

## **ARTICLE 15.01 GENERAL PROVISIONS (RESERVED)**

## **ARTICLE 15.02 ZONING ORDINANCE**

### **DIVISION 1 GENERALLY**

#### **Section 15.02.001 Title**

These regulations shall be known as article 15.02 of the city code of Leon Valley, Texas and will be referred to herein as "this article." (1972 Code, sec. 30.101; 2008 Code, sec. 14.02.001)

#### **Section 15.02.002 Purpose and Effect**

- (a) The zoning regulations and districts as herein established have been made in accordance with a comprehensive master plan for the purpose of promoting health, safety, morals and the general welfare of the community by controlling the design, location, use or occupancy of all buildings through regulated and orderly development of land and land uses within this jurisdiction.
- (b) The zoning regulations are intended to be in compliance with the Americans with Disabilities Act and the Fair Housing Act. Any portion of this article in conflict with either of the referenced acts is unintentional and shall be overridden by that act or acts, to the extent of such conflict.
- (c) In fulfilling these purposes, this article is intended to benefit the public as a whole and not any specific person or class of persons.
- (d) This article shall be reviewed and amended periodically, as directed by the city council. (1972 Code, sec. 30.102; 2008 Code, sec. 14.02.002)

#### **Section 15.02.003 Scope**

- (a) The provisions of this article shall apply to the construction, alteration, moving, repair and use of any building or parcel of land within this jurisdiction.

- (b) Where, in any specific case, different sections of this article specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (c) The provisions of this article shall not apply to property belonging to the city; or to property used to provide public utilities; or work located primarily in or on a public way, public utility towers and poles, or public utility easements, unless specifically mentioned in this article; provided that in the erection of buildings or other structures, the city and utility companies shall attempt to conform in architectural design or otherwise as nearly as possible to the buildings permitted in the district in which they are being erected.
- (d) If any portion of this article is held invalid for any reason, the remaining portions herein shall not be thereby affected. (1972 Code, sec. 30.103; 2008 Code, sec. 14.02.003)

#### **Section 15.02.004 Compliance**

Except as provided in this article, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located; no building shall be erected, reconstructed or structurally altered to exceed the height or bulk limit herein established for the district in which such building is located; no lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this article, nor shall the yard or open spaces provided about any building for the purpose of complying with the provisions of this article be considered as providing a yard or open spaces for any other building. (1972 Code, sec. 30.104; 2008 Code, sec. 14.02.004)

#### **Section 15.02.005 Sec. 15.02.005 Penalties for violations**

Each violation of this article shall be punishable by a fine of not less than five dollars (\$5.00), nor more than two thousand dollars (\$2,000.00), unless some other fine is specifically prescribed for a particular violation. Each day any violation occurs or continues to occur shall be considered a separate offense. (1972 Code, sec. 30.105; 2008 Code, sec. 14.02.005)

## **Section 15.02.006 Adoption of legislative grant of power**

Texas Local Government Code, chapter 211, is hereby adopted, and the provisions of this article are adopted in the exercise of power granted to municipalities by such statutes and pursuant to any and all other applicable laws. (1972 Code, sec. 30.106; 2008 Code, sec. 14.02.006)

## **DIVISION 2 RULES OF CONSTRUCTION AND DEFINITIONS**

### **Section 15.02.051 Words and Phrases, Rules of Construction**

- (a) Words, phrases and terms defined in this article shall be given the defined meaning.
- (b) (Words, phrases and terms not defined in this article but defined in the building code found in chapter 3 of the Leon Valley City Code ("this code"), shall be construed as defined in the building code.
- (c) Words, phrases and terms defined neither in this article nor in the building code adopted in chapter 3, shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (d) The text of this article shall control captions, titles and maps.
- (e) The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.
- (f) Words used in the singular include the plural, and words used in the plural include the singular.
- (g) Words used in the present tense include the future tense, and words used in the future tense include the present tense.

(1972 Code, sec. 30.201; 2008 Code, sec. 14.02.051) Sec.

### **Section 15.02.052 Definitions**

*Accessory.* An object or device not essential in itself, but adding to the beauty, convenience or effectiveness of another item.

*Accessory building.* A subordinate structure attached to or detached from the main building.

*Accessory use.* A use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and found in connection with, such primary use. See also, "incidental use."

*Adult Day Care Facility.* A facility that provides services under a day activity and health services program on a daily or regular basis, but not overnight, to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

*Adult entertainment establishment.* An establishment consisting of, including, or having the characteristics listed in article 4.08 of the Leon Valley Code.

*Adult Foster Home.* A facility pursuant to Tex. Administrative Code § 48, Subchapter K, and licensed under Tex. Administrative Code § 49, Subchapter B, that provides a 24-hour supervised living arrangement, in which the provider and residents live in the same household and share common living areas. Residents do not require routine assistance, are capable of self-rescue, and receive limited personal care services.

*Agriculture.* The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: the tilling of the soil, raising of crops, animals, fowl, horticulture, gardening, beekeeping and aquaculture.

*Agronomy.* The science and management of field crop production and soil management and soil conservation.

*Alley.* Minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back of properties otherwise abutting on a street. An alley affords only a secondary means of access to property abutting thereon.

*Alteration.* Any change, addition or modification in construction, occupancy or use.

*Alteration, apparel.* Any change, addition or modification to material, fabric, or style used for clothing, garments, attire, or accessories.

*Alternative tower structure.* Either a primary or an accessory use on any developed parcel including clock towers, bell steeples, light poles, and similar alternative antenna mounting structures, except for residential structures.

*Amusement center.* A facility used by the general public containing four or more games or game devices used for indoor and/or outdoor entertainment but not to include gambling or gambling devices prohibited by law. Also see "Entertainment - indoor/outdoor" [sic].

*Animal clinic.* A place where animals are given medical care, and the boarding of the animals is limited to short-term care incidental to the hospital use.

*Animal shelter.* Any profit or nonprofit business, the primary use of which is the provision of lodging or shelter to animals. Also see "Veterinary clinic."

*Antenna.* Any exterior apparatus designed for wireless radio, television, microwave or telephone communication through the sending and/or receiving of electromagnetic waves.

*Antenna height.* The distance measured from ground level to the highest point on the structure, even if the highest point is an antenna,

*Antenna, receive-only antenna/amateur radio.* Any tower or antenna that is under seventy (70) feet in height and is owned or operated by a federally licensed amateur radio station operator or is

used exclusively for reception only, including local television broadcast reception antennas, direct broadcast satellite antennas or multichannel multipoint distribution services. Receive-only/amateur antennas are not subject to regulation under this article.

*Antenna, telecommunications.* An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennae less than 50 feet (150 meters) in height and whip antennae less than 4 inches (10 cm) in diameter and less than 10 feet (3 meters) in height.

*Apartment.* A single unit within an apartment house designed for independent housekeeping.

*Apartment complex.* Any structure, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied as three (3) or more apartments or which is occupied as the home or residence of three (3) or more families living independently of each other and maintaining separate kitchen facilities.

*Appeal.* A procedure whereby a decision is questioned to a higher authority than the administrator or body which made the original decision. For example, a decision of a zoning administrator to the board of adjustment or a decision of the board of adjustment to a court of law.

*Appliance, minor.* A large device which is designed for household or office purposes, such as a refrigerator or air conditioner, the repair or maintenance of which involves the disposal, storage or use of a federally or state regulated chemical such as freon or large quantities of oil.

*Appliance, minor.* A device which is designed for household or office purposes, the repair or maintenance of which does not involve the disposal, storage, or use of any federally or state regulated chemical such as freon or large quantities of oil.

*Arborist, certified.* An individual who has a current and valid designation of "ISA Certified Arborist" by the International Society of Arboriculture.

*Assembly/packaging.* The fitting together and/or uniform wrapping or sealing of component parts to make a whole. This is commonly an intermediary step in the process to make a finished product and the products from which it is put together are generally not raw materials.

*Assisted living facility.* A facility licensed under Tex. Health and Safety Code § 247 that furnishes, in one or more facilities, food and shelter to one or more persons who are unrelated to the proprietor of the establishment and may provide personal care services, administration of medication by a person licensed or otherwise authorized in this state to administer the medication, assistance with or supervision of the administration of medication, skilled nursing services for the following limited purposes:

- (1) coordination of resident care with outside home and community support services agencies and other health care professionals;
- (2) provision or delegation of personal care services and medication administration as described by this subdivision;
- (3) assessment of residents to determine the care required; and
- (4) for periods of time as established by department rule, delivery of temporary skilled nursing treatment for a minor illness, injury, or emergency; and

May also provide health maintenance activities as defined by rule by the Texas Board of Nursing. A licensed establishment that furnishes food and shelter and provides personal care services which consist of assistance with one or more of the following: meals, dressing, movement, bathing, or other personal needs or

~~maintenance. This may also include assistance, supervision, or administration of medication by a licensed individual.~~

*Attended donation station.* A manufactured building operated by an organization with nonprofit status, for the purpose of collecting goods, with an attendant present on-site during collection hours.

*Automobile.* A self-propelled free-moving vehicle licensed by the appropriate state agency as a passenger vehicle, not to include commercial vehicles.

*Automobile and boat storage.* Any location or structure used for long-term storage of automobiles, trucks, boats and/or recreational vehicles. Long-term shall mean for duration of one (1) week or more.

*Automobile sales.* The use of any building, land area, or other premise for the display and sale of new or used automobiles generally but may include light trucks or vans, trailers, motorcycles or recreation vehicles and including any vehicle preparation or repair work conducted as an accessory use.

*Automotive repair or heavy installation.* The repair of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul.

*Awning.* A roof-like cover extending over or before a place (as before a window) as a shelter, normally supported entirely from the exterior wall of a building.

*Bar.* Premises used primarily for the sale and/or dispensing of liquor by the drink for on-site consumption as regulated by the state and where food may be available for consumption on the premises as accessory to the principal use.

*Basement.* That part of a building that is wholly or partly below ground

level.

*Bed and breakfast facility.* A limited commercial activity, conducted within a structure which may include dining and bathroom facilities with sleeping rooms for guest lodging for a short-term period of less than 30 consecutive days. A bed and breakfast must be a secondary use to a single-family residence. Also see "lodging" in the permitted use table.

*Block.* Land or a group of lots, whether developed or undeveloped, surrounded by streets or other rights-of-way, other than an alley; or land which is designated as a block on any recorded subdivision tract.

~~*Boarding home-Home for the Disabled or Elderly sheltered care.* A group home for the sheltered care of persons with special needs, which in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. A facility pursuant to Tex. Health and Safety Code § 260, as amended, that:~~

- ~~(1) furnishes, in one or more buildings, lodging to three or more persons with disabilities or elderly persons who are unrelated to the owner of the establishment by blood or marriage; and~~
- ~~(2) provides community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services as defined by Section 247.002 of the Texas Health and Safety Code.~~

~~*Boarding house.* A dwelling containing a single dwelling unit and not more than ten (10) guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than one (1) week.~~

*Board of adjustment.* The Leon Valley board of adjustment. A public and quasi-judicial agency charged with the duty to hear and determine zoning appeals and other specific duties as laid out in this article and state law.

*Boundary street.* A public street which is adjacent to and abutting one or more sides of the proposed site.

*Buffer zone.* An area zoned so as to separate conflicting uses by zoning such property with a use which is compatible with both. For example, an office district might reasonably separate a single family residential district from a commercial district. Dedicated park lands may shield a planned office development from nearby residential areas.

*Buildable area.* The area of a lot remaining after the minimum yard and open space requirements of this code and article 10.02 (subdivision ordinance) have been met. For recreational property or uses such as golf courses and baseball, soccer, football or similar athletic facilities, and public works projects such as water or wastewater treatment plants, pump stations, storage tanks, and public streets and drainage improvements, the buildable area of the property shall include that portion of the property necessary for the construction of such recreational and public works improvements, including sufficient adjacent area to allow the normal operation of construction equipment.

*Building.* Any structure used or intended for supporting or sheltering any use or occupancy. The word "building" includes the word "structure."

*Building code.*

- (1) Article 3.02, division 2 of the Leon Valley City Code, which incorporates the International Building Code.
- (2) The International Building Code, promulgated by the International Code Council and adopted by the city.

*Building, Construction.* A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

*Building.* That part of a building nearest the front property line.

*Building height.* The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building is the maximum height of any segment of the building.

*Building line, front.* A line established under this article or article 3.02, division 2 of the Leon Valley City Code measured from the perimeter of that portion of a building nearest the front property line to the curbline or edge of the sidewalk and parallel thereto, or in the case of a corner lot, the side of such building if also parallel to a curbline or edge of a sidewalk, but in any case such measurement shall exclude open steps, terraces, cornices and other ornamental features projecting from the wall of the building.

*Building line, rear.* A line established under this article or article 3.02, division 2 of the Leon Valley City Code measured from the perimeter of that portion of a building nearest the rear property line of such property. Such measurement shall exclude open steps, terraces, cornices and other ornamental features projecting from the wall of the building.

*Building line, side.* A line established under this article or article 3.02, division 2 of the Leon Valley City Code measured from the perimeter of that portion of a building nearest the side property line of such property. Such measurement shall exclude open steps, terraces, cornices and other ornamental features projecting from the wall of the building.

*Building, Main.* A building in which the principal use of the site is conducted.

*Building permit.* Authorization required for erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion, or demolition of any building.

*Building restrictions.* Regulations or restrictions under this article or article 3.02, division 2 of the Leon Valley City Code upon the materials allowed in the construction of buildings and any provisions of federal or state law, or other city ordinances implanting [implementing] the federal emergency management act or the duties of the city for floodplain regulation, applicable to the property.

*Building specialty store.* Any retail facility, the primary use of which is the sale or lease of specialized building materials; such as roofing, tile, or doors.

*Building, temporary.* A structure which is designed or intended to be used on a nonpermanent basis, authorized for a specific period of time through a specific use permit. Includes prefabricated structures and manufactured/mobile housing which are not used for living space.

*Caliper.* The diameter of a tree four feet (4') above the natural grade measured with a tree caliper instrument or a flexible tape. If a tape is used, the circumference of the tree is measured and the result divided by 3.14 to determine diameter.

*Caliper of multi-trunk trees.* The caliper of the largest trunk at a point four feet (4') above the natural grade added to half of the sum of the calipers of the remaining trunks measured at the same height. If branching occurs less than four feet (4') above the natural grade, the diameter of the trunk may be measured below the branching for a single measurement.

*Canopy.* A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.

*Canopy tree.* A self-supporting woody plant with one (1) well-defined trunk and a distinct and definite formed crown, which attains a height of at least twenty-five (25) feet.

*Car title loan business.* An establishment that makes small short-term consumer loans secured by a title to a motor vehicle.

*Carport.* An open-sided automobile shelter sometimes formed by extension of a roof from the side of a building.

*Carwash, automatic.* A facility which utilizes automatic and semiautomatic machinery to wash, clean, and dry automobiles.

*Carwash, self-service.* A facility for self-service washing, cleaning, and drying of automobiles that does not include automatic application of cleaner, brushes, rinse water, and heat or air for drying.

*Check cashing business.* A business that provides check cashing, payday cash advance, payroll advance, short-term cash loan, short term cash advance, instant payday cash advance, short-term money loan services, or similar services to individuals for a specified fee.

*Child care facility.* An establishment for the care and/or instruction, whether or not for compensation, of six (6) or more children at any one time. Child nurseries and preschool facilities are included in this definition.

*Church.* A facility for religious worship and related activities.

*City.* The City of Leon Valley, Bexar County, Texas.

*Clinic.* A facility for the examination, assessment, or treatment of outpatients including any location where more than one (1) doctor shares a facility, regardless of whether there are laboratory facilities on-site.

*Commercial.* Relates to or is connected with trade and traffic or commerce in general; occupied with business and commerce.

*Commercial, vehicle.* Any motor vehicle including but not limited to delivery vans or trucks, trailers, or semitrailers designed to carry freight, passengers for compensation, or merchandise for retail or commercial purposes and is appropriately licensed by a state agency.

*Commission.* See "Zoning commission."

*Communications distribution hub.* An unmanned facility, without transmitter or dish, or antenna, containing optical and electronic signal processing equipment for delivery, switching, and storage of video, audio, and data to homes served by the utility company.

[Community Home for Persons with Disability. A shared residential living facility that qualifies as a Community Home under Tex. Human Resources Code § 123.004, as amended.](#)

*Comprehensive {zoning} plan.* The adopted official statement of a legislative body of local government that sets forth in words, maps, illustrations, and/or tables the goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction. Also see "Master plan."

*Condominium.* A single dwelling unit in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

*Congregate residence.* Any building or portion thereof which contains facilities for living, sleeping and sanitation as required by

this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house but does not include jails, hospitals, convalescent homes, assisted living facilities, special-care unlicensed care facilities, adult foster homes, boarding homes for the disabled or elderly, intermediate care facilities, nursing homes, or hotels.

*Contractor.* A builder, plumber, electrician, air conditioning/heating installer, concrete installer, or tradesman or one who contracts to supply materials or do work.

*Contractor facility.* A facility which is used primarily for the office and/or vehicles, equipment and/or supplies of a contractor.

*Convalescent.* A state of recovering from an illness or operation.

*Convalescent home.* A licensed facility which is intended for long-term patient care due to human illness, infirmity, or disability and employing the services of skilled and licensed practitioners under the direction of a physician, licensed by the Texas Medical Board.

*Convenience store.* Any retail establishment which offers the sale of a limited line of convenience goods, to include groceries, packaged and/or processed food and drink, tobacco, limited beer and wine, medicines and cosmetics, and may also sell gasoline, intended for the convenience of the neighborhood.

*Cottage.* An individual single-family dwelling unit, being less than 1500 heated square feet, situated with other similar dwelling units on one platted lot, for the purpose of rental or leasing, as part of a multiple-family retirement community.

*Curb.* A stone or concrete or alternative edge asphalt boundary usually marking the edge of a roadway or paved area. Refer to article 10.02 (subdivision ordinance) for further details.

*Curbline.* A line differentiating between the street and the edge of real property, marking the edge of the roadway, and contiguous to the roadway, not intended for normal vehicular traffic. Such property may include a berm, but may or may not be built up or raised.

*Dance hall.* An establishment intended primarily for dancing and entertainment within an enclosed building, using either live or electronically produced music, either open to the public or operated as a private club open to members only.

*Density.* The number of dwelling units which are allowed on an area of land or the number of persons allowed in a specific unit.

*Depth of the lot.* The linear measurement from the front property line to the rear property line of a lot.

*Doctor.* Any person under currently licensed [ sic] by the state to practice any form of medicine or dentistry, including but not limited to, medical, dental science, dental surgery, osteopathy, chiropractics, public health and veterinary medicine.

*Dripline.* The area of ground surrounding the trunk of the tree considered essential to protecting the root structure of a tree. For the purposes of this article, the dripline shall be calculated at one foot ( 1 ' ) for every one inch ( 1 " ) of caliper width measured at four feet ( 4 ' ) above natural grade level, i.e., a twelve-inch ( 12 " ) tree would require a dripline with a twelve-foot ( 12 ' ) radius (producing an area twenty-four feet ( 24 ' ) in diameter).

*Driveway.* A private road giving access from a public way to a building on abutting grounds.

*Dwelling.* A house or other structure in which a person or persons live; a residence; abode; habitation; an apartment or building, or group of buildings, occupied as a place of residence.

*Dwelling. garden house.* A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy as a residence.

*Dwelling. manufactured home.* A vehicle, other than a motor vehicle, greater than 320 square feet in gross floor area designed with attached axles and wheels, which may be used for permanent or semipermanent living space for humans, and which is designed to be drawn by a motor vehicle. The term shall not include any vehicle meeting the above description which is used for an office, a classroom, a laboratory, processing, manufacturing, retail sales or other use; see "Building, temporary" for these definitions. Also see "Manufactured housing."

*Dwelling. multiple-family.* A building or portion thereof designed for occupancy by three (3) or more families living independently, in structures containing three (3) or more single-dwelling units in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

*Dwelling. single-family.* A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy as a residence.

*Dwelling, single-family medium density.* A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy as a residence, with a minimum lot area of 6000 square feet.

*Dwelling. townhouse.* A building that has single-family dwelling units erected in a row as a single building, on adjoining lots, each being separated from the adjoining unit or units by a firewall, along the dividing lot line and each such building being separated from any other building by space on all sides.

*Dwelling. two-family or duplex.* A building designed or arranged to be occupied as two (2) separate residences, the structure having only two (2) dwelling units.

*Dwelling unit.* Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this article, for not more than one (1) family, or a congregate residence for six (6) or less persons.

*Easement.* That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above said lot or lots.

*EIA-222.* Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antennae Support Structures."

*Encroachment. landscape.* Any protrusion of a vehicle into a landscaped area from a parking space, display area or accessway.

*Entertainment.* To provide for diversion, engagement, or sporting activities, specifically excluding music which is not live, and is provided for the purpose of background and not for diversion from the primary purpose of the establishment.

*Extended dripline.* An imaginary line on the ground equal to one point three (1.3) times the distance from the tree trunk to the dripline. In no case shall the dripline be less than fifteen (15) feet from the trunk of the tree.

*Family.* An individual or two (2) or more persons related by blood, marriage or adoption, or a group not to exceed six (6) unrelated persons living together as a single housekeeping unit.

*Farm.* A tract of land, not less than five (5) acres, devoted to agriculture, pasturage, stock raising, or some allied industry. Includes dairy, stock, and poultry farms.

*Federal Aviation Administration.* Also known as FAA.

*Federal Communications Commission.* Also known as FCC.

*Fence.* A hedge, structure, or partition, erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two (2) contiguous properties. An enclosure around a field or other space, or around any object; especially an enclosing structure of wood, iron or other materials, intended to prevent intrusion from without or straying from within. See article 3.05 of the Leon Valley City Code for other specific regulations.

*Flea market.* An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

*Floor area, net.* The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

*Food processing facility.* An establishment in which food is processed or otherwise prepared for eventual human consumption but not consumed on the premises.

*Frontage.* The width of a lot or parcel abutting a public right-of-way measured at the front property line.

*Garage.* A shelter for automotive vehicles.

*Grade.* The average elevation of the land around a building, or the percent rise or descent of a sloping surface.

*Grade, finished.* The final elevation of the average ground level adjoining a building at all exterior walls after development.

*Grade, level.* Roads, buildings, or structures built on the ground.

*Grade, natural.* The elevation of the ground level in its natural

state, before construction, filling or excavation.

*Gross floor area (GFA).* The gross floor area of a building or lease space. The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the centerline of dividing walls; this includes courts and decks or porches when covered by a roof.

*Gross leasable area (GLA).* The gross leasable area is the total floor area designed for both tenant occupancy and exclusive use, including both owned and leased areas.

*Ground cover.* Plants, other than turf grass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity.

~~*Group home.* A dwelling for no more than six (6) legally unrelated, developmentally disabled persons and no more than two (2) supervisory personnel. Said persons and personnel must live as a single housekeeping unit, for the primary purpose of providing shelter in a family-like atmosphere as part of the residential community, with on-site medical treatment or therapy a secondary purpose. A group home must qualify as a family home under chapter 123 of the Texas Human Resources Code, Community Homes for Disabled Persons Locations Act.~~

*Guest house.* Any living space with or without kitchen facilities which is to be used for the housing of two (2) or less persons, attached or unattached to the primary structure of the site, intended to be used as an accessory use to the primary structure and not for profit purposes.

*Guest room.* Any room or rooms used or intended to be used by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory shall be considered to be a guest room.

*Home occupation.* The partial use of a dwelling unit for commercial

or nonresidential uses by a resident thereof which is clearly and obviously subordinate and incidental to the main use of the dwelling for residential purposes. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises.

*Horticulture.* The science of growing fruits, vegetables, flowers or ornamental plants.

*Hospital.* An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices. May be either public or private and may be limited in their functions or services.

*Hotel.* Any building containing six (6) or more guest rooms offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities rented or leased on a daily, weekly, or semipermanent basis.

*Incidental use.* A use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and found in connection with, such primary use. Also referred to as "accessory use."

*Infirmity.* A state of mental or physical weakness.

*Intermediate Care Facility.* A facility licensed under Tex. Health and Safety Code § 252, that furnishes food, shelter, and treatment or services to four or more individuals unrelated to the owner; is primarily for the diagnosis, treatment, or rehabilitation of individuals with an intellectual disability or related conditions; and provides in a protected setting continuous evaluation, planning, 24-hour

supervision, coordination, and integration of health or rehabilitative services to help each resident function at the resident's greatest ability.

*Inn.* Any building containing five (5) or less guest rooms, the primary use of which is a commercial activity which is intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

*Kennel.* Any lot or premises, other than a veterinary clinic, on which a combined total of three (3) or more unneutered adult dogs or cats, or a combined total of five (5) or more neutered adult dogs or cats are housed, groomed, bred, boarded, trained or sold; either for compensation boarded on a daily or weekly basis [sic].

*Laboratory, dental or medical.* Any facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, assessment, prevention, or treatment of any disease, condition or impairment of human beings.

*Laboratory, research.* An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

*Laboratory, testing.* An establishment or other facility whose primary purpose is to examine, observe or evaluate items, samples and/or substances which may include engineering and product evaluation(s).

*Landscaped area.* Areas of a lot, land parcel or building site devoted to and consisting of plant material, including but not limited to turf grasses, grasses-bunch, trees, shrub forms, flowers, vines and other ground cover, native plant materials, planters, brick pavers,

stone, natural forms, water forms, public art forms, stone aggregate and other landscape features, but excluding smooth concrete, asphalt or paving for vehicular traffic; provided that the use of brick, stone aggregate or other inorganic materials shall not be greater in total area than that of organic plant material.

*Landscaping.* The modification or ornamentation of a natural landscape by altering the plant cover. Landscaping shall consist of any of the following, or combination thereof: material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, or palms; and nonliving durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences - but excluding paving.

*Lot.* Any portion, piece, division or parcel of land, fractional part or subdivision of block, according to plat or survey. A single parcel of land. A measured parcel of land having fixed boundaries. The word "lot" includes the word "plot."

*Lot, corner.* A lot abutting on two (2) intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

*Lot frontage.* The length of the front lot line, measured at the street right-of-way line, from one corner of the property to the other.

*Lot, interior.* A lot other than a corner lot.

*Lot, irregular.* A lot whose opposing property lines are generally not parallel, such as a pre-shaped lot on a cul-de-sac, or where the side property lines are not parallel to each other.

*Lot of record.* A lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of Bexar County, or a parcel of land, the deed for which was recorded in the office of the county clerk of Bexar County prior to the original adoption of this

article on September 21, 1965.*Lot width.* The distance between the side lot lines, measured at right angles to the lot depth at the minimum front building (setback) line.

*Maintenance.* To preserve from failure or decline.

*Manufactured building.* A transportable structure in one (1) or more sections, which is built on a permanent frame or base and is designed for use with or without a permanent foundation when connected to the required utilities.

*Manufactured home.* See "Manufactured housing."

*Manufactured home park.* A tract of land developed and operated as a unit with individual sites and facilities to accommodate two (2) or more manufactured homes.

*Manufactured housing.* Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. section 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

*Manufacturing.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

*Masonry.* See "Building Code, Uniform" [sic].

*Master plan.* The city's overall guide for a rationally derived, future oriented, land use plan that divides the city into districts, imposes appropriate zoning regulations, and takes into account the public interest in growth and preservation of essential community values. The plan includes land use, capital improvements, traffic, parks and recreation, and transportation.

*Money transfer business.* An establishment that transmits funds for a

fee.

*Motel.* Any building containing six (6) or more guest rooms providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

*Motorcycle.* Every motor vehicle excluding a tractor having a saddle for the use of a rider and designed to travel on not more than three wheels in contact with the ground.

*Multiple-family retirement community.* A planned development consisting of a single platted lot, of at least five acres, completely screened from other development, containing one or more residential clusters of cottages or apartment houses or a combination thereof, and appurtenant common areas, intended for rental or leasing to seniors and including other features which are designed to increase safety and amenities to the elderly and/or disabled, such as increased security, on-site management, food services, health services, handicapped accessible units, recreation facilities, or transportation services.

*Multiple-family retirement community residential cluster.* More than one (1) cottage or apartment located within reasonably close proximity to another and designed for residency by seniors.

*Native plant.* A plant species with a geographic distribution indigenous to the Bexar County region which is capable of sustaining growth and reproduction under local climatic conditions.

*Naturalized plant.* A plant species introduced to the region which is capable of sustaining growth and reproduction under local climatic conditions.

*Non-chartered financial institution.* A non-chartered financial institution is defined as a use, other than a state or federally chartered bank, credit union, mortgage lender, savings and loan

association or industrial loan company, that offers deferred deposit transaction services or check cashing services and loans for payment of a percentage fee or an establishment that provides financial services that are accessory to another main use. The term "non-chartered financial institution" shall include, but is not limited to deferred deposit transaction (payday loan) businesses that make loans upon assignment of wages received, check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, motor vehicle title lenders who offer a short-term loan secured by the title to a motor vehicle, and sub-prime or nonprime home-equity lenders. Nonprofit financial institutions are not encompassed by the term non-chartered financial institution.

*Nonconforming building.* A building the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but now fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

*Nonconforming lot.* A lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but now fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

*Nonconforming use.* A use which lawfully occupied a building or land at the time this article became effective, which has been lawfully continued and which does not now conform to the use regulations.

*Nonemergency medical transport service.* Transportation service that provides transport of medical patients on a nonemergency basis.

*Nursing home.* A licensed facility which provides nursing care and

related medical services on a 24-hour-per-day basis to individuals due to illness, disease, or physical or mental infirmity but not for persons in need of hospital care.

*Occupancy, certificate of.* A document issued by the city allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable codes and ordinances of the city.

*Office, professional.* A location used primarily for conducting the affairs of a commonly recognized business, profession, service, industry, government, or like activity.

*Open space.* A land area that is not occupied by a building, structure, parking area, street, alley or required yard.

*Park.* A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

*Park and ride facilities.* Parking lots or structures located along public transit routes designed to encourage transfer from private automobile to mass transit or to encourage carpooling for purposes of commuting, or for access to recreation areas.

*Parking lot.* An open area, other than a street, used for the parking of automobiles.

*Parking space.* A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of a vehicle or motorcycle.

*Parking, stacked.* On-site space designed to provide vehicle queuing.

*Peak hour trips (PHT).* Average number of trips generated by a development at its most intense hours of operation.

*Person.* A natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

*Personal Care Services.* Assistance with feeding, dressing, moving, bathing, or other personal needs or maintenance; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living facility or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.

*Pet store.* A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, pigs and poultry.

*Planter.* A raised area containing plant material defined by a hard edge such as walls, large pots and other similar physical containment design.

*Plant nursery I.* Any business, the primary use of which is the cultivation of plant material for transplanting, for use as stocks, for budding and grafting or for sale, consisting of one (1) acre minimum, with no outside storage of equipment or supplies other than live plant material, subject to screening requirements as stated in article 3.05.

*Plant nursery II.* Any business, the primary use of which is the cultivation of plant material for transplanting, for use as stocks, for budding and grafting or for sale, consisting of one (1) acre minimum, for temporary sales, subject to screening requirements as stated in article 3.05.

*Plant nursery III.* Any business, the primary use of which is the cultivation of plant material for transplanting, for use as stocks, for budding and grafting or for sale, consisting of one (1) acre

minimum, to include greenhouse, with outside storage subject to screening requirements as stated in article 3.05.

*Plant nursery IV.* Any business, the primary use of which is the cultivation of plant material for transplanting, for use as stocks, for budding and grafting or for sale, consisting of one (1) acre minimum, to include nursery sales, greenhouse, and wholesale, subject to screening requirements as stated in article 3.05.

*Plat/plot.* A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

*Primary use.* The primary or predominant use of any lot or parcel.

*Projected traffic.* The traffic which is projected to be at an existing or proposed street during the proposed development's peak hour of use. Also refer to "Peak hour trips."

*Public improvement.* Work within dedicated rights-of-way or easements.

*Public trees.* Any trees, shrubs, bushes and all woody vegetation on city-owned property and rights-of-way, city parks, and in all areas owned by the city to which the public has access.

*Public way.* Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Quorum.* The number of member(s) or alternate(s) of a body that when duly assembled, is legally competent to transact business.

*Recreation.* See "Entertainment."

*Recreational vehicle.* A vehicular unit, other than a manufactured

home, whose gross floor area is less than 320 square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.

*Renovation.* To restore to a former or better state through interior and/or exterior remodeling of a structure, other than ordinary repair.

*Repair shop.* An establishment which restores by replacing or putting together that which is broken.

*Residential Facility for Persons with Disabilities or Who are Elderly (RFPDE).* A facility providing sleeping accommodations to two or more qualifying adult residents, at least 80 percent of whom are 65 years of age or older or are persons with disabilities, and offering, for a fee, one or more supportive services through contract with an agency licensed under Chapter 142, Health and Safety Code, or with another entity.

*Restaurant.* An establishment, the primary use of which is the provision of food and beverages for on-premise consumption, and where any sale of alcohol is accessory to the primary use.

*Restaurant. drive-in/take-out.* An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pickup of food may take place from a vehicle.

*Retail sales.* Establishments engaged in selling goods or merchandise to the general public of personal or household consumption and rendering services incidental to the sale of such goods.

*School. public.* Any institution, the primary function of which is to provide primary or secondary education or a scholastic institution accredited by the State of Texas.

*School. vocational and/or technical.* A school establishment to provide for the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum.

*Screening.* A method of visually shielding or obscuring one abutting or nearby structure or use from another by a barrier or device constructed of metal, wood, brick, stone, block, or other suitable materials, singly or in combination. See also article 3.05 of the Leon Valley City Code.

*Self-service storage facility.* A facility or area with limited access, which is divided into separate compartments no larger than 500 square feet in size and is accessible from an interior or exterior door for use by individuals or businesses for the storage of property.

*Service.* Provision of something which is helpful to others whether for profit or nonprofit, not including repair or maintenance of goods, but specifically including establishments where the primary use is the provision of food or alcohol.

*Setback.* See "Building line."

*Skilled Nursing Care. Care services provided by a licensed nurse.*

*Site plan.* A plan which outlines the use and development of any tract of land.

*Special exception.* A procedure for approving the specific location of designated uses that are allowed in certain districts, but that require specific screening and supervision to minimize adverse neighborhood impacts. The enabling act anticipates that the

board of adjustment will decide special exceptions, with authority to approve, deny or condition permits for such use(s).

*Specific use permit (SUP).* A permit required through public hearing determining whether or not the use will adversely affect the character and appropriate use of the area or neighborhood in which the use is proposed to be located; that it will not substantially depreciate the value of adjacent and nearby properties for the use in accordance with the regulations of the zoning district in which the use will be located; that it will be in keeping with the spirit and intent of this code; that it will not adversely affect the implementation of the approved master plan; that it will comply with applicable standards of the district in which it is proposed to be located; and that it will not adversely affect traffic, public health, public utilities, public safety and the general welfare of the city.

*Specific use permit, continuous.* A specific use permit, which is continuous in nature, and runs with the property as opposed to being occupant specific.

*Storage.* Safekeeping of goods and/or materials in a warehouse or other depository; where the safekeeping is the principal object of deposit, and not for consumption or sale.

*Story.* That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

*Street.* Any street, avenue, boulevard, road, parkway, viaduct, drive,

or other roadway in a city, town, or village, generally paved, and lined or intended to be lined by structures on each side. It includes all urban ways which can be and are generally used for travel, but does not normally include service entrances or driveways leading off from the street onto adjoining premises.

*Street presumption.* The condition of a street (classification and carrying capacity) as it will exist [exist] after final improvement as proposed by the city's major thoroughfare plan or the capacity indicated by the right-of-way acquired by city on any boundary street.

*Street. private.* A right-of-way or easement in private ownership not dedicated or maintained as a public street, which affords the principal means of access to two (2) or more sites.

*Street yard area.* The area of a lot which lies between the property line at a dedicated street right-of-way and the actual front wall line of the building, or, if no building, to the rear property line. Such building wall lines extend from the outward corners of the buildings as illustrated in appendix A [appendix B] of this article.

*Structure.* Any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. That which is built or constructed; an edifice or building of any kind.

*Study area boundary.* The limits of the area in which analysis is conducted or for which information is provided. This area is determined by the property owner or its representative based on the size of the development and the peak hour trips projected to be generated by the proposed development. In the case of a Level 1 or 2 traffic impact analysis, this area may include the site, and the area within a distance no greater than 1/4 mile along the boundary streets from the boundary of the site. In the case of a Level 3 traffic impact analysis, this area will be determined by the

property owner based on sound engineering judgment and agreed to by the city, but in all cases shall be less than the area contained in a one-mile radius from the site. In those instances where the property owner has neither submitted preliminary plans nor applied for an initial development permit prior to the effective date of this article; the determination of the area to be studied by the property owner must be approved by the city engineer for all levels of traffic impact analyses; and before granting approval of a Level 2 traffic impact analysis, the city engineer may require the area of the study to exceed the maximum area prescribed above by 1/4 mile.

*Subdivision.* The division of a tract, lot or parcel of land into two (2) or more lots, plats, sites or other divisions of land.

*Sub-prime or nonprime loans.* A type of loan that is offered at a rate above prime to individuals who do not qualify for prime rate loans.

*Suite hotel.* A suite of rooms in a structure arranged, designed, or occupied for temporary housing and rented or leased on a daily, weekly, or semipermanent basis, and which includes kitchen facilities for cooking and complete housekeeping.

*Telecommunication.* The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing, without change in the form or content of the information as sent and received.

*Telecommunications service.* The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities use[d].

*Temporary use.* A use that is authorized by this article to be conducted for a fixed period of time. Temporary uses are characterized by but not limited to such activities as the sale of agricultural products, clothing and/or accessories, construction

buildings and equipment sheds, fireworks, carnivals, flea markets, seasonal and/or holiday products and garage sales.

*Tower.* Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers.

*Tower, electric transmissions.* A self-supporting structure in excess of 50 feet (15 meters) in height designed to support high voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

*Tower, guyed.* Any telecommunications tower supported in whole or in part by cables anchored to the ground.

*Tower, ham radio.* An accessory use or [of] property involving a self-supporting or guyed tower, less than 50 feet (15 meters) in height, used for private, noncommercial radio communications.

*Tower, monopole.* A self-supporting telecommunications tower which consists of a single vertical pole fixed into the ground and/or attached to a foundation.

*Tower, self-supporting lattice.* A telecommunications tower which consists of an open network of metal braces forming a tower which is usually triangular or square in cross-section.

*Tower, telecommunications.* A self-supporting or guyed structure more than twenty feet (6 meters) in height, built primarily to support one or more telecommunications antennae.

*Tractor.* A farm device used for drawing, towing, pulling or powering other farm machinery which cannot propel itself.

*Traffic impact analysis {TIA}.* A report analyzing anticipated roadway conditions with and without an applicant's development.

*Tree, heritage.* Any tree that has been designated by the city council, after public hearing and due notice to the owner of the tree, as a tree of notable interest and value to the city because of its location, size, age, or historical association with the community or having a diameter of twenty-four inches (24") or greater.

*Tree, large.* Trees of any species that are twelve inches (12") or larger in diameter.

*Tree, living.* Trees having at least fifty percent (50%) of the total normal canopy intact and in a healthy condition.

*Tree, medium.* Trees that are eight inches (8") in diameter or larger, up to twelve inches (12").

*Tree, multi-trunk.* A tree having two (2) or more trunks arising from the root collar or main trunk.

*Tree, small.* Trees that are four to seven inches (4" to 7") in diameter, sometimes providing an underlying layer of tree canopy for medium to large and heritage trees.

*Trees, shrub forms, vines, ground covers, turf grasses and grasses-bunch.* Shall be defined as any of the above, such as those listed within this article. Tree is additionally defined. In order to qualify under the provisions of this code as a tree, said tree, when planted, must be at least two (2) inches in diameter at a height no less than twelve (12) inches above the ground. The tree diameter must be determined from a single trunk.

*Trip distribution.* The measure of the number of vehicles or passenger movements that are or will be made between geographic areas.

*Trip generation.* The total number of vehicle trip ends produced by a specific land use or activity.

*Trip generation summary.* A table summarizing the trip generation characteristics of the development (on site only) for the entire day and the a.m. and p.m. peak periods including the rates and units used to calculate the number of trips. Information on appropriate trip generation rates and procedures may be obtained by contacting the development department. Institute of Transportation Engineers trip rates will be used whenever possible.

*Truck.* A vehicle designed primarily for hauling cargo and material.

*Truck, heavy.* Trucks with a weight over 33,000 pounds which are primarily used to pull heavy trailers. Such trucks are referred to as semi-trucks/trailers, or tractor-trailer trucks.

*Truck, light.* Trucks with a weight of up to 14,000 pounds used for light hauling or towing, as well [as] everyday transportation. Light trucks include but are not limited to pickups, minivans, full-sized vans, and sport utility vehicles.

*Truck, medium.* Trucks with a weight of up to 33,000 pounds which are typically used as dump trucks, garbage trucks, local freight delivery trucks, and utility vehicles.

*Turf.* Continuous plant coverage consisting of grass species such as bermuda, buffalo, zoysia or any other native species of grass, designed to be drought tolerant to the South Texas area.

*Understory tree.* A self-supporting wood plant with one (1) or more trunks which attains a height of no taller than fifteen (15) feet.

*Unnecessary hardship.* Special circumstances applicable to a piece of property, whereby a property owner may be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which may result in a disparity of privileges. Also known as "undue hardship."

*Use.* The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or

may be occupied, including all accessory uses.

*Use, change of.* The change within the classified use of a structure or premise.

*Variance.* An authorization to a property owner to depart from literal requirements of zoning regulations in utilization of his property in cases in which strict enforcement of the zoning regulations would cause undue hardship because of special circumstances applicable to it, where the property owner is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which adjustment remedies disparity in privileges.

*Vehicle, motor.* A self-propelled device licensed by the state as a motor vehicle and used for the transportation of people or goods over roads.

*Veterinary clinic or hospital.* A facility for the medical and clinical treatment of animals by an individual licensed to practice veterinary medicine in the State of Texas, including short-term boarding of animals.

*Warehouse.* Structure used for the reception and storage of goods and merchandise. The term may include any structure used to hold goods, stores or wares for long- or short-term storage.

*Wholesale.* Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

*Xeriscape.* A landscaping method that employs drought-resistant plants and landscaping arrangements in an effort to conserve resources, especially water.

*Yard.* An open, unoccupied space on a lot, other than a court,

which is unobstructed from the ground upward by buildings or structures except as otherwise provided in this article.

*Yard, front.* A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

*Yard, rear.* A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto.

*Yard, side.* An open, unoccupied space on the same lot with the building and between the building line and the side lot line.

*Zoning.* The division of a city by legislative regulation into districts and the prescription and application in each district of regulations having to do with structural and architectural designs of buildings and of regulations prescribing use to which buildings within designated districts may be put.

*Zoning amendment.* A legislative change of an existing comprehensive zoning ordinance. Amendments must be adopted with all formalities required by the enabling act, including zoning commission recommendations, notice to landowners in a designated area, when required, published notice of legislative consideration, public hearings, and final passage of an amending ordinance.

*Zoning commission.* An appointed group of citizens with delegated authority to recommend boundaries of original zoning districts and appropriate regulations to be enforced therein; to hold public hearings and prepare a final report for the city council on recommendations for changes in zoning district boundaries or regulations in zoning districts; to hold public hearings and prepare a final report for the city council on recommendations for the enforcement of regulations in zoning

districts including specific use permits and nonspecified uses; and to prepare and maintain a city's master plan, zoning code, master sign plan, and other tasks as outlined/requested by the city council.

*Zoning map.* The official map as approved by the city council, as amended from time to time, which displays the various zoning districts.

(1972 Code, sec. 30.202; Ordinance 07-034, sec. 1, adopted 8/8/07; Ordinance 07-054, sec. 1, adopted 11/5/07; Ordinance 10-048, sec. 1, adopted 11/16/10; 2008 Code, sec. 14.02.052; Ordinance 14-02, sec. II(A), adopted 4/14/14)

### **DIVISION 3 ADMINISTRATION**

#### **Section 15.02.101 Primary Responsibility for Enforcement**

The zoning officer(s) shall be the designated authority charged with the administration and enforcement of this article. The zoning officer(s) shall be appointed by the city manager. The zoning officer(s) also serves as the staff advisor to the city council, zoning commission, board of adjustment, city staff, and citizens relating to the administration, interpretation, implementation, and enforcement of the provisions of this article. (1972 Code, sec. 30.301; 2008 Code, sec. 14.02.101)

#### **Section 15.02.102 Duties**

The zoning officer(s) shall have the following duties:

- (1) The zoning officer(s) shall have the power to make inspections of buildings and premises to carry out the duties prescribed herein.
- (2) The zoning officer(s) shall examine all building permit applications and shall certify that the proposed construction, moving, alteration, or use complies with the provisions of this article.

electricians, plumbers, sheetmetal shops, furniture repair, sexually oriented commercial enterprises, catering or other similar uses, shall not be allowed. The use of electrical or mechanical equipment that would change the fire rating of the dwelling or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited; and/or the home occupation shall not involve the use of commercial vehicles for delivery of materials to and from the premises, nor shall any commercial vehicles be stored at the residence;

- (G) Child care facilities. The care for payment of more than six (6) unrelated children shall require a specific use permit;
- (H) Parking. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one (1) patron vehicle is on the premises at the same time; two (2) additional parking spaces shall be provided on the premises, except only one (1) need be provided if the home occupation does not have an employee;
- (I) Appearance. The dwelling unit shall not be altered nor shall the home occupation be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, increased traffic or the emission of odors, sounds or vibrations.

(1972 Code, sec. 30.614; 2008 Code, sec. 14.02.315)

### **Section 15.02.316 Child care facilities**

- (a) Child care is allowed by right in residential zoning districts, if the number [of] children being cared for does not exceed six (6) children. Various options are hereby adopted which shall apply partially or totally to the operation of a child care facility, nursery or kindergarten, in a residential zone. The following conditions are adopted:

- (1) No construction features shall be permitted which would place

structure out of character with the surrounding neighborhood;

- (2) The child care facility shall be registered and/or licensed and the operator shall be approved by the Texas Department of State Health Services (TDSHS) when such licensing and/or approval is available from TDSHS. Proof of said licensing/approval by TDSHS and any other state agency which regulates child care operators is a requirement for obtaining a permanent certificate of occupancy;
- (3) A specific use permit "SUP" is required for the operation of any child care facility in residential districts if the number of children being cared for is more than six (6) (see table of permitted uses).
- (4) A certificate of occupancy is required for operation of a child care facility in a residence where more than six (6) children are being cared for, for a fee;
- (5) In residential districts, the child care facility will be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling (refer to home occupation regulations);
- (6) In residential districts, the operator of the child care facility must reside on subject property;
- (7) In residential districts, hours of operation shall not be permitted before 6:30 a.m. or after 7:30 p.m.;
- (8) In residential districts, the child care facility shall be located within the main structure on the lot, and the lot [the facility] shall not utilize more than seventy-five (75) percent of the gross floor area of the main structure.

(1972 Code, sec. 30.615; 2008 Code, sec. 14.02.316)

### **Section 15.02.317 ~~Adult care facilities~~Community Homes**

- (a) ~~Adult care facilities~~Community Homes are allowed by right in residential zoning districts, pursuant to Chapter 123 of the State of Texas Human Resources Code if provided the number [of] adults being cared for does not exceed six (6) persons. ~~Various options are~~

hereby adopted which shall apply partially or totally to the operation of an adult care facility in a residential zone, and the following conditions are adopted:

- (1) No construction features shall be permitted which would place the structure out of character with the surrounding neighborhood. Determination of the compliance of the character of constructed features shall be at the discretion of the Planning and Zoning Director.
- (2) A certificate of occupancy is required for operation of an adult care facilityCommunity Home;
- (3) A Community Home shall obtain a Residential Care Facility Permit and pass bi-annual inspection from the City of Leon Valley Fire Department, as required by Article 4.13 of the City of Leon Valley Code of Ordinances.
- ~~(2)(4)~~ The adult care facilityCommunity Home shall be registered and/or licensed and the operator shall be approved by the Texas Department of State Health and Human Services prior to the commencement of operations. (TDSHSHHS) when such licensing and/or approval is available from TDSHS. Proof of said licensing/approval by TDSHS the HHS and any other state agency which regulates adult care operators is a requirement for obtaining a permanent certificate of occupancy;
- (5) A Community Home is not located within one-half mile of an existing community home, except when:
  - (A) The property is not located within an R-1, R-2, R-4, or R-6, Residential Zoning District; or
  - (B) The property abuts a collector or arterial street.
- ~~(3)~~ The Community Home does not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home. A specific use permit "SUP" is required for the operation of any adult care facility in residential districts if the number of adults

~~being cared for is more than six (6) (see table of permitted uses).~~

- ~~(4)(1)~~ A certificate of occupancy is required for operation of an adult care facility;
- ~~(5)~~ In residential districts, the adult care facility will be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling (refer to home occupation regulations);
- ~~(6)~~ In residential districts, the operator of the adult careCommunity Home facility must reside on subject property;
- ~~(7)~~ In residential districts, hours of operation shall not be permitted before 6:30 a.m. or after 7:30 p.m.;
- ~~(8)~~ In residential districts, the adult care facility shall be located within the main structure on the lot, and the lot [the facility] shall not utilize more than seventy-five (75) percent of the gross floor area of the main structure.

-(1972 Code, sec. 30.616; 2008 Code, sec. 14.02.317)

#### **Section 15.02.318 "MX-1" mixed use district**

- (a) Purpose and description. The purpose of the MX-1 district is to concentrate various mixed uses into an area such that residential housing related to the allowed business activities is within a reasonable walking distance from the job opportunity. It is intended that the district have a unique character created by the mix of zoning uses allowed together with identifiable pedestrian, social, recreational and green space areas. Another unique character intended is the absence (or reduction) of on-site parking areas and the use of common parking areas. The mixed uses may be created vertically in a multi-story building or spaced horizontally. This special district may be created altogether new or by proximity to existing structures and uses. Municipal participation may be created as a central recreational or promotional feature in the district.
- (b) Locational criteria. An MX district may be designated for areas:
  - (1) With an existing mix of retail, office, service and residential uses