several meetings and a Preliminary Report was presented to City Council on November 18, 2013. This is the final report to be presented to City Council with all of the recommendations from the Commission.

With little discussion Commissioner Berube moved to proceed with final report, as prepared, and present to Council amends to the City’s comprehensive zoning ordinance regarding the management of anticipated residential teardown and rebuilding activities in the City of Jersey Village. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Faircloth, Berube, Freeman, Eustace, and Ohler
Chairman Mergel

Nays: None

The motion carried.

Upon passage of this motion, the Final Report was signed for presentation to Council. A copy of the Final Report is attached to and made a part of these minutes as Exhibit “B.”

G. Adjourn

With no additional business to conduct Commissioner Faircloth moved to adjourn the meeting. Commissioner Ohler seconded the motion. The vote follows:

Ayes: Commissioners Faircloth, Berube, Freeman, Eustace, and Ohler
Chairman Mergel

Nays: None

The motion carried and the Commission adjourned at 8:15 p.m.

Courtney Rutherford, Assistant City Secretary

**EXHIBIT A TO THE
DECEMBER 16, 2013 P&Z MINUTES**

**FINAL REPORT
AMEND THE CITY'S COMPREHENSIVE ZONING ORDINANCE AT
CHAPTER 14, ARTICLE IV, SECTION 14-105(A)(21) BY ADDING A
SUBSECTION (C) TO INCLUDE CAR WASH FACILITY**



**CITY OF JERSEY VILLAGE – PLANNING & ZONING COMMISSION
FINAL REPORT
AMENDMENTS TO INCLUDE CAR WASH FACILITY AS A
SPECIFIC USE IN ZONING DISTRICT F**

The Planning and Zoning Commission has previously met on November 11, 2013 and in its preliminary report recommended amendments to the City’s zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility.

The preliminary report was submitted to the Jersey Village City Council at its November 18, 2013 meeting. The report was reviewed and the City Council ordered a Joint Public Hearing for December 16, 2013.

On December 16, 2013, the City Council and the Jersey Village Planning and Zoning Commission conducted a joint public meeting, which gave the public an opportunity to make comments concerning the proposed amendment.

The Planning and Zoning Commission after duly considering all the information before it including that gathered at the Joint Public Hearing with City Council on December 16, 2013 at 7:00 p.m., the Planning and Zoning Commission recommends that:

The City’s comprehensive zoning ordinance be amended at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (c) to include car wash facility.

The amendments to the City’s zoning ordinance are more specifically detailed in the attached proposed ordinance marked as Exhibit “A.”

Respectfully submitted, this 16th day of December 2013.

s/Debra Mergel, Chairman

ATTEST:

s/Courtney Rutherford, Assistant City Secretary



ORDINANCE NO. 2013-XX

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, TEXAS, THE JERSEY VILLAGE DEVELOPMENT CODE, BY ADDING A NEW DEFINITION OF “CAR WASH FACILITY” TO SECTION 14-5; BY AMENDING CHAPTER 14, ARTICLE IV, SECTION 14-105(a)(21) BY ADDING A SUBSECTION (C) TO INCLUDE CAR WASH FACILITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-8 OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS THAT:

Section 1. The Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding a new definition to Section 14-5 of Chapter 14:

“Car wash facility means a facility of the tunnel unit type for washing and cleaning of passenger vehicles which allows washing of multiple vehicles in a tandem arrangement while moving through the structure, to include detail areas, vacuum areas and a lobby.”

Section 2. The Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding a new subsection (c) to Section 14-105(a)(21), so that Section 14-105(a)(21) shall read as follows:

- “(21) The following uses are permitted in district F with a specific use permit:
- a. Telephone switching facilities.
 - b. Child day-care operations (licensed child-care centers and school-aged program centers).
 - c. Car Wash Facility.”

Section 3. **Severability.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Jersey Village, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. **Repeal.** All other ordinances or parts of ordinances in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed.

Section 5. **Penalty.** Any person who shall willfully, intentionally, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 6. **Effective Date.** This ordinance shall be in full force and effect from and after its passage.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2013.

Rod Erskine, Mayor

ATTEST:

Lorri Coody, City Secretary

**EXHIBIT B TO THE
DECEMBER 16, 2013 P&Z MINUTES**

**FINAL REPORT
AMEND THE CITY'S COMPREHENSIVE ZONING ORDINANCE
REGARDING THE MANAGEMENT OF ANTICIPATED
RESIDENTIAL TEARDOWN AND REBUILDING ACTIVITIES**



**CITY OF JERSEY VILLAGE – PLANNING & ZONING COMMISSION
FINAL REPORT
AMENDMENTS TO CHAPTER 14**

The Planning and Zoning Commission has previously met on November 11, 2013 and in its preliminary report recommended amendments be made to Chapter 14, Building and Development, related to residential teardowns/rebuilds.

The preliminary report was submitted to the Jersey Village City Council at its November 18, 2013 meeting. The report was reviewed and the City Council ordered a Joint Public Hearing for December 16, 2013.

On December 16, 2013, the City Council and the Jersey Village Planning and Zoning Commission conducted a joint public meeting, which gave the public an opportunity to make comments concerning the proposed amendment.

The Planning and Zoning Commission after duly considering all the information before it including that gathered at the Joint Public Hearing with City Council on December 16, 2013 at 7:00 p.m., the Planning and Zoning Commission recommends that:

The City's Code of Ordinances be amended at Chapter 14, by amending certain Articles and Sections of Chapter 14 to resolve potential issues resulting from tear-down redevelopment within the City: Article I, in General, Section 14-3, and 14-5; Article IV, Zoning Districts, Division 1, Section 14-88; Article IV Zoning Districts, Division 2, Section 14-101 and 14-137; Article IX, Storm Drainage and Flood Control, Section 14-225; and Article XI, Off Street Parking and Driveway Standards, Section 14-282.

The amendments to the City's zoning ordinance are more specifically detailed in the attached proposed ordinance marked as Exhibit "A."

Respectfully submitted, this 16th day of December 2013.

s/Debra Mergel, Chairman

ATTEST:

s/Courtney Rutherford
Assistant City Secretary



ORDINANCE NO. 2013-XX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, TEXAS, CHAPTER 14, BUILDING AND DEVELOPMENT, BY AMENDING CERTAIN ARTICLES AND SECTIONS OF CHAPTER 14 TO RESOLVE POTENTIAL ISSUES RESULTING FROM TEAR-DOWN REDEVELOPMENT WITHIN THE CITY: ARTICLE I, IN GENERAL, SECTION 14-3, AND 14-5; ARTICLE IV, ZONING DISTRICTS, DIVISION 1, SECTION 14-88; ARTICLE IV ZONING DISTRICTS, DIVISION 2, SECTION 14-101 AND 14-137; ARTICLE IX, STORM DRAINAGE AND FLOOD CONTROL, SECTION 14-225; AND ARTICLE XI, OFF STREET PARKING AND DRIVEWAY STANDARDS, SECTION 14-282; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-8 OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, City Council desiring to resolve potential issues resulting from tear-down redevelopment within the city; and

WHEREAS, funds were allocated in the FY 2012 General Fund Budget for the hiring of a planning consultant to perform the work related to review existing ordinances and developing a solution to help alleviate any future “teardown/rebuild” problems; and

WHEREAS, the City secured the consulting services of Kendig Keast Collaborative to review existing ordinances; and

WHEREAS, Kendig Keast Collaborative has made recommendations for code revisions; and

WHEREAS, the Planning and Zoning Commission and the Building Board of Adjustment and Appeals having made recommendations pertaining to their respective areas of responsibilities; and

WHEREAS, the required public notices having been given and the required public hearings having been conducted; and

WHEREAS, certain amendments to Articles and Sections of Chapter 14, Building and Development of the Code of Ordinances of the City of Jersey Village, Texas are necessary to resolve potential issues resulting from tear-down redevelopment within the city; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS THAT:

Section 1. Chapter 14, Article I, In General, Section 14-3 and 14-5 is hereby amended by adding the language underlined and by deleting the language struck through, as set out in the attached Exhibit “A.”

Section 2. Chapter 14, Article IV, Zoning Districts, Division 1, Section 14-88 is hereby amended by adding the language underlined and by deleting the language struck through, as set out in the attached Exhibit “A.”

Section 3. Chapter 14, Article IV, Zoning Districts, Division 2, Section 14-101 and 14-137 is hereby amended by adding the language underlined and by deleting the language struck through, as set out in the attached Exhibit “A.”

Section 4. Chapter 14, Article IX, Storm Drainage and Flood Control, Section 14-225 is hereby amended by adding the language underlined and by deleting the language struck through, as set out in the attached Exhibit “A.”

Section 5. Chapter 14, Article XI, Off Street Parking and Driveway Standards, Section 14-282 is hereby amended by adding the language underlined and by deleting the language struck through, as set out in the attached Exhibit “A.”

Section 6. **Severability.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Jersey Village, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 7. **Repeal.** All other ordinances or parts of ordinances in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed.

Section 8. **Penalty.** Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-8.

Section 9. **Effective Date.** This ordinance shall be in full force and effect from and after its passage.

PASSED, APPROVED, AND ADOPTED this 16th day of December 2013.

Rod Erskine, Mayor

ATTEST:

Lorri Coody, City Secretary

ARTICLE I, IN GENERAL

Sec. 14-3. Purpose of chapter.

- (a) The purpose of this chapter is the implementation of the comprehensive plan, specifically the goals, objectives and policies contained therein, and the protection of the health, safety and general welfare of existing and future residents of the city.
- (b) This purpose is met by:
 - (1) Providing the means of implementing the policies and provisions of the comprehensive plan.
 - (2) Guiding the growth of the city, concentrating more intense development in areas with high development capability and limiting development in areas of low capability.
 - (3) Guiding, through the establishment of performance standards, the type, distribution and intensity of development.
 - (4) Preserving neighborhood character in older established residential areas through supplemental standards intended to manage the nature and intensity of infill development, add-on construction, and reconstruction after removal of existing dwellings.**

Sec. 14-5. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

Accessory use of a building means a subordinate use or building customarily incident to and located on the lots occupied by the main use or building.

Advertising means to seek the attraction, or to direct the attention, of the public to any goods, services, merchandise, purpose or cause.

Agriculture means any land or building used for pasturage, floriculture, dairying, horticulture, forestry and livestock or poultry husbandry.

Alley means a legally established private access easement affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Alter means to change, rearrange, enlarge, extend or reduce any structure or part thereof on the same site.

Alterations means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to in this chapter as "altered" or "reconstructed."

Apartment means a dwelling unit in a multiple-family dwelling.

Apex means a point on an alluvial fan or similar landform below which the low path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means, for the purpose of flood hazard regulation, a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding means a designated AO, AH or VO zone on a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

As-built documents means documents prepared by a registered professional engineer and confirming that the public improvements are constructed as shown.

Auto body shop means any shop or garage, other than a private garage, where bodywork and painting are performed.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement, for purposes of flood hazard regulations, means any area of the building having its floor subgrade (below ground level) on all sides.

Berm means a manmade, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.

Billboard means an off-premises sign.

Block means a tract or parcel of land designated as such on a subdivision plat surrounded by streets or other physical obstructions.

Blockface means the properties abutting on one side of a street between the two nearest intersecting streets or other physical features, such as a watercourse or unsubdivided land, that defines the end of the block.

Boundary sewer line means a sewer line installed in a street bounding a development or faced on only one side by a development, which can also serve property not included in the development on the opposite side of the street.

Boundary water line means a water line, installed in a street bounding a development or faced on only one side by a development, which can also serve property not included in the development on the opposite side of the street.

Buffer means the area, space or physical means which is established to protect or insulate one land use or one building from another. Generally, buffering will be the use of landscaping (other than mere grass on a flat terrain) or the use of landscaping along with berms, walls or decorative fences that at least partially and periodically obstruct the view from the street and adjacent property in a continuous manner, of vehicular use areas, parking lots and their parked cars, and detention ponds.

Buffer yard means a strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

Build means to convert, enlarge, reconstruct or alter a building or structure.

Building. See definition in the building code article of this chapter.

Building area means ground floor area computed by using the outside dimensions, excluding the floor area of garages, open or screened porches, basements or semifurnished storage rooms not used for residential purposes.

Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building line means a line parallel to the front lot line. A minimum building line is the same as the minimum required front setback line.

Building, principal means a building in which is conducted the main or principal use of the lot on which such building is located.

Business frontage means the linear measurement from outer wall to outer wall of the side of the building which faces or fronts a street and which generally contains the primary entrance to the building.

Business purposes means the erection or use of any property, building, structure, permanent or temporary, for the primary purpose of conducting in such building or structure or on such property a lawful commercial enterprise in compliance with all ordinances and regulations of the city governing such activity. The term "business purpose" shall not include any property, building or structure erected or used for the primary purpose of securing a permit to erect a sign.

Cabana or dressing room means a small structure for use as a bathhouse adjacent to a swimming pool.

Carport means a permanent structure that is attached to a residence or private garage, that covers a driveway, and that consists of a roof and one or more sides.

Certificate of compliance means a certificate issued by the city to a party intending to initiate any work or change any use of property in the city.

Child-care center means a facility licensed by the State of Texas to provide care at a location other than the permit holder's home, for seven or more children under 14 years of age, for less than 24 hours per day, but at least two hours a day, three or more days per week (40 TAC § 745.37(2)(D)).

Child day-care operations means any facility used for the following child day-care operations licensed under state law (40 TAC Ch. 745): "child-care center" and "school-age program" operations.

Church means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public

worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Clinic means the office of one or more licensed doctors who may or may not be associated in the practice of their profession.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

Commercial building means any building other than a single-family residence.

Commercial message means a message placed or caused to be placed before the public by a person directly involved in the manufacture or sale of the products, property, accommodations, services, attractions or activities or possible substitutes for those things which are the subject of the message; and that refers to the offer for sale or existence for sale of products, property, accommodations, services, attractions or activities that are offered or exist for sale or for hire; or that attracts attention to a business or to products, property, accommodations, services, attractions or activities that are offered or exist for sale or for hire.

Condominium. See *Unified development*.

Courts mean an open space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court has one side open to a street or alley, yard or other permanent open space.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Curblin*e means an imaginary line drawn along the edge of the pavement on either side of a public street.

Density means the average number of dwelling units per acre for the entire development, including streets.

Developer means any person who improves or subdivides a tract of land or improves or takes any action preparatory to the erection, improvement or movement of any building or structure on a tract of land.

Development, for purposes of flood hazard regulations, means any man-made change in improved and unimproved real estate, including but not limited to buildings or

other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

District means an area of land for which there are uniform zoning regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Double-faced sign means a single sign with two parallel sign faces back-to-back.

Dwelling, multiple-family means a building used or designed as a residence for three or more families living together independently of each other.

Dwelling, single-family means a detached building, designed for or occupied exclusively by one family.

Dwelling, two-family means a detached building, designed for or occupied by two families living independently of each other.

Dwelling unit means one or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.

Easement, utility means a right held by the city to make use of the land of another for a limited purpose, such as right of passage.

Electrical sign means a sign containing electrical wiring or utilizing electric current, but not a sign illuminated by an exterior light source.

Elevated building means a nonbasement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in zones V1-390, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X and D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE or V, the term "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

Excavation means any breaking of ground, except common household gardening, general farming and ground care.

Existing construction means, for the purpose of flood hazard regulation and for the purposes of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision, for purposes of flood hazard regulations, means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision, for purposes of flood hazard regulations, means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Family means:

- (1) One person, or a group of two or more persons living together and related by blood, marriage or legal adoption, living together as a single housekeeping unit. The person thus constituting a family may also include gratuitous guests and domestic servants.
- (2) A group of individuals not related by blood, marriage or legal adoption, but living together as a single housekeeping unit. For controlling of residential density, each such group of four individuals shall constitute of a family.

Filling means the depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

Filling stations means any building or premises used for the dispensing, sale or offering for sale or retail of any automobile fuels or oils. If the dispensing, sale or offering for sale is incidental to a public garage, the premises shall be classified as a public garage.

Firewall means a wall made of fireproof material to prevent the spread of a fire from one part of a building to another.

Flag lot means a lot which has minimum frontage on a public street, which is reached via a private drive or lane whose width some distance back from the street right-of-way, meets all ordinance requirements.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to a community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

Flood protection system means those physical structural works for which funds have been authorized, appropriated and expended, and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see definition of *Flooding*).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freestanding structure means any building for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind and surrounded by yards or open space and not containing permanent provisions for living, sleeping or cooking.

Functionally dependent use means, for the purpose of flood hazard regulation, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

***Garage, front load,* means a private garage where the vehicle access doors to the garage face toward and are generally visible from a public view.**

***Garage, J-Swing* means a garage upon which the entry point from the street is located in front of the house and the garage door is perpendicular to the front of the house. A J-Swing garage must have at least two windows, each 12 square feet or greater, oriented toward the front or the lot.**

Garage, private means a garage intended for private use by the resident family with a ground floor capacity for not more than four automobiles or trucks of which not more than one vehicle shall be used for commercial purposes.

Garage, private, detached means a private garage constructed as a freestanding structure.

Garage, public means a building, or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

***Garage, sideloaded* means a private garage where the vehicle access doors to the garage are perpendicular to the front lot line and, therefore, are generally not visible from a public way, unless the lot is a corner lot and the garage loads to a side street.**

Grade means a ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

Grand opening means the commencement of operation by a business in a new location or the assumption of ownership of an existing business by a new owner or group of owners.

Ground sign means a sign which is a pole sign, a monument sign or a nonconforming billboard which exists on the effective date of the ordinance. See Figure 14-19.

Habitable floor means, for the purpose of flood hazard regulation, any floor usable for the following purposes which include working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

Half-street means a vehicular accessway created if only a portion of the required right-of-way width or pavement width is dedicated and/or constructed.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Industrial means a business, plant or enterprise for production of goods, merchandise or machines.

Integrated business development means commercial development such as a strip center, mall, multitenant office building, commercial center or industrial complex in which two or more separate businesses occupy a single structure or multiple structures which share on-site parking facilities and common driveways.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of levees or associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Logo sign means a sign operated and maintained by the state department of highways and public transportation within the public right-of-way along a country toll road which bears the name and trademark design of a business.

Lot means an undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement.

Lot depth means the distance on a horizontal plane between the midpoint of the front lot line and the midpoint of the rear lot line.

Lot lines means the lines bounding a lot as follows:

- (1) *Lot line, front* means, for interior lots, a line separating the lot from the street; for corner lots, a line separating the narrowest street frontage of the lot from the street, except in those cases where the deed restrictions specify another line as the front lot line. In all cases the front lot line of a nonresidential lot shall be that side adjacent to the highest volume street.
- (2) *Lot line, rear* means a lot line opposite and most distant from the front lot line.
- (3) *Lot line, side* means any lot line not a front line or rear lot line.

Lot of record means a lot which is part of a platted subdivision, the plat of which is recorded in the office of the county clerk; a parcel or lot the deed for which was recorded in the office of the county clerk prior to March 1, 1982, and which has not been partitioned in any manner since that time.

Lot width means the distance on a horizontal plane between the midpoint of the side lot lines.

Lowest floor means, for the purpose of flood hazard regulation, the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, however, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailer, travel trailers and other similar vehicles placed on a site for greater than 190 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

Manufactured home park or subdivision, for purposes of flood hazard regulations, means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Marquee means a roof-like structure of a permanent nature projecting from the wall of a building.

Marquee sign means a sign on a marquee. See Figure 14-19.

Masonry means that form of construction composed of stone, brick, concrete, hollow clay tile, decorative concrete block or tile, glass block or other similar building units or materials or a combination of these materials laid up unit by unit and set in mortar. For the purposes of this definition, true stucco is considered masonry.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other data, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mobile home means a movable or portable dwelling structure which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year round living as a single-family dwelling unit without the necessity of a permanent foundation. The term "mobile home" shall not include pickup campers, travel trailers, motor homes, converted buses, tent trailers or other transportable structures designed for temporary use (see also *Manufactured home*).

Mobile (manufactured) home park means a parcel of land under single ownership on which two or more mobile (manufactured) homes are occupied as residences. Any mobile (manufactured) home facility where two or more units are intended for long-term residential use (beyond 90 days) is considered a mobile (manufactured) home park for purposes of applying development standards.

Model home means a single-family residential structure used temporarily as an office for the sale of single-family residential structures in the same platted subdivision.

Monument sign means a ground sign supported by a solid base which is equal to but not more than 15 percent larger than the sign face base which contains no commercial message and is not attached to any building. See Figure 14-19.

Motor vehicle sales means the use of a site for sale or rental of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including incidental storage, maintenance, and servicing. This use includes new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.

Multifaced sign means a single sign with two or more faces which are not parallel or back to back.

Nameplate means a sign which denotes only the name of the person occupying the premises.

New construction means, for the purpose of determining flood hazard insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commences on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision, for purposes of flood hazard regulations, means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Noncommercial message means a message that is not a commercial message.

Noncommercial sign means a sign directing attention to a purpose or cause not created or existing for the generation of profit or for the remuneration of individuals including, but not limited to, religious, charitable, civic or educational purposes or causes.

Nonconforming building (nonconforming structure) means a building or structure (or portion thereof) lawfully existing at the time of adoption of the ordinance from which this chapter derives, or subsequent amendment thereto, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the district in which it is located.

Nonconforming use means the use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this chapter or subsequent amendment thereto, that does not conform to the regulations of the district in which it is situated.

Off-premises sign means a sign which identifies a use, facility or service which is not located on the premises where such sign is displayed; identifies a product which is not produced, sold or manufactured on the premises where such sign is displayed; or advertises or otherwise directs attention to a product, service, activity, person, institution, facility or business which may or may not be identified by a brand name and which occurs or is primarily conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is displayed.

On-premises sign means a sign which identifies the name of the owner or occupant of the premises on which the sign is located; identifies a use, facility or service located on the premises where such sign is displayed; identifies a product which produced, sold or manufactured on the premises where the sign is located; or advertises or otherwise directs attention to a product, service, activity, person, institution, facility or business which may or may not be identified by a brand name and which occurs or is primarily conducted, sold, manufactured, produced or offered on the premises where the sign is located.

Owner means any owner, authorized agent or contractor who constructs, enlarges, alters, repairs, moves or changes the occupancy of a building or structure.

Pavement width means the portion of the surface of the street available for vehicular traffic; if curbed, it is that portion of the street between the back of the curb and back of the curb.

Pawnshop shall have the meaning set out in V.T.C.A., Finance Code § 371.003.

Person means an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee or similar representative of any of them.

Planned unit development (PUD). See *Unified development*.

Portable sign means a sign designed or constructed to be easily moved from one location to another, including signs mounted upon, or designed to be mounted upon, a trailer, bench, wheeled carrier or other motorized or nonmotorized mobile structure or vehicle, whether or not its wheels have been removed. For the purpose of this chapter, trailer signs and signs on benches are portable signs.

Principal use means the main use to which the premises are devoted and the principal use for which the premises exist.

Private street means a vehicular accessway under private ownership and maintenance providing access to building units in the interior of a lot.

Projecting sign means a sign which is affixed to a building wall or structure and which extends beyond the building wall or structure more than 12 inches.

Public improvement means one or more of the following: water lines and appurtenances, sewer lines and appurtenances, streets and/or drainage facilities.

Public right-of-way means any part of a right-of-way, not privately owned or controlled, which the city or other governmental agency is responsible for maintaining.

Public street means the entire width between property lines of any road, street, way, alley, bridge or other similar thoroughfare, not privately owned or controlled, which is open to the public for vehicular traffic and which the city or other governmental agency is responsible for maintaining.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Reader panel means a permanently constructed changeable copy bulletin board, lighted or unlighted, with detachable precut letters and figures.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway. See *Floodway.*

Reserve means a tract of land created within a plat that is not divided into lots or proposed for development at the time of platting.

Residential means a tract of land designed for or used exclusively to contain a dwelling unit. A primary residential area shall mean a street in which a majority of the total front footage is used for residential purposes.

Restaurant means an eating establishment whose primary function is the sale, dispensing or service of food, refreshments and beverages to customers, and which may sell alcoholic beverages as an accompaniment to meals served therein. All food must be prepared and cooked in a commercial kitchen on the premises. This may include such eating establishments as dining rooms, drive-in restaurants, fast food restaurants, cafes, cafeterias, and carryout restaurants, but specifically excludes bars, taverns, saloons, cabarets, or other similar establishments which derive 75 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages.

Retail shops and retail trade means a shop or establishment for the sale of goods or merchandise from a fixed location, such as a department store, boutique, or kiosk, in small or individual lots for direct consumption by the purchaser. "Retail shops or retail trade" specifically excludes a pawnshop.

Right-of-way means a street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Roof sign means a sign erected or maintained above or on the sloped roof of any building or above the parapet wall or the mansard roof of a flat-roof building.

Roofline means the height above finished grade of the upper beam, rafter, ridge or purlin of any building.

School-age program center means a facility licensed by the State of Texas providing supervision and recreation, skills instruction, or skills training for at least two hours a day and three days a week to children attending pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session (40 TAC § 745.37(2)(H)).

Screening means fences, walls, trees, shrubbery and other landscape elements used to conceal or interfere with the view and reduce noise impact thereof from adjacent properties and public rights-of-way at street level in accordance with the standards set forth in this chapter.

Service centers means a one-story building containing a minimum of 25 percent office space. The remaining space shall be used for other business functions governed by use regulations for District J.

Setback means the minimum unoccupied distance between the lot line and the principal and accessory buildings, as required in this chapter.

Setback, front means the minimum unoccupied distance, extending the full lot width, between the principal and accessory buildings and the front lot line.

Setback, rear means the minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

Setback, side means the minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

Sign means any structure, part thereof or device of inscription which is located upon, attached to, or painted or represented on any land or on the outside of any building or structure, or on an awning, canopy, marquee or similar appendage, or displayed or shown so

as to be seen from the outside of the building or structure, and which displays or includes any numeral letter, work model, banner, emblem, insignia, symbol, device, monogram, heraldry, trademark, light or other representation used as or in the nature of an announcement, advertisement, attention arrester, direction warning or designation of any person, industry or activity, or any combination thereof.

Sign area means the total square footage of all sign faces, including that portion of the sign structure or trim which contains any wording, symbols, identifying color or pictures; provided, however, that in the case of a double-faced sign, the sign area shall be the total square footage of one face.

Sign face means the sign face area of any sign upon, against or through which the message is displayed or illustrated; provided, however, that the sign face area of a sign on which the words, letters or symbols are independently mounted shall be that of the smallest regular geometric form that will wholly contain all of the message. See Figure 14-19.

Sign structure means a structure which supports or is capable of supporting a sign. A sign structure may be a single pole and may or may not be an integral part of a building.

Single-family dwelling means a building containing only one dwelling unit and/or occupied by only one family.

Single-occupant detached commercial or industrial building means a commercial or industrial building which contains a single occupant and which is not a part of an integrated business development or which is located in a reserve that is part of, but is physically separated by a distance of more than 50 feet from any other structure in, an integrated business development.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this chapter.

Spectacular sign means a sign that has one or more of the following as elements in its physical structure:

- (1) Automatically changing advertising that changes more often than once every five minutes (not including date, time, temperature);
- (2) Blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating or spot lights, or similar devices;
- (3) Lights or colored elements creating a continuously moving, shimmering or prismatic effect; or
- (4) Rotating or moving parts.

Start of construction, for flood hazard regulatory purposes, means permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Story means that part of a building between the surface of a floor and the ceiling immediately above.

Story, half means that which covers a floor area of not more than 50 percent of the floor area and the ceiling immediately above.

Street means any public or private street or easement used for access.

Street, arterial means roads of regional importance or the main roads of a community. Direct access is primarily limited to significant land uses.

Street, collector means that which provides access to nonresidential land uses and connects residential streets to the system's arterial streets.

Street, expressway means a road intended to serve interstate or high speed, high volume urban traffic. Access to an expressway is limited to other expressways and major streets.

Street frontage means the length of a lot or tract of land which is adjacent to a public or private street.

Streetline means the line establishing the outer most boundary of the street right-of-way.

Street, local means a street which provides access to adjacent land; characterized by low volume and low speeds.

Structural alterations means any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground including, but not limited to, buildings of all types, advertising signs and billboards, but excluding (1) fences, boundary

and retaining walls in the side or rear yard, and (2) basketball goals, flagpoles, and ornamental yard lights.

Structure, for flood hazard regulatory purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Subdivision plat means a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the county records and containing accurate and detailed engineering and survey data, dimensions, dedicatory statements and certificates.

- (1) Preliminary plat: see [section 14-55\(1\)](#).
- (2) Final plat: see [section 14-55\(2\)](#).

Substantial damage, for flood hazard regulatory purposes, means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement, for flood hazard regulatory purposes, means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Temporary building means a building used for a temporary period of time in connection with construction on the premises of which it is located, real estate sales, and educational, municipal or church functions.

Temporary sign means a sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light material. A portable sign shall not be considered a temporary sign.

Townhouse means a structure which is one of a series of dwelling units designed and used for only single-family occupancy, ground to sky, with no entrances or exits to or from the adjoining structures, if any.

Underground shelter means any structure built primarily below ground level.

Unified development means the separate ownership of single units or apartments in a multiple unit structure with common elements. (See Vernon's Ann. Civ. St. art. 1301a).

Use means the purpose or activity for which any land or building is designed, arranged or intended, or for which it is so occupied or maintained, and shall include any manner of such activity with respect to the standards of this chapter.

Utility structure means any structure built primarily for the storage of tools, such as garden and lawn equipment.

Variance, for flood hazard regulatory purposes, is a grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter (for floodplain management purposes, see subsection [14-225\(f\)](#) for full requirements).

Violation, for flood hazard regulatory purposes, means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in [section 14-225](#) is presumed to be in violation until such time as that documentation is provided.

Wall line means the surface that connects the foundation to the roof.

Wall sign means a flat sign, either of solid face construction or individual letters, symbols or pictures, erected, installed or printed, which is placed against the exterior wall of any building or structure and which does not extend more than eight inches from the exterior wall and does not extend above the wall line.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other data, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse means a definite channel of a stream in which water flows within a defined bed and banks, originating from a definite source. The water may flow continuously or intermittently, and if the latter, with some degree of regularity, depending on the characteristics of the source.

Yard, front means the space enclosed by the front lot line, the side lot lines and a line parallel to the front lot line and even with the main building or any projections thereof, other than steps, or planter box ~~or enclosed porches~~.

Yard, rear means the space unoccupied, except for freestanding buildings between the rear of the main building (dwelling) and the rear lot line.

Yard, side means the open space between a building and the side lot lines, but not including any part of the front or rear yards.

Zero property line housing means housing commonly known as patio homes. It is a detached living unit constructed on a smaller lot in which one side of the unit is placed on the property line without openings. This concept utilizes the entire lot with a living unit that has a private side and rear yard. The front yard of the unit is reduced in size to contain the auto ingress and egress area along with the guest entry area.

Zoning district map means the map incorporated into this chapter and made a part of this chapter by reference thereto.

ARTICLE IV, ZONING DISTRICTS, DIVISION 1

Sec. 14-88. Regulations that apply to all districts.

(a) *General regulations.*

(13) Add-on construction. After a certificate of occupancy has been issued for a building in accordance with section 14-7(b), no add-on type of construction such as patio covers, carports, balconies, stoops, porches or any structural alteration of the building shall be made unless a new building permit is first obtained from the development officer in accordance with Chapter 14. The plans must be submitted to and approved by the development officer. Requests for a building permit to allow add-on type construction or structural alteration of a building shall indicate that the proposed construction will be in harmony with the style of the original building.

- a. **Where add-on construction to a single-family detached dwelling in district A involves structural alternation that will increase the square feet of enclosed living area on the ground floor, such add-on construction shall be permitted only to the side or rear of the existing dwelling, as space on the lot may allow while maintain conformance with the applicable standards for minimum side and rear building setbacks.**
 1. **Where such add-on construction will result in a finished building height that at any point exceeds the height of the front façade of the existing dwelling at any point, the add-on construction shall be permitted only to the rear of the existing dwelling.**

ARTICLE IV, ZONING DISTRICTS, DIVISION 2

Sec. 14-101. Regulations for district A (single-family dwelling district).

(a)

Use regulations. No building or land shall be used and no building shall be hereafter erected, moved or altered in district A except for one or more of the following uses:

- (1) Single-family dwellings.
- (2) Public parks and playgrounds, public recreational facilities, public schools, community buildings and public museums not operated for profit.
- (3) Municipal and government buildings and public libraries.
- (4) Water supply reservoirs, filter beds, towers, surface or below surface tanks, artesian wells, water pumping plants and water wells.

(5) *Home occupations.*

a. *Intent.* This section provides standards for the establishment of a home occupation in a neighborhood and regulates the operation of a home occupation so that the average neighbor will be unaware of its existence.

b. *Definition.* Home occupation means an accessory occupational use conducted entirely within a dwelling unit by its inhabitants that is clearly incidental to the use of the structure for residential purposes and that does not change the residential character of the site. A home occupation may include an operation in which members of the immediate family sell or offer for sale articles which they produce on the premises; but home occupation does not include operations that use persons who do not reside on the premises to either (1) sell or offer for sale such articles, or (2) produce such articles. Additionally, animal hospitals, animal kennels, barber shops, beauty shops, clinics, doctor's offices, dress shops, hospitals, insurance offices, millinery shops, real estate offices, tearooms, tourist homes, palm readers, fortune tellers, among others and as examples only, are not home occupations.

c. *Standards.* To operate a home occupation, the following standards shall be met:

1. The home occupation must be clearly incidental to the use of the dwelling as a residence;

2. No outdoor sign, display or storage of materials, goods, supplies or equipment shall be allowed;
3. There shall be no change to the exterior of the building nor any visible evidence or signs that the residence contains a home occupation;
4. A home occupation shall not generate a nuisance such as traffic, on-street parking, noise, and electrical interference or hazards;
5. The maximum area devoted to a home occupation shall be 25 percent of the gross floor area of the dwelling unit;
6. The home occupation shall not use employees who do not reside on the premises.

(6) *Additional structures.* Accessory uses and freestanding structures in addition to the single-family dwelling:

- a. One detached private garage; and
- b. Other freestanding structures:
 1. Utility structure;
 2. Greenhouse;
 3. Hobby structure;
 4. Pet house;
 5. Playhouse;
 6. Gazebo;
 7. Cabana or dressing room; and
 8. Pool cover.

(7)

Freestanding structures in addition to the single-family dwelling:

- a. One detached private garage; and
- b. Other freestanding structures:
 1. Utility structure;
 2. Greenhouse;
 3. Hobby structure;
 4. Pet house;
 5. Playhouse;
 6. Gazebo;
 7. Cabana or dressing room; and
 8. Pool cover.

(8) Churches or other places of worship and related schools.

(9) Golf courses and country clubs.

- (10) Electric power lines and electric substations, including accessory uses customarily incidental thereto; provided that any such accessory use shall not be so obnoxious or offensive as to be reasonably calculated to disturb persons of ordinary temper, sensibilities and disposition by reason of vibration, noise, view or the emission of odor, dust, smoke or pollution of any other kind. The height and area, construction, and other regulations provided by this section shall not apply to uses allowed by this subsection.
- (11) Model homes, provided that a builder may have no more than one model home in a subdivision. A model home must have a temporary certificate of occupancy and may be open for business only between the hours of 6:00 a.m. and 9:00 p.m. Use of a structure as a model home shall terminate on the first of the following events to occur: (i) the expiration of 30 days after building permits have been issued for 90 percent of the lots in the subdivision; or (ii) the expiration of 30 days after building permits have been issued for all lots owned by the builder in the subdivision; or (iii) the expiration of 180 days after issuance of the latest building permit to the builder for a lot in the subdivision.
- (b) *Height and area regulations.* The height of buildings, the minimum area of buildings, the minimum lot size and the minimum dimensions of yards in district A shall be as follows:
- (1) *Height.*
- a. Single-family residences shall not exceed 2½ stories in height, except for Blocks 26, 38, 41, 42 and 47, which shall not exceed 1½ stories.
- 1. When a new single-family residence in district A conforms with the limitation on number of stories above, but exceeds 35 feet in height, 1 foot of additional side setback and 1 foot of additional rear setback from the minimum required shall be provided for each 1 foot of additional building height above 35 feet.**
- 2. Add-on construction to an existing single-family residence shall not result in building height greater than 35 feet unless:**
- a) The existing residence was constructed farther from the side and rear property lines than the minimum required setbacks, to where the additional setback is sufficient to enable the improved residence to satisfy the requirement of this subsection for additional side and rear setback to offset additional height above 35 feet; or**

b) The proposed construction work on the existing residence will change the location of the side and/or rear exterior walls to where the improved residence will satisfy the requirement of this subsection for additional side and rear setback to offset additional height above 35 feet.

- b. Detached private garages and freestanding structures other than those freestanding structures listed in subsection (b)(1)c of this section, shall not exceed in height the roof peak of the residence.
- c. The height of all freestanding structures except residential structures and freestanding garages shall conform to table 14-1 of this article.
- d. Nonresidential structures shall not exceed 35 feet in height

TABLE 14-1

		Height (feet)	Maximum Size (square feet)
1.	Utility structure	8	100
2.	Greenhouse	12	200
3.	Pet house	<u>4</u>	<u>50</u>
<u>4</u>	Hobby structure	12	200
<u>5</u>	Playhouse	12	200
6.	Gazebo	15	500
7.	Cabana or dressing room	12	200

8.	Pool cover	15	not applicable
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(2) *Building area.*

- a. Single-family dwellings shall have a building area of at least 1,750 square feet for single-floor residences, or 1,200 square feet on the ground floor for multistory residences.
- b. Detached private garages shall not exceed four-car capacity or 1,000 square feet of ground floor area.
- c. On residential lots the total ground floor area of all freestanding structures within a required rear yard shall not exceed 25 percent of the area of the rear yard.
1. This limitation on rear yard coverage shall increase to 40 percent of the area of the rear yard in cases where a detached private garage that is partially or entirely situated within the rear yard area does not exceed one story or 20 feet in height, whichever is less.
- d. Nonresidential buildings shall contain not less than 1,000 square feet of ground floor area, except for churches or other places of worship which shall contain not less than 4,000 square feet of ground floor area.
- e. The maximum size of all freestanding structures except residential structures and freestanding garages shall conform to the standards contained in table 14-1

(3) *Location on lot.*

- a. The setbacks established in section 14-88(b) may be modified as follows: Except as provided by subsections b, c and d hereof, detached private garages and other freestanding structures shall not be located on any lot closer than 70 feet to the front lot line, three feet to a side lot line, ten feet to a rear lot line, ten feet to a side street line or ten feet to the single-family dwelling. Detached private garages and other freestanding structures exceeding one story in height shall not have second story openings facing the nearest side or rear lot line, **except as may be required to comply with standards for emergency access and egress.**
- b. The setbacks established in section 14-88(b) may be modified as follows: A nonresidential building shall not be located closer than

25 feet to the front lot line, 25 feet to a side lot line, or 25 feet to a rear lot line.

- c. A carport shall not be located closer than three feet to a side lot line, ten feet to a rear lot line or ten feet to a side street line; provided that a carport which loads from a side street shall not be located closer than 20 feet to the side street line.
- d. An attached or detached private garage which loads from a side street shall not be located closer than 20 feet to the side street line.

e. An attached private garage oriented for front loading shall be set back at least 25 feet from the front building line. If the single-family dwelling is set back farther on the lot than the minimum required front setback, then the attached private garage shall be set back at least 25 feet from the point on the front façade of the dwelling that is closest to the front building line. In no case may the vehicular access doors of an attached private garage be located closer to the front building line than any other point on the front façade of the dwelling, unless the dwelling is on an interior lot within a block and the attached private garage is oriented for side loading.

- (4) *Lot size.* No lot in this district shall have less than 10,000 square feet of total area, and no lot shall be less than 70 feet wide at the front building line; provided, however, that no church or other place of worship shall be constructed on a lot having less than five acres of total area.

a. No lot in this district for a single-family detached dwelling shall have a total area that exceeds by more than 20 percent the total area of any other lot for a single-family detached dwelling on the same blockface.

b. No lot in this district for a single-family detached dwelling shall have a width that exceeds by more than 20 percent the width of any other lot for a single-family detached dwelling on the same blockface.

- (5) *Open areas.*

- a. Residential lots shall have a minimum of 50 percent of the required front yard and required side yards adjacent to a side street devoted to landscaping.
- b. Nonresidential lots shall have a minimum of ten percent of the total lot area devoted to landscaping. All open unpaved or uncovered space shall be devoted to landscaping.

- (c) *Construction.* The exterior walls on all residences in district A shall be a least 75 percent masonry construction to the top elevation line of the building sides of the first floor. The style and quality of all carports, detached private garages and freestanding structures constructed after a certificate of occupancy shall conform to the original structure; provided, however, that only utility structures may have metal facades.
- (d) *Other regulations; fences and hedges.*
- (1) No fence in district A shall be permitted in the front yard, extending past the building setback line.
 - (2) Fences in district A may not be erected and hedges may not be planted directly on a property line without the express agreement of the property owners on both sides of the property line.
 - (3) Fences in district A shall not exceed eight feet in height, and shall be of a permanent type, such as chainlink, redwood, cedar, wrought iron, brick or other approved material of equal quality.
 - (4) Refuse containers or similar equipment on nonresidential lots in district A shall be screened from public view, and from adjacent buildings or property, whether public or private. Such screening shall be permanent and opaque and of wood, metal or masonry material and shall be at least as high as the screened object, but in no event shall be less than six feet in height.

Sec. 14-137. Table 14-2; lot standards.

LOT STANDARDS								
Lot Type	Minimum Lot Area (in square feet) ⁽¹⁾	Minimum Lot Width (in feet) ⁽²⁾	Minimum Lot Depth (in feet)	Minimum Front Setback (in feet)	Minimum Side Setback (in feet)	Minimum Side Street Setback (in feet) ^(5, 4)	Minimum Rear Setback (in feet)	Minimum Street Standard ^(3, 2)
Urban residential: Supplemental standards for SF dwelling lots in district A	See Note 1 for maximum limitation(1)	See Note 2 for maximum limitation(2)	N/A	N/A	12.5 from common lot line with a SF dwelling lot that is ≤50% in area	N/A	30 from common lot line with a SF dwelling lot that is ≤50% in area	N/A
Garden/patio	5,000	34	100	25	7.5/0	10/25	16	R-1
Townhouse	2,000	24	100	25	0	10/25	25	R-1
Multifamily	7,500	60	100	25	7.5	10/25	25	LC-1
Nonresidential	10,000	75	100	25	7.5	10/25	25	LC-1

⁽¹⁾Minimum lot area per dwelling unit. **In district A, a maximum lot area also applies to lots for single-family detached dwellings, under which the total area for such lots shall not exceed by more than 20 percent the total area of any other lot for a single-family detached dwelling on the same blockface.**

(2) In district A, a maximum lot width also applies to lots for single-family detached dwellings, under which the width for such lots shall not exceed by more than 20 percent the width of any other lot for a single-family detached dwelling on the same blockface.

(32) Lots may be located on any street classification of greater but not lesser capacity than the minimum standard. The design of the development and the anticipated traffic generation will determine actual street design classification.

(43) For apartment lots with more than two dwelling units, the minimum lot size is calculated according to the number of dwelling units as described in section 14-132(d).

(54) Where one or more lots have frontage on a street, all other lots in that block with side lot lines on the same street shall have a setback requirement of 25 feet.

SF single-family residential, detached

N/A not applicable.

ARTICLE IX, STORM DRAINAGE AND FLOOD CONTROL

Sec. 14-225. Flood damage prevention. 

(f) **Appeal and Variance procedures.** A developer may appeal the decision of the city **to the Board of Adjustment** when it is alleged there has been an error in any requirement, decision or determination in the enforcement or administration of the district floodplain hazard regulations. The procedure for an appeal shall be according to the hardship relief procedures contained in **[section 14-6] section 14-9. [Variances shall not be issued within any designated floodway].**
Prerequisites for granting variances are:

(5) Variances shall not be issued within any designated floodway. **if any increase in flood levels during the base flood discharge result.**

ARTICLE XI, OFF STREET PARKING AND DRIVEWAY STANDARDS

Sec. 14-282. Driveway design standards.

The developer shall design, construct, upgrade, reconstruct or repair driveway approaches (also referred to as driveways or curb cuts) for access to lots according to the standards of this section. Driveways shall be permitted only upon streets where full street improvements exist and are maintained as a public street; provided, however, that low volume (residential) driveways may be permitted on public alleys or other accepted public access facilities in existence prior to the adoption of this chapter. Prior to construction of a driveway, the developer shall obtain a driveway permit from the city.

- (1) *Location and construction of low volume (residential) driveways.*
 - a. The developer shall locate low volume driveways entirely within the frontage of a lot and not less than one foot from any side property line as extended perpendicularly to intersect with the curb line.
 - b. The developer shall construct driveways so as not to interfere with pedestrian crosswalks.
 - c. The developer shall construct driveways a minimum of three feet from any obstruction such as a street light or utility pole, fire hydrant, traffic signal controller, telephone junction box, etc.
 - d. The developer shall construct driveways to conform to the criteria shown in figure 14-14.

1. With any new driveway construction or complete reconstruction of a driveway in district A, organic plant material such as grass or groundcover shall be provided along both sides of any portion of the driveway within the minimum required front yard area. Such organic plant material shall be placed immediately adjacent to the driveway edges and extend at least 3 feet from the driveway. Where the driveway is less than 3 feet from a side property line, within the minimum required front yard area.

a. Where permeable material are used in such driveway construction or reconstruction, the surface area of the permeable materials installed shall not apply toward satisfaction of the residential landscaping standard in section 14-101 (b) under which a minimum of 50 percent of the required front yard and require side yard adjacent to a side street must be devoted to landscaping.

- e. The developer shall design driveways with curb return radii according to the classification of the street as provided in table 14-13.