ZONING ORDINANCE No. 2007-64
OF
THE CITY OF BOERNE, TEXAS
(Revised 11.12.2019)

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ZONING ORDINANCE
OF
THE CITY OF BOERNE, TEXAS
(2007-64)

A COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING:

- THE **USE** OF LAND,
- THE **USE** AND LOCATION OF **BUILDINGS** AND **STRUCTURES**,
- THE **HEIGHT**, NUMBER OF **STORIES**, AND SIZE OF **BUILDINGS** AND OTHER **STRUCTURES**,
- THE CONSTRUCTION, RECONSTRUCTION, ALTERATION OR REPAIR OF **BUILDINGS** AND **STRUCTURES**,
- THE PERCENTAGE OF A **LOT** THAT MAY BE OCCUPIED,
- THE SIZE OF **YARDS** AND OTHER **OPEN SPACES**, AND
- THE DENSITY OF POPULATION;

DIVIDING THE CITY OF BOERNE INTO **DISTRICTS** FOR SUCH PURPOSE, ADOPTING MAPS OF SAID CITY SHOWING THE BOUNDARIES AND CLASSIFICATION OF SUCH **DISTRICTS**, ESTABLISHING A PLANNING AND ZONING COMMISSION, A BOARD OF ADJUSTMENT AND AN HISTORIC LANDMARK COMMISSION, AND PRESCRIBING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THE ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

ARTICLE 1. IN GENERAL

SECTION 01. SHORT TITLE
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SECTION 01. SHORT TITLE

This ordinance shall be known and may be cited as the "Zoning Ordinance" of the City of Boerne.

SECTION 02. PURPOSE

The zoning regulations and districts as herein established have been made in accordance with the Boerne Master Plan, and the vision, goals, and future development policies in the plan, for the purpose of promoting health, safety, morals and the general welfare of the City, and for the protection and preservation of places and areas of historical and cultural importance and significance therein.

They have been designed to:

- lessen congestion in the streets,
- secure safety from fire, panic, and other dangers,
- provide adequate light and air,
- prevent the overcrowding of land,
- avoid undue concentration of population,
- facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

They have been made with reasonable consideration, among other things:

- for the character of the district and its peculiar suitability for particular uses,
- and with a view to conserving the value of buildings and other improvements,
- and encouraging the most appropriate use of the land throughout the City consistent with comprehensive planning.

SECTION 03. ORDINANCES REPEALED AND SCOPE

The following ordinances are hereby repealed, to-wit:

A. Ordinance No. 2005-01, Captioned "Zoning Ordinance Of The City Of Boerne, Texas," Dated January 25, 2005; Ordinance No. 2005-33, Dated May 10, 2005; Ordinance No. 2005-38, Dated June 28, 2005; Ordinance No. 2005-45, Dated July 26, 2005; Ordinance No. 2005-57, Dated September 27, 2005, Ordinance No. 2005-66, Dated October 25, 2005; Ordinance No. 2005-75, Dated April 25, 2006; Ordinance No. 2006-11, Dated March 14, 2006; Ordinance No. 2006-18, Dated March 28, 2006; Ordinance No. 2006-21, Dated April 25, 2006; Ordinance No. 2006-22, Dated April 25, 2006; Ordinance No. 2006-30, Dated June 27, 2006; Ordinance No. 2006-31, Dated June 27, 2006; Ordinance No. 2006-54, Dated November 14, 2006; Ordinance No. 2007-28, Dated June 26, 2007; And Providing For A Penalty Of Not More Than $1,000.00 For Violation Of Any Provision Of This Ordinance.

B. All other ordinances or parts of ordinances inconsistent herewith, but only to the extent of such inconsistency; provided, however, that whenever higher or more restrictive standards are established by the provisions of any other applicable statute, ordinance or regulation than are established by the provisions of

this ordinance, the provisions of such other statute, ordinance or regulation shall govern.

SECTION 04. ADOPTION OF LEGISLATIVE GRANT OF POWER

Texas Local Government Code, Chapter 211, is hereby adopted, and the provisions of this ordinance are adopted in the exercise of the power granted to municipalities by such statutes and pursuant to any and all other applicable laws.

SECTION 05. RULES OF ORDINANCE CONSTRUCTION

A. Words, phrases and terms defined herein shall be given the defined meaning, unless the context clearly indicates a different meaning.

B. Words, phrases and terms not defined herein shall be given their usual and customary meanings.

C. The text of the ordinance shall control captions, titles maps, and graphics.

D. The word "shall" is mandatory and not permissive. The word "may" is permissive and not mandatory.

E. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future tense and words used in the future tense include the present tense.

F. Any reference to “days” shall mean calendar days, unless a different interpretation is specifically stated. The first full day after the event triggering the time period to run shall begin the time period.

G. Lists of examples prefaced by “including,” “such as,” or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar and non-mentioned examples.

H. Reference to an administrative official shall refer to that official and his or her designee.

I. Purposes, Intent Statements, and Specific Intent Statements (where applicable) shall guide the interpretation of these standards, and direct the application of any flexibility specifically permitted under the regulations.

SECTION 06. DEFINITIONS

For the purpose hereof, certain words and terms in this ordinance are defined as follows:

Accessory Building or **Accessory Structure:** A subordinate building or structure on the lot occupied by the main building having an incidental use in connection with the main building.

Access Point: A place of ingress or egress to a property from a boundary street. *(Ord. No. 2009-06, §1, 3-24-2009)*

Alley: A minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Alteration: See "Structural Alteration".

Building: A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, except such structures as may be otherwise specifically defined herein. See also "Accessory Building" and "Office Building".

Building Code: City Ordinance No. 2004-11 as amended.
(Ord. No. 2008-25, §1, 8-12-2008)

Building Envelope: The area that is allowed for construction within the setbacks of a lot. *(Ord. No. 2012-04, §1, 4-24-2012)*

Building Line: A line at which the building is actually constructed, including the horizontal extension of that line to the lot edges.

Caliper: The diameter of the main trunk of a tree measured 48 inches above natural grade level for existing trees and measured at six inches above the ground level for replacement trees.

Candela: A measure of luminous intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction. It is commonly called one (1) candlepower.

Character Zone: An area within the SoBo Overlay that identifies placement of proposed uses and is intended to preserve and/or create a building form that is distinct from other areas within the overlay area. *(Ord. No. 2017-03, §1, 1-24-2017)*

City Manager: City Manager or duly authorized representative.

Class 1 Lighting: All outdoor lighting where color rendition is required to preserve the effectiveness of the application. Class 1 Lighting includes, but is not limited to, outdoor sales, advertising displays and other signs, recreational facilities, amphitheaters and other similar applications.

Class 2 Lighting: All outdoor lighting where general illumination for safety and security of grounds is the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 2 Lighting includes, but is not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor eating areas, and outdoor security lighting.

Class 3 Lighting: All outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, signs and seasonal holiday lighting and lighting in residential areas (District 3).

Clear Cutting: The indiscriminate cutting of trees and vegetation.

Commercial Vehicle: A motor vehicle, other than a motorcycle, that has a manufacturer's rated capacity in excess of one and one-half (1.5) tons including related commercial equipment designed or used primarily to transport property.

Community Home: A residential establishment that is licensed by the State of Texas, where not more than six (6) Persons in Need and/or persons with a Disability may reside at the same time and are provided food and shelter, personal care services, as well as supervised care and rehabilitation. The limitation on the number of Persons in Need or persons with a Disability applies regardless of the legal relationship of those persons to one another. Supervisors may live in the Community Home, provided that no more than a total of eight (8) persons may live within the Community Home at any time. The establishment shall not have more than two (2) persons per bedroom. *(Ord. No. 2014-02, §1, 2-25-2014)*

Condominium: A form of ownership, typically for a dwelling unit, within which designated units or apartments are conveyed fee simple title, with an undivided interest in the building's common elements, to include, but not be limited to, halls, stairs, elevators, roof, parking space, and the land when the building is not constructed on leased land. The condominium form of ownership may apply to various lot types and building type combinations, provided all other zoning ordinance standards for the physical format of the development are met.

Construction Vehicle: Means mobile construction equipment, including but not limited to, dump trucks, graders, back-hoes, front-end loaders, skid loaders, and other similar equipment.

Contributing Structure: A structure that is any building or structure within the boundaries of the city that contributes to Boerne's historic built environment and consistent with the basic structural and architectural elements as demonstrated in the City of Boerne's Historic Design Guidelines, Architectural Styles.

Corner Lot: A lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection being not more than 135 degrees. It is the land occupied or to be occupied by the corner building and its accessory buildings. A corner lot, the rear of which abuts upon the side of another lot, whether or not across an alley, is a "reversed corner lot".

Clustered Parking: Parking for each cottage unit that is clustered together to create more open space. No more than five continuous parking spaces in a cottage development. *(Ord. No. 2015-36, §1, 11-10-2015)*

Common Open Space for Cottages: An area improved for passive recreational use or gardening. Common open

spaces are required to be owned and maintained through a homeowners' association. Parking areas, yard setbacks, private open space and driveways do not qualify as common open space. *(Ord. No. 2015-36, §1, 11-10-2015)*

Cottage: A detached, small single-family dwelling unit containing 1000 square feet or less of gross floor area. *(Ord. No. 2015-36, §1, 11-10-2015)*

Cottage Cluster: A group of four to ten cottages, arranged around a common open space (See common open space for cottages). *(Ord. No. 2015-36, §1, 11-10-2015)*

Cottage Housing Development (CHD): A group of separate, small, detached dwelling units that are intended to create a small community aligned around open space that is pedestrian-oriented and minimizes the visibility of off-street parking; One or more clusters of cottages developed under a single land development plan, or as part of another land development plan. A cottage housing development must be on at least half an acre and does not have to have street frontage, but must have public access to a utility easement or fire lane access. *(Ord. No. 2015-36, §1, 11-10-2015)*

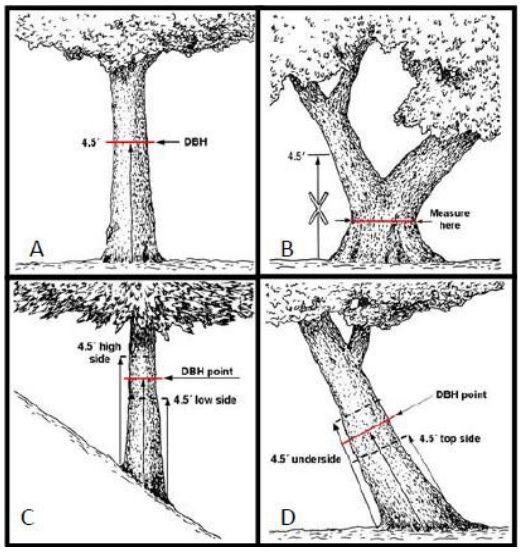
Cottage Housing Development Plan: The site plan of a cottage housing development that is submitted for a recommendation by the Planning and Zoning Commission and approval by City Council as the basis for development of the preliminary and final plats of a Cottage Housing Development. *(Ord. No. 2015-36, §1, 11-10-2015)*

Cottage Lot: A lot within a cottage development that has access within 60 feet to pedestrian walkways, walkable distance to driveways, vehicular parking and open green space. It does not have to front a public street but must have public access to a utility easement or fire lane access. *(Ord. No. 2015-36, §1, 11-10-2015)*

Coving: A method of subdivision development characterized by non-uniform lot shapes and home placement. When combined with winding roads, lot area is increased and road area reduced. Coving is used as an alternative to conventional "grid" subdivision layout in order to reduce road costs, such as road surfacing, while improving aesthetics, and increasing the amount of land available for construction. *(Ord. No. 2010-32, §1, 10-12-2010)*

Curvilinear Street: A street in which the centerline has a total curve length that is 50% or greater than any straight section of the street. On a curvilinear street, minimum lot width as defined in Table 5-2 shall be measured at any point on the lot. *(Ord. No. 2010-32, §1, 10-12-2010)*

DBH: Tree diameter at breast height. Tree DBH is the outside bark diameter at 4 1/2 feet above the ground. For the purposes of determining breast height, the ground includes the dirt layer that may be present, but does not include unincorporated woody debris that may rise above the ground line. *(Ord. No. 2012-04, §1, 4-24-2012)*



Depth: As applied to the dimensions of a lot, the average horizontal distance between the front and rear lot lines; as applied to a front, side or rear yard, the average horizontal distance between the front, side or rear wall of a building, other than an accessory building, and the front, side or rear lot line, as appropriate.

Detached: As applied to a building or structure, one having no party or common wall with another building or structure except an accessory building or structure.

Development Project: Any residential, commercial, industrial or mixed use subdivision plat or development plan which is submitted to the City of Boerne for approval or for permit.

Direct Illumination: Illumination from artificial light sources that exceeds .5 foot candles as measured horizontally.

Disability: As defined in 42 U.S.C. §12102 as may be amended or recodified from time to time. Neither this ordinance nor the Fair Housing Act affords protections to individuals with or without disabilities who present a direct threat to the persons or property of others. The term Disability does not include individuals with current alcohol or drug addiction or an individual that has been convicted under federal or state law of illegal manufacture or distribution of a controlled substance. *(Ord. No. 2014-02, §1, 2-25-2014)*

District, or Zoning District: A section of the City for which regulations governing the area, height, design or use of buildings and structures and the uses of land are established by this ordinance.

District, Historic: See "Historic District".

Easement: An acquired right to use land owned by another for a limited purpose, or an interest or privilege short of ownership in land owned by another, such as easement of light, of building support or maintenance, or right of way.

Entrance Corridors: The primary vehicular entrances to Boerne, either City or County roads as determined by City Council, as well as the following State Highways: Interstate 10 east and west, Highway 46 east and west, US 87 north and south, and FM 474 in which established parameters are set for properties.
(Ord. No. 2008-25, §1, 8-12-2008)

Environmentally Sensitive Area: Areas that require protection of native landscape, plant life, wildlife of ecological values. Environmentally sensitive areas shall include steep slopes and 100 year flood plains. *(Ord. No. 2012-04, §1, 4-24-2012)*

Establishment: A use of land for any purpose which requires a building on the land regardless of the commercial, nonprofit or public nature of the activity, but excluding a residence or active agricultural uses in any form.

Family: A single individual, living upon the premises as a separate housekeeping unit, or a collective body of persons living together upon the premises as a separate housekeeping unit, whether or not they are living in a domestic relationship based upon birth, marriage, or other domestic bond. A family is distinguished from a group occupying a rooming or boarding house, club or lodge, or living in a hotel or motel or other arrangement by the fact that they function together as a single housekeeping unit.

Foot Candle: A measure of illuminance, i.e. visible light falling on a given surface. One foot candle (fc) is equal to one lumen per square foot. Illumination can be measured in foot-candles both horizontally and vertically with an illumination photometer.

Full Cut-Off Fixture: *(FCO)* Outdoor light fixtures shielded or constructed so that no light rays are emitted above a horizontal plane through the fixture.

Fully Shielded: Light fixtures constructed such that all light rays emitted are projected below the horizontal plane passing through the lowest point on the fixture from light emitted, as evidenced by a manufacturer's photometric data or by photometric measurement.

Glare: Light emitting from a luminaire of sufficient intensity such that it reduces a viewer's ability to see, or causes temporary blindness.

Grandfathered Nonconforming Luminaires: Luminaires not conforming to this ordinance that were in place on the effective date of this ordinance.

Gross Floor Area: The sum of the gross horizontal area of the several floors of a building, including interior balconies and mezzanines. All horizontal dimensions are to be measured between the exterior faces of walls, including the walls of roofed porches having more than one wall. The floor area of a building shall include the floor area of accessory buildings, on the same lot, measured in the same manner.

Group Home: A residential establishment that is licensed by the State of Texas where seven (7), but no more than sixteen (16), Persons in Need or persons with a Disability may reside at the same time and are provided food, shelter and personal care services as well as supervised care and rehabilitation. Supervisors may live in the Group Home, provided that no more than a total of nineteen (18) persons, inclusive of supervisors, may live therein, regardless of the legal relationship of those persons to one another. The establishment shall not have more than two (2) persons per bedroom. *(Ord. No. 2014-02, §1, 2-25-2014)*

Height: As applied to a building, the vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip or gambrel roof. *(Ord. No. 2008-25, §1, 8-12-2008)*

Heritage Tree: A Legacy tree species that has a trunk circumference (TC) larger than 75 inches**.** *(Ord. No. 2012-04, §1, 4-24-2012)*

Historic District: A district designated by City Council under this ordinance as an area containing significant concentrations, linkage or continuity of buildings, structures, sites, areas or lands which are united by architectural, historical, archaeological or cultural importance or significance such that the area requires protection and preservation.

Historic Landmark: Any building, structure, site, area or land of architectural, historical, archeological or cultural importance or value, which the City Council has determined to have sufficient significance, balancing public and private interests, to require that it be protected and preserved.

Historic Structure: any structure (commercial or residential) that is 50 years or older.

Hotel – Boutique: A small, intimate hotel of historic design and elegance that is reflective of the local community. Boutique hotels are 30 units or less and typically not part of a franchise. *(Ord. No. 2012-04, §1, 4-24-2012)*

IESNA: Illumination Engineering Society of North America, an association of professionals in the field of lighting and related professions.

Illuminance: Luminous flux incident on a surface per unit area. Illuminance is normally expressed in foot-candles (lumens per square foot) or lux (lumens per square meter).

Impervious Cover: The paved surface of any street, alley, sidewalk, driveway or parking area, the roof of any building or structure, and the top surface of any deck or other construction of any character which is so designed or built that rain falling on the surface is carried off that surface without directly penetrating the ground beneath it or designed to infiltrate to other immediately adjacent areas on the site. *(Ord. No. 2010-01, §1, 1-26-2010)*

Included Structure: Any building or structure which is located in whole or in part in any historic district, whether or not the building or structure itself is designated as an historic landmark.

Internal Street: A private street within or connecting parking lots. *(Ord. No. 2008-25, §1, 8-12-2008)*

Junk: Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage, recycling or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

Kelvin: a measurement used to describe the color temperature of a light source. This is the specification that gives a description of the warmth or coolness of a light source.

Land Use Determination: The classification of land uses when such use is not explicitly named or described in this ordinance. *(Ord. No. 2013-23, §1, 7-23-2013)*

Landmark: See "Historic Landmark".

Landscape Plan: A map or site plan which illustrates the general layout of proposed buildings, structures, driveways and on-site areas on a lot or tract of land, along with the design of landscaped areas, including detail of the location, species and caliper of all protected trees, other existing trees which are to be retained or removed, and trees which

are to be planted as replacement or additional trees.

Landscaped Area: The area of a lot which is devoted to and consists of plant material adaptable to this region, including but not limited to grass, trees, shrubs, flowers, vines, ground cover, and other native plant materials, along with planters, brick or stone walkways, natural forms, water forms, aggregate or mulch beds, and other landscape features, but not including any paved area of smooth concrete or asphalt.

LED: Light emitting diode. *(Ord. No. 2009-06, §1, 3-24-2009)*

Legacy Tree: The following species of trees. Cottonwood, Sycamore, and all species of Cypress, Elm, Maple and Oak (with the exception of all varieties of red oaks), Pecan and Texas Ash. *(Ord. No. 2012-04, §1, 4-24-2012)*

Lighting Districts: All lighting areas discussed below shall be as defined on the City of Boerne Lighting Area Map.

1. **Lighting District 1** is an urban area with primary land uses for commercial, business, and apartments surrounded by suburban residential areas.
2. **Lighting District 2** is a business area along US 87, and River Road, and the Historical District surrounded by residential areas.
3. **Lighting District 3** is composed of primarily residential uses.

Lighting Plan: A plan used for an approval process or construction indicating all site improvements and the number, location, type of fixture, and manufacturer's data on all the proposed lighting, both pole and building mounted.

Light Pollution: Artificial light that causes a detrimental effect on the environment, or astronomical enjoyment of the night sky, or causes undesirable glare or unnecessary illumination of adjacent properties.

Lot: 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, which is designated as a distinct and separate tract; and/or which is identified by a tract, lot number or symbol in a duly approved subdivision plat which has been properly filed on record. See also "Corner Lot".

Lot Line: A property boundary line separating one lot from another or from a street or alley. Any lot line which is not a street line or a rear lot line is a side lot line.

Low Impact Development: LID is an approach to land development (or re-development) that works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. Methods prescribed by the San Antonio River Authority (SARA) for Low Impact Development design may be incorporated into the development of a site. These methods are outlined in the SARA LID Technical Guidance Manual outlining standard practice for design and implementation. https://www.sara-tx.org/lid-sustainability/lid-services/ *(Ord. No. 2015-36, §1, 11-10-2015)*

Lumen: A measure of visible light power or luminous flux intercepted by a surface of one (1) square foot, all points of which are one (1) foot from a uniform source of one (1) candela. A one candela source provides 12.57 lumens.

Luminaire: A complete lighting unit, consisting of a lamp(s), reflector, refractor, lens, wiring, and sockets. Often referred to as a "fixture".

Luminance: Luminance flux per unit solid angle. Luminance is normally expressed in candelas per square meter (lumens per square meter per steradian) or foot-lamberts (l/pi lumens per square foot per steradian). Luminance is composed of the light impingent on a scene and the light reflected back from all of the objects and surfaces in the scene.

Manufactured Home: A structure that is transportable in one or more sections. In traveling mode, the home is eight feet or more in width and forty feet or more in length. A Manufactured Home is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled. When erected on site, the home is: at least 400 square feet, built and remains on a permanent chassis and designed to be used as a dwelling with a permanent foundation built to FHA criteria. The structure must be designed for occupancy as a principal residence by a single family (Formerly known as a Mobile Home - A mobile home is a structure that was built prior to 1976 HUD regulations). *(Ord. No. 2015-36, §1, 11-10-2015)*

Modular Home: A dwelling that:

1. Is manufactured in a production facility and are built in two or more sections in a controlled factory setting

that are then transported and assembled on location. The assemble process typically uses a traditional concrete foundation (permanent). Unlike a manufactured home (mobile home), a modular home cannot be moved once built.

2. Is designed to be used as a residence when the modules are transported to the home site, joined together and installed on a permanent foundation in accordance with the Building Code Requirements of the City of Boerne;
3. Meets all the requirements of the Texas Manufactured Housing Standards Act, and has the Texas Industrial Standard Seal and;

4. Contains the plumbing, heating/air conditioning and electrical systems within the structure.

The term "modular home" does not apply to a manufactured home (formally known as mobile home) as defined in this ordinance and the Texas Manufactured Housing Standards Act, nor does it include building modules incorporating concrete or masonry as a primary component.

Mounting Height: The vertical distance between the ground and the bottom of a light source.

Nameplate: A sign indicating the name and/or address of a building, or the name of an occupant thereof, and/or the practice of a permitted home occupation therein.

Net Acreage: The remaining ground area after deleting all portions for proposed and existing public streets within a development, parcel, or subdivision.

Network Nodes: equipment at fixed locations that enable wireless communications between user equipment and a communications network (see City of Boerne Design Manual).

Node Support pole: a pole installed by a network provider for the primary purpose of supporting a network node (see City of Boerne Design Manual).

Nonconforming Structure: A structure or part thereof, lawfully existing on the effective date of this ordinance that does not conform to all the regulations of the district in which it is located.

Nonconforming Use: A use of a building, structure or land, lawfully existing on the effective date of this ordinance, which does not conform to all the regulations of the district in which it is located.

Open Space: An area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky, except for the ordinary projection of cornices, eaves or porches. "Civic Open Space" refers to open space that in addition to meeting this definition has broad community benefits through its design and location as specified in the Subdivision Ordinance.

Ornamental Lighting: Decorative lighting that is unshielded low-wattage in which individual lamps do not exceed twenty (20) watts.

Ornamental Tree: A tree which is indigenous or adapted to this region of Texas, such as Crepe Myrtle, Redbud, Madrone, Possumhaw, Cherry or Mountain Laurel, and which normally reaches a height at maturity or is trimmed to maintain a maximum height of 20 feet or less.

Outdoor Entertainment: A restaurant, nightclub or bar that offers entertainment in an outdoor setting. A venue allowing outdoor entertainment shall provide a sound barrier, with sound being directed away from the residentially zoned district nearest their location. *(Ord. No. 2012-04, §1, 4-24-2012)*

Outdoor Lighting Fixture (Luminaire): The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means. This definition does not include outdoor lighting governed exclusively by state or federal law, traffic control devices, as that term is defined by the Texas Transportation Code, or lighting equipment that is required by law to be installed on motor vehicles, or for the safe operation of aircraft.

Outparcel: An individual tract of land designated as part of a nonresidential group development, such as a retail mall or shopping center, not physically connected and secondary in nature to the primary development.

Owner: The person or entity who has legal title to property, or who has effective custody and control of property.

Partially Shielded: Light fixtures constructed such that the lower edge of the shield is at or below the centerline of the light source or lamp so as to minimize light transmission above the horizontal plane, or at least ninety percent (90%) of the emitted light projects below the horizontal plan as evidence by the manufacturer's photometric data, or by photometric measurement.

Person in Need: A person in need of personal care services. This does not include individuals with current alcohol or drug addiction or an individual that has been convicted under federal or state law of illegal manufacture or distribution of a controlled substance. *(Ord. No. 2014-02, §1, 2-25-2014)*

Personal Care Services: Assistance with feeding, dressing, moving, bathing, or other personal needs or

maintenance; administration of medication by a person licensed or otherwise authorized in this State to administer the medication or provide assistance with or supervision of the administration of medication; 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 or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person. *(Ord. No. 2014-02, §1, 2-25-2014)*

Personal Care Home: A residential establishment that provides food, shelter and personal care services to three (3) or fewer Persons in Need or persons with a Disability unrelated to the proprietor of the establishment. The establishment shall not have more than two (2) persons per bedroom. *(Ord. No. 2014-02, §1, 2-25-2014)*

Planned Unit Development or **PUD:** A development which includes a mixture of housing types and/or mixed land uses, along with dedicated community open space and common area facilities owned and managed by an association of the property owners in the subdivision.

Pole Height: An outdoor light mounted on a wooden or metal pole twelve (12) or more feet in height, for the purpose of illuminating a yard or other open area.

Protected Tree: Either a yard, signature or heritage tree. *(Ord. No. 2010-01, §1, 1-26-2010)*

PUD plan: The general plan or map of a planned unit development that is submitted for a recommendation by the Planning and Zoning Commission and approved by City Council as the basis for development of preliminary and final subdivision plats.

Rear Yard: A yard, unoccupied except by an accessory building, extending for the full width of the lot between the main building and the rear lot line.

Remove, Removal: As applied to a protected tree, the uprooting of the tree, severing of the main trunk of the tree, or any other act which causes, or may reasonably be expected to cause the tree to die.

Required Building Line: A line at which, or range within which a building line must be established, most often associated with a front building line abutting particular Street Design Types. Where a setback line is expressed as a range, it shall be interpreted as a required building line range. *(Ord. No. 2008-25, §1, 8-12-2008)*

Reversed Corner Lot: (See Corner Lot)

Root Protection Zone: An area surrounding the base of the trunk of a tree which is to be protected from disturbance during grading and construction. This area shall have an average radius of one foot for each inch of tree caliper, provided that it need not exceed 2,000 square feet for any tree. The area need not be exactly centered around the tree or circular in shape, but it shall be positioned so that no disturbance may occur closer to the tree than one-half the radius of the zone or within five feet of the tree, whichever is less.

Secondary/Support Street: A local and/or access street as defined in the City of Boerne Subdivision Ordinance. *(Ord. No. 2008-25, §1, 8-12-2008)*

Setback: The amount of open space required between the lot line and the building line or the amount of land required surrounding improvements.

Setback Line: A line, established by law, beyond which a building shall not extend, except as specifically provided by law. *(Ord. No. 2008-25, §1, 8-12-2008)*

Shielded: The light source is equipped with a fixture that provides a shielding of the emitted light.

Side Yard: A yard between a building and a side lot line, extending through from the street line to the rear lot line of the lot, including overlapping portions of the front yard and rear yard.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names or trademarks by which anything is made known, such as are used to designate an individual commodity or product, which are visible from any public street or right-of-way and designed and displayed to attract attention. The term "sign" shall not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, monument or event.

SoBo: An area located between IH-10 and Old San Antonio south of Herff Road as identified in Article 5, Section

32. *(Ord. No. 2017-03, §1, 1-24-2017)*

Spot Zoning: The re-zoning of a small parcel of land for a use classification incompatible with that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners or the community, or without any substantial public purpose.

Stable: Any business or institution in which horses or other livestock are housed, groomed, bred, boarded, trained or sold.

Standard Tree: A Legacy tree species that has a trunk circumference between 37 and 75 inches. *(Ord. No. 2012-04, §1, 4-24-2012)*

Standard or Heritage Tree Removal Permit: A Permit required prior to the removal of Standard or Heritage trees from any real property as described in Article 4.05.003. *(Ord. No. 2012-04, §1, 4-24-2012)*

Step-back: Floors above the first floor stepped back a minimum distance as identified in this ordinance. Step-back requirements help assure a comfortable street environment by preventing fortress-like facades, providing light and air at the street level, and providing features of interest to pedestrians along streets in commercial districts. *(Ord. No. 2012-04, §1, 4-24-2012)*

Steep Slope: Land area where the inclination of the land's surface from the horizontal plane is fifteen percent (15%) or greater. Slope is determined from on-site topographic surveys prepared with two-foot contour interval or topography taken from controlled aerial photography at two foot contour intervals. The percent of slope shall be calculated for each two-foot contour interval and shall be established by measurement of distance perpendicular to the contour of the slope (rise in feet per horizontal distance in feet). *(Ord. No. 2014-02, §1, 2-25-2014)* Man-made slopes (such as a quarry or retaining wall) constructed prior to 2013 shall not be considered steep slopes. *(Ord. No. 2008-25, §1, 8-12-2008)*

Steep Slope Area: That part of the lot that encompasses the steep slope.

Story: That portion of a building included between the surface of any floor and the ceiling above.

Stream: A natural water course - A natural intermittent or perennial stream flowing in a well-defined bed or channel; one formed by the natural flow of the water, as determined by the general surfaces or conformation of the surrounding country, as distinguished from an "artificial" water course, formed by the work of man, such as a ditch or canal. *(Ord. No. 2012-04, §1, 4-24-2012)*

Stream Bank: The portion of the channel which tends to restrict lateral movement of water. It often has a slope less than 90° and exhibits a distinct break in slope from the stream bottom. Also, a distinct change in the substrate materials or vegetation may delineate the bank. *(Ord. No. 2012-04, §1, 4-24-2012)*

Stream Setback: An area that extends horizontally landward a specified distance from each side of a stream bank. *(Ord. No. 2012-04, §1, 4-24-2012)*

a. Stream Setback Zone 1 is the streamside zone and is measured from the stream center line.
   1. The streamside zone is intended to protect the physical and ecological integrity of the stream.
   2. Vegetation must remain undisturbed to the maximum practical extent in this zone to assure proper functioning of this zone.

b. Stream Setback Zone 2 is the outer setback zone and is measured from the outer edge of Stream Setback Zone 1 and extend horizontally the remaining distance of the setback.
   1. The outer zone is intended to prevent encroachment into the streamside zone, and to provide distance between development activity and the streamside zone.

Drainage Area (Acres)	Setback Zone 1	Setback Zone 2	Total Setback Width
> 35 acres and less than 200 acres	20'	15'	35'
> 200 acres and less than 1500 acres	30'	20'	50'
> 1500 acres	50'	50'	100'

Street: A public right-of-way, however designated, other than an alley, which carries vehicular traffic or provides

vehicular access to adjacent land, and includes all other adjacent pedestrian amenities, landscape areas or other urban design features. All streets are classified by both Functional Classifications and Design Types as specified in the Subdivision Ordinance.

Street Line: A lot line dividing a lot from a street.

Structural Alteration: Any change or rearrangement in the structural parts or supporting members of a building or structure, such as bearing walls, columns, beams or girders, or any enlargement of a building or structure, whether by extending on a side or by increasing in height, or the moving of a building or structure from one location or position to another.

Structure: Anything which is built or constructed and which requires permanent location on the ground or which is permanently attached to something having a location on the ground; a building of any kind. See also "Accessory Building or Structure," "Included Structure" and "Nonconforming Structure".

Subdivision: A division of a tract of land into two or more parts for the purpose of laying out a subdivision of the tract or an addition to the City, or to lay out suburban, building or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Subdivision Ordinance: Currently adopted City of Boerne Subdivision Ordinance.

Terrace: a raised level with a vertical or sloping front or sides faced with masonry, turf, or the like, especially one of a series of levels rising one above another. *(Ord. No. 2010-10, §1, 5-25-2010)*

Total Outdoor Light Output: The total amount of light, measured in lumens, from all outdoor light fixture lamps, is calculated as follows:

1. For lamp types that vary in light output as the age (such as fluorescent and high intensity discharge lamps), the mean lumen output, as defined by the lamp manufacturer, shall be the lumen value used.
2. The total light output of each outdoor light fixture shall be based on the largest lamp that the outdoor light fixture is rated to accommodate. For the purpose of compliance with this section, the largest lamp rating for fluorescent and high intensity discharge fixtures shall be based on the installed ballast rating.

Transitional Use: The transitional use (T in the Table of Uses) designation may be utilized when a use is to be removed from a zoning district and the City Council, following recommendation of the Planning and Zoning Commission, deems it appropriate to allow property owners, their heirs or assigns, a designated period of time in which the use may be implemented before the use is removed from the Table of Permitted Uses.

Travel Trailer: (Known as a RV) a recreational vehicle either motorized or pulled by a vehicle designed for travel and short term living and sleeping of a recreational nature. *(Ord. No. 2015-36, §1, 11-10-2015)*

Tree Preservation Plan (TPP): A map or site plan which illustrates the general layout of proposed buildings, structures, driveways and on-site areas on a lot or tract of land, along with the design of landscaped areas, including detail of the location, species and trunk circumference (TC) of all Legacy trees which are to be retained or removed, and trees which are to be planted as replacement trees and trees which are to be retained for mitigation purposes. *(Ord. No. 2012-04, §1, 4-24-2012)*

Tree Removal Permit (TRP): A Permit required prior to the selective removal of Legacy trees that are not Standard or Heritage trees from any real property that does not require a Building Permit as described in Article 4, Section 6. *(Ord. No. 2012-04, §1, 4-24-2012)*

Tree Restoration Fund: Dedicated account which receives funds from developers/property owners who wish to remove protected, signature, or heritage trees and do not have space for the required number of replacement trees on their property. These funds are used at the discretion of City Council to purchase, plant, and provide irrigation for trees on City property, in parks, rights-of-way or other suitable municipal property.

Trunk Circumference (TC): The perimeter measurement, in inches, of a tree trunk taken at 4 ½ feet from ground level as demonstrated in the definition of DBH.

Unshielded: A luminaire that may emit its luminous flux in any direction.

Use: As a noun, the purpose for which land, and/or the buildings or structures thereon, is designed, arranged, or

intended to be occupied or used, or for which it is occupied, maintained, rented or leased. See also "Nonconforming Use," and the Categories and Description of Uses Section in Article I, Section 7.

Valet parking: The provision of parking for vehicles whereby vehicles are parked and unparked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle.*(Ord. No. 2009-13, §1, 5-26-2009)*

Vehicle: Any means by which someone travels or something is carried or conveyed; a conveyance that is propelled or drawn by mechanical power. The term includes, but is not limited to, cars, trucks, motorcycles, travel trailers, commercial trucks and/or boats. *(Ord. No. 2015-36, §1, 11-10-2015)*

Width: As applied to a lot, the horizontal dimension of the street line along the frontage street. For a pie shaped lot or a lot on a cul-de-sac, the width of the lot means that dimension measured at the building setback line.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, between the building and a lot line. See "Front Yard," "Rear Yard" and "Side Yard".

Zoning Change Sign: A sign placed on a property that is under consideration for a zoning change.

SECTION 07. CATEGORIES AND DESCRIPTIONS OF USES

Within each zoning district, the use of buildings and land is regulated on the following categories and specific types of land uses. Where a specific type of use is not listed below, but it meets all of the characteristics of a use category generally and is so similar to a use specifically described below that no difference in impact on the district or adjacent property can be anticipated, the City may interpret that use as being included within that similar category and use type.

1.07.001. Residential Use Category.

The Residential Use Category includes all types of dwelling units. A “dwelling unit” is any building or portion of a building used as or intended for use permanently as a residence of an individual or family, and where any other use must be accessory and customarily incidental to the dwelling unit, unless specifically authorized elsewhere in these regulations. Residential Uses include the following types:

A. *Accessory Dwelling.* A separate dwelling unit that is associated with, incidental to, and subordinate to another dwelling unit as the principal use, and is located on the same lot as the principal dwelling (commonly referred to as “In-laws Quarters” or “Garage Apartment”).

B. *Attached Dwelling.* A dwelling unit in a structure designed for more than two principal dwelling units, and where the units are separated by a party wall and located on separate lots if they are intended for individual ownership. Units may be located on a single lot if the structure is intended for single or condominium ownership. Each unit has the same orientation and front façade, and has its own private entrance to the exterior of the structure.

C. *Cottage Housing Development*. A group of separate, detached, small dwelling units on individual lots that are intended to create a small community oriented around a common open space that is pedestrian-oriented and minimizes the visibility of off-street parking. This includes small houses attached to skirted pier and beam or a concrete foundation. One or more clusters of cottages developed under a single land development plan, or as part of another land development plan. A cottage housing development must be on at least half an acre and receive City Council approval. *(Ord. No. 2015-36, §1, 11-10-2015)*

D. *Detached Dwelling.* A free-standing structure designed for a single principal dwelling unit as the only use (also commonly referred to as a “Single-family Residence”).

E. *Duplex.* A dwelling unit in a free-standing structure designed for two principle dwelling units as the only uses, and where the units may be separated by a party wall and located on separate lots if they are intended for individual ownership. The units may be separated by different stories where the structure is intended for single or condominium ownership.

F. *Garden Home.* A dwelling designed to be occupied by a single family, built on a lot line but separated from any other building by open space on all sides.

G. *Multi-family Dwelling.* A building or portion thereof, arranged, intended, or designed for occupancy by three or more families, being separate quarters and living independently of each other. Multi-family dwelling also means more than three dwelling units on a single lot or parcel, whether attached or detached (commonly referred to as Apartments or Plexes with more than two units). *(Ord. No. 2013-23, §1, 7-23-2013)*

H. *Mixed-Use Dwelling.* A structure containing one or more dwelling units, but is designed for one or more non-residential use as principal uses, and where the dwelling units are not accessory to those uses. (commonly seen as ground level retail or office with upper level residential "condominiums" or "apartments")

I. *Retirement Community.* A residential development which includes separate dwelling units specifically designed to meet the needs of the elderly, together with incidental recreation and support facilities for the benefit of the residents.

1.07.002. <u>Civic Use Category.</u>

The Civic Use Category includes uses serving a broad and general public and community interest to enhance daily cultural, social or recreation opportunities for area landowners and residents. This category is based upon the form and functions of buildings and land, and may contain uses that are either public and accessible to all citizens; common and accessible by rights associated with ownership; or private and accessible by membership.

A. *Assembly.* An establishment that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare of the community. *(Ord. No. 2009-14, §3, 6-09-2009)*

1. Assemblies are limited in the districts by the seating capacities in the primary facility (this excludes any support facilities such as, education buildings, athletic buildings) as outlined below:

	Residential Districts	Residential Districts	Residential Districts	Commercial Districts	Commercial Districts	Central Business District
Seats	Less than 250	Less than 550	Less than 550	Less than 1,200	Greater than 1,200	Less than 650
Street Type / Access Points	Local (Neighborhood, Residential)	Located in a Grid Network*	Collector (Secondary, Primary Avenue)	Collector (Primary, Avenue)	Arterial	Located in a Grid Network*
No. of Access Points	1	3	1	2	2	3

* Reference the City of Boerne Subdivision Ordinance, Table 3:1 - Transportation Network Types

B. *Club or Lodge.* A building housing an association of persons for the promotion of some non-profit common object, as literature, science, politics, good fellowship, etc., meeting periodically, limited to members, with residential occupancy accounting for not more than one-third of the gross floor area occupied by the use.

C. *Community Athletic Field.* A noncommercial facility for active outdoor recreation and organized sports, including a facility which is an accessory use to a school, but excluding any facility with lighted fields or permanent buildings for refreshment stands, locker rooms or shower facilities.

D. *Developed Athletic Field or Stadium.* A facility for active outdoor recreation and organized sports which is operated as a business or which includes lighted fields, permanent grandstands, or permanent buildings for refreshment stands, locker rooms or shower facilities.

E. *Government Facility.* A facility or area of land controlled and/or operated by a government entity to aid in

providing a service to the citizens under the jurisdiction of that entity.

F. *Museum of Library.* A nonprofit, noncommercial establishment operated as a repository for a collection of natural, scientific or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the objects collected.

G. *School.* An institution of learning which offers and maintains a course of instruction leading to degrees or certificates of graduation recognized by the Texas Education Agency, including a community athletic field as an accessory use, but excluding a developed athletic field or stadium, which is considered a distinct use. See also "Trade School".

1.07.003. <u>Employment Use Category.</u>

The Employment use category consists of the use of buildings that primarily provide on-site occupations and space for administrative affairs of businesses, organizations, or government entities, and where products or services are of the nature that generally do not require frequent interactions with the clients, customers or patrons on the premises.

A. *Home Occupation.* A business which is carried on entirely within a dwelling as an accessory use to the resident's principal use of the dwelling as a home.

B. *Neighborhood Office.* A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area are less than 3,000 square feet and each owner or tenant employs less than 20 employees on premises. Examples include small-scale professional service offices such as accountants, architects, insurance, law, real estate, or other similar businesses which can operate within the unit square footage and employee limits of this category.

C. *General Office.* A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area are between 3,000 and 30,000 square feet and each owner or tenant employs between 20 and 100 employees on premises. Examples include moderate scale professional services such as accountants, architects, insurance, law, real estate, or other similar businesses which cannot operate within the unit square footage and employee limits of the neighborhood category, or other moderate size business or corporate employment operations.

D. *Major Office or Office Complex.* A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area may be more than 30,000 square feet in a single building or group of buildings, and each owner or tenant may employ more than 100 employees on premises. Examples include large scale professional services or major corporate offices or headquarters.

E. *Business Park or Campus.* A mixed-use development which includes a number of separate office, commercial, wholesaling, and compatible laboratory, industrial and other uses which primarily support the function or employees of those uses, and which is designed and developed as an integrated unit. Each of the individual establishments or uses contained within the business park must be a permitted use in the district in which the business park is located, and all on-site functions or operations of these uses must be conducted entirely inside a building.

1.07.004. <u>Retail Use Category.</u>

The Retail use category consists of buildings that provide display on on-site exchange of merchandise for general consumers, and nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises.

A. *Automobile Gas Station.* A retail business which is principally devoted to the sale of motor vehicle fuels, and which may include as accessory uses the sale of automotive lubricants, tires, batteries and accessories, automotive service, short term rental of light trucks and trailers, and the sale of a limited range of food and

consumer items for the convenience of travelers, but excluding any sale of alcoholic beverages for on-site consumption.

B. *Automobile Convenience Store.* A retail use primarily engaged in the sale of a limited selection of food and personal and home care items, or a combination of such items and the sale of automotive fuels, but excluding any business selling alcoholic beverages for on-site consumption, and involving no more than 3,600 of gross leasable area which is primarily designed for convenient automobile access.

C. *Automobile Parts & Parts Sales.* A business selling parts and accessories for automobiles or other motor vehicles provided that no installation of the parts and accessories and no servicing of vehicles is conducted on the premises.

D. *Automobile Sales.* A business selling automobiles, motorcycles, trucks, recreational vehicles.

E. *Brew pub.* A small establishment at which beer is made but not distributed. May also be in combination with a bar or restaurant. *(Ord. No. 2012-04, §1,4-24-2012)*

F. *Donation bin.* An outdoor receptacle designed with a door, slot or other opening that is intended to accept and temporarily store donated items such as books, clothing or other non-perishable goods and materials. *(Ord. No. 2014-49, §1 12-16-14)*

G. *Mobile Food Vendors.* A readily movable, motorized-wheeled vehicle or a towed vehicle designed and equipped to prepare, or serve, and sell food. *(Ord. No. 2012-04, §1,4-24-2012)*

H. *Grocery Store.* A business engaged in the retail sale of a broad range of food products and limited household products for consumption off premises, although some limited areas may be dedicated to the on premise sale and consumption of food. A grocery store typically involves less than 40,000 square feet of gross leasable area and is characterized by a target market of approximately 1-mile radius.

I. *Outdoor Retail Display.* The limited orderly display of merchandise on a sidewalk or an exterior private area of a site for the sale associated with an otherwise permitted Retail use. This display is either limited by the following: it only occurs during limited portions of the business hours and is brought indoors; is limited in extent to less than 10% of the entire merchandise area of the Retail use; and is limited to seasonal sales or events lasting no longer than two-weeks at a time with at least 4 weeks between consecutive events. Each item shall be displayed individually and not in containers or bags. *(Ord. No. 2015-36, §1, 11-10-2015)*

J. *Outdoor Retail Sales Area.* The orderly display and sales of merchandise on an exterior private area of a site, which is either dedicated to accessory outdoor sales or temporarily used for outdoor sales when the area is not needed for other use, and where the sale is associated with an otherwise permitted Retail use. The use of trash bags to display merchandise is not permitted. Each item shall be displayed individually and not in containers or bags. *(Ord. No. 2015-36, §1, 11-10-2015)*

K. *Outdoor Retail Sales Yard.* The orderly display and sale of merchandise where the primary business is generated by merchandise displayed permanently and year round on an exterior portion of the site. Examples of uses which are intended to be encompassed by this definition are boat and marine sales, lawn and garden supply stores, residential accessory portable building sales, and retail building material supply and lumber yards. *(Ord. No. 2015-36, §1, 11-10-2015)*

L. *Restaurant (Convenience non drive-thru).* Any business engaged in the preparation and retail sale of food and beverages, such as a soda fountain, ice cream parlor, sandwich shop, cafe, or coffee shop, excluding any restaurant offering drive-thru service, live entertainment or alcoholic beverages for on premise consumption. *(Ord. No. 2009-06, §1, 3-24-2009)*

M. *Restaurant (Convenience drive-thru).* Any business engaged in the preparation and retail sale of food and beverages, such as a soda fountain, ice cream parlor, sandwich shop, cafe, or coffee shop offering drive-thru service, excluding any restaurant offering live entertainment or alcoholic beverages for on premise consumption. *(Ord. No. 2009-06, §1, 3-24-2009)*

N. *Restaurant (Limited).* Any business engaged in the preparation and retail sale of food and beverages, which offers live entertainment without amplified sound or which sells alcoholic beverages as an accompaniment to meals, provided that at least 75% of the gross floor area of the business including preparation and serving area is dedicated to the retail sale of food. *(Ord. No. 2012-04, §1,4-24-2012)*

O. *Restaurant (General).* Any business engaged in the preparation and retail sale of food and beverages which offers live entertainment with amplified sound or sells alcoholic beverages as an accompaniment to meals, provided that such beverages produce less than 50 percent of the gross revenue of the business. A business in which the sale of alcoholic beverages produces 50 percent or more of gross revenue is a bar or nightclub.

P. *Retail (Neighborhood).* A retail use primarily engaged in the small-scale sale of merchandise for general household and consumer products and involving less than 3,000 square feet of gross leasable area. *(Ord. No. 2012-04, §1,4-24-2012)*

Q. *Retail (General).* A retail use primarily engaged in the sale of merchandise for general household and consumer products and involving between 3,000 and 10,000 square feet of gross leasable area. *(Ord. No. 2012-04, §1,4-24-2012)*

R. *Retail (Major).* A retail use primarily engaged in the sale of merchandise for general household and consumer products and involving between 10,000 and 50,000 square feet of gross leasable area. *(Ord. No. 2012-04, §1,4-24-2012)*

S. *Retail (Warehouse).* A retail use primarily engaged in the small-scale sale of merchandise for general household products, consumer products, or wholesale products to businesses and industry, and involving greater than 50,000 square feet of gross leasable area. *(Ord. No. 2012-04, §1,4-24-2012)*

T. *Shopping Center.* A development containing a combination of retail business establishments, restaurants, recreational and entertainment facilities, offices and related uses, which is designed and operated as a single unit. Each of the individual establishments or uses contained within the shopping center must be a permitted use in the district in which the shopping center is located.

U. *Spa.* A business establishment which people visit for professionally administered personal care treatments such as massages and facials which may include services offered by a beauty parlor and cosmetic medical treatments that do not require an overnight stay. *(Ord. No. 2012-04, §1,4-24-2012)*

V. *Supermarket Store.* A business engaged in the retail sale of a broad range of food and household products for consumption off premises, although some limited areas may be dedicated to the on premise sale and consumption of food. A supermarket typically involves more than 40,000 square feet of gross leasable area and is characterized by a target market of greater than 1-mile radius.

W. Thrift Store. A retail establishment that offers for sale used goods (resale shop) or goods for sale by consignment. Also a retail establishment operated by a charitable organization for the purpose of fundraising. *(Ord. No. 2014-49, §1 12-16-14)*

X. *Winery.* An establishment at which wine is made. May also be in combination with a bar or restaurant. *(Ord. No. 2012-04, §1, 4-24-2012)*

1.07.005. <u>Service Use Category.</u>

The Service use category consists of businesses that offer the general public with professional skills, advice or other use of business resources, and the nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises. Service uses may be associated with limited retail sales of goods and merchandise but it is generally not a primary purpose of the business or a primary use of the building or land.

A. *Automobile Rental.* A business renting or leasing automobiles, motorcycles or light trucks, but excluding and large vehicle and machinery rental. *(Ord. No. 2013-23, §1, 7-23-2013)*

B. *Automobile Service with outside storage.* A business repairing or servicing automobiles, motorcycles or light trucks, or selling, installing and servicing their parts and accessories, but excluding gas stations and large vehicle and machinery service establishments (storage of vehicles or outside storage of vehicle parts shall not exceed 30 days). *(Ord. No. 2013-23, §1, 7-23-2013)*

C. *Automobile Service without outside storage.* A business repairing or servicing automobiles, motorcycles or light trucks, or selling, installing and servicing their parts and accessories, but excluding gas stations and large vehicle and machinery service establishments. *(Ord. No. 2013-23, §1, 7-23-2013)*

D. Bank Kiosk. A small unmanned structure used as a bank service location. *(Ord. No. 2012-04, §1,4-24-2012)*

E. *Bank or Financial Institution.* A business engaged in monetary transactions and personal finance services for the general public.

F. *Bar.* A business primarily engaged in serving alcoholic beverages for consumption on premises. Any food or entertainment services are generally secondary or accessory to the business.

G. *Barber Shop or Beauty Parlor/Hair Salon.* A business offering hair care and limited beauty related procedures such as nail care services and waxing. *(Ord. No. 2012-04, §1,4-24-2012)*

H. *Bed & Breakfast.* Providing tourist lodging services within rooms of a residence or within a separate accessory structure on the same lot and served by the same water meter and electric meter as the principal structure.

I. *Bus Terminal*. A central facility for the mass boarding and exiting of buses.

J. *Car Wash*. A business primarily engaged in offering its facilities for full-service, automatic, or self-service cleaning of the exterior of vehicles, and other ancillary services for automobiles.

K. *Day Care / Before or After-school program*. An operation that provides care before and/or after the customary school day and during school holidays, to children who attend pre-kindergarten through grade six. *(Ord. No. 2014-49, §1 12-16-14)*

L. *Day Care / Adult.* A business or institution where organized care or instruction is imparted to adults over the age of 18 during typical business hours.

M. *Day Care Nursery.* A business or institution where organized care or instruction is imparted to children under the age of seven years during typical business hours.

N. *Funeral Home or Mortuary.* Buildings or facilities for the preparation and treatment of deceased humans, and ceremonies prior to burial or cremation.

O. *Golf Course*. An outdoor recreation area offering the use of its grounds to play golf for a daily or other periodic fee.

P. *Gym (Fitness facility).* A person, firm, corporation, organization, club or association engaged in the sale of instruction, training, or assistance in a program of physical exercise or weight reduction. The zoning, lighting, parking and design regulations fall under the category of Retail (Neighborhood, General or Major). *(Ord. No. 2014-02, §1, 2-25-2014)*

Q. *Health Clinic.* An establishment in which one or more physicians, dentists, or other health care professionals and their allied professional assistants are associated for the purpose of carrying on their professions. A health clinic may include a dental or medical laboratory, after hours emergency care, but it may not include in-patient care or operating rooms for major surgery.

R. *Hospital.* An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

S. *Hotel or Motel.* A business other than a bed & breakfast or a rooming or boarding house in which rooms are rented, generally for short-term occupancy by transient guests, together with incidental meeting rooms, restaurants and recreation facilities for the primary benefit of the guests.

T. *Kennel.* Any lot or premises, other than a veterinary clinic, on which four or more domestic animals more than four months of age are housed, groomed, bred, boarded, trained or sold.

U. *Laboratory.* Any business or free-standing establishment in which the principal activity involves testing or analysis of any material, and which is not an accessory to another use, such as an accessory to a manufacturing or processing plant or a hospital or health clinic. No manufacturing is conducted on the premises except for experimental or testing purposes.

V. *Laundry (self service)*. A business engaged in renting the use of coin operated machines for cleaning cloths and other personal goods.

W. *Long Term Care Facility.* An establishment such as a hospice, nursing home, sanitarium or rehabilitation center where seventeen (17) or more Persons in Need and/or persons with a Disability are attended for a relatively extended period of time, as distinguished from a hospital or other institution for acute care and short term therapy. *(Ord. No. 2014-02, §1, 2-25-2014)*

X. *Medical Office.* An establishment in which one or more physicians, dentists, or other health care professionals and their allied professional assistants are associated for the purpose of carrying on their professions. A medical office may include a dental or medical laboratory, but may not include in-patient care or operating rooms for major surgery and may not be open for after-hours emergency care.

Y. *Nightclub*. A business primarily engaged in offering live entertainment or stage shows. Any food or alcoholic beverage services are generally secondary or accessory to the business.

Z. *Parking Lot or Parking Garage.* A facility, whether outdoors or in a building or structure, in which the parking of motor vehicles is the principal use rather than an accessory to another use.

AA. *Pawn Shop*. A business engaged in offering credit for pledged goods or personal property, or the purchase of tangible personal property on the condition that it may be re-sold, or may be re-deemed or repurchased at a new price at a later time.

BB. *Recreational and Entertainment Facility.* Any business or establishment (1) which is not defined separately in this ordinance or enumerated as a distinct use in a Table of Permitted Uses, and (2) in which the primary use is the provision of recreational opportunities or the production of entertainment for paying customers.

CC. *Rooming House or Boarding House*. A business in which three or more persons who are not members of the same family reside in a dwelling unit and are provided lodging under separate rental agreements, whether written or verbal, within a dwelling unit. This use is distinguished from a Bed & Breakfast that provides short-term lodging. *(Ord. No. 2014-02, §1, 2-25-2014)*

DD. *Theater.* An entertainment venue where live stage or motion picture performances are offered to audiences as a business.

EE. *Trade School.* A business or institution which offers instruction in any occupation, skill or trade, as distinguished from an institution of academic learning.

FF. *Trailer Court.* Any premises designated for the purpose of parking travel trailers and recreational vehicles overnight or on a short term basis (6 months or less) and providing public restrooms, temporary water and electrical hookups, and similar services. *(Ord. No. 2015-36, §1, 11-10-2015)*

GG *Veterinary Clinic.* A business or institution devoted to the health care of animals, as distinguished from the boarding, breeding, or raising of animals. A veterinary clinic is distinguished from a kennel or stable by having no outdoor pens or enclosures in which animals are kept, except for short periods as incidentally necessary to their medical care.

HH. *Video or Pinball Arcade*. A business primarily engaged in entertaining patrons primarily through games, devises, or machines which directly collect fees to participate, such as coin operated pinball or video games.

II. *Wholesale.* Sale for resale, not for direct consumption.

1.07.006. Manufacturing and Utility Use Category.

The Manufacturing use category is for businesses engaged in activities that require more intense use of land and buildings in terms of land area, building facilities, or external operations. They primarily operate mechanical or chemical transformation of materials and goods, or engage in large-scale warehousing or storage of materials and goods typically for shipment or delivery to other business. The operation of these businesses typically require more intense use of land and buildings, operation of heavy machinery or equipment, or frequent access of commercial hauling equipment, and a activities may produce by-products that are discernable from adjacent property.

A. *Contractor.* A business which involves the outdoor storage of materials for use at another location, or the outdoor storage of equipment which is intended for use by the business at another location or for rent, as distinguished from any trade in which all activity on the site is conducted inside a building.

B. *Commercial Communications System.* Any installation such as a radio, microwave or cellular telephone tower, antenna or related switching equipment in which the principal use is the transmission of information as a business, as distinguished from an antenna which is incidental to the remote monitoring or operation of a utility plant, industrial site or governmental facility.

C. *Industrial Park.* A development which is intended to be the site for a number of manufacturing, industrial, warehousing and related uses, and which is designed and developed as an integrated unit. Each of the individual establishments or uses contained within the industrial park must be a permitted use in the district in which the industrial park is located.

D. *Industry, or Industrial.* A land use involving processing, manufacturing, or warehousing, or the outdoor storage of goods or materials intended for processing or manufacturing, or the outdoor storage of machinery or equipment to be used by the business at another location rather than being offered for sale or rent, all as distinguished from wholesale or retail trade and services. A laboratory which is not incidental or accessory to another use, such as a health clinic or a hospital, is also an industrial use.

E. *Junk Yard.* The use of any lot for the storage, keeping or abandonment of junk, whether inside or outside a building.

F. *Large Vehicle and Machinery Rental, Sales and Service.* A business renting, leasing, repairing, servicing or selling buses, motor homes, trucks larger than standard pickup trucks, or off-road machinery or equipment of any character, or selling, installing or servicing parts and accessories for such vehicles, machinery or equipment.

G. *Manufacturing.* All operations of fabrication, such as assembling, stamping, cutting or otherwise shaping processed materials into useful objects, as opposed to the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Excludes products used for onsite sales or consumption.

H. *Mini-Warehouse.* A business in which separate storage units are rented to individuals who are entitled to exclusive and independent access to their respective units.

I. *Portable Building Sales.* A business selling either mobile homes or other portable buildings or structures larger than residential accessory storage sheds, whether in finished or kit form.

J. *Processing. Any* operation changing the nature of material or materials, such as their chemical composition or physical qualities, as distinguished from the fabrication operations defined as manufacturing.

K. *Utility Station, Substation or Service Center.* A facility used for the exterior placement of large-scale equipment used in providing electric or other public utility services to the general public, and any internal facilities or administrative areas associate with the equipment operation.

L. *Warehousing.* The depositing or securing of goods, wares and merchandise in a warehouse.

1.07.007. Agriculture and Natural Resource Use Category.

The Agriculture and Natural Resource use category is for uses that rely on land resources for the production or storage of animals, crops, or other products as the primary use of land and buildings. Activities may produce by-products that are discernable from adjacent property, and there is typically little or no demand for public infrastructure

and services. Any retail sales or services associated with these uses are accessory in terms of the operation and area of land devoted to the uses.

A. *Agriculture*. A farm, orchard or similar use of land in horticulture, or a ranch or similar use of land to raise animals as livestock, including as an accessory use the seasonal or incidental sale of products grown or raised on the property, but excluding retail plant nurseries, kennels, stables and feedlots.

B. *Exhibition or Fairgrounds*. Exterior grounds used for periodic venues for large scale gatherings to display items, watch special events, or participate in social and recreational games and activities.

C. *Plant Nursery.* A use of land to grow plants of any kind for transplanting to another location or for sale as live plants rather than as crops, including the sale of related gardening equipment and supplies.

D. *Stable.* Any business or institution in which horses or other livestock are housed, groomed, bred, boarded, trained or sold.

1.07.008. Sexually Oriented Business Use Category.

Uses that may involve business activities that are sexual in nature, are not obscene and are protected by First Amendment Rights, but which may cause negative secondary affects to adjacent land owners and the character of the district or neighborhoods as a whole.

A. *Adult Bookstore.* A business which has a substantial or significant portion of its stock in trade in, or which has as its main purpose the offering for sale or rent of books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, video or sound recordings, or printed, visual or audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or a business which offers for sale books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, or sound recordings, or printed, visual or audio material of any kind, which entire business establishment, because of the depiction or descriptions of specified anatomical areas or specified sexual activities in the materials offered for sale or rent, is restricted to adults, or is advertised or promoted as being restricted to adults.

B. *Adult Entertainment Establishment.* A business where live entertainment is provided for patrons, or a portion of a business set aside for providing live entertainment to patrons, in which a significant portion of the entertainment is characterized by an emphasis on the exhibition, depiction, or description of specified anatomical areas or specified sexual activities; or a place where entertainment is provided to patrons wherein, because of the exhibition of specified anatomical areas or specified sexual activities, admittance is limited to adults, or admittance is advertised or promoted as being restricted to adults.

C. *Adult Motion Picture Theater.* A business where motion pictures are shown to paying customers when such place is used for presenting material having as its dominant theme, or distinguished or characterized by, an emphasis on the depiction or description of specified anatomical areas or specified sexual activities for observation by patrons, and where admittance to such showings is totally limited to adults.

SECTION 08. VIOLATIONS

Wherever by the provisions of this ordinance the performance of any act is required or the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on any land or on the erection, demolition, alteration or change of use of any building, structure, or use, a failure to comply with the provisions of this ordinance shall constitute a violation of this ordinance. Every day on which a violation exists shall constitute a separate violation and a separate offense. The penalty for each offense shall not be more than $1,000.00.

SECTION 09. REMEDIES

In case any building or structure is erected, constructed, reconstructed, demolished, altered, repaired, converted or maintained or any building, structure or land is used in violation of this ordinance, the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, demolition, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the

occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or above such premises, including but not limited to all remedies provided in Texas Local Government Code, Sec. 211.012. The imposition of any penalty hereunder shall not preclude the City from instituting any appropriate action or proceedings to require compliance with the provisions of this ordinance and with administrative orders and determinations made hereunder.

SECTION 10. SEVERABILITY

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 11. EFFECTIVE DATE

This ordinance will take effect immediately upon final passage and publication as required by law.

ARTICLE 2. ADMINISTRATION

SECTION 01. ROLES OF CITY OFFICIALS AND AGENCIES
SECTION 02. LAND USE DETERMINATION
SECTION 03. CERTIFICATES OF OCCUPANCY

SECTION 01. ROLES OF CITY OFFICIALS AND AGENCIES

The general roles of City officials and agencies under this ordinance are as follows:

2.01.001. City Manager.

Except as otherwise provided in this ordinance, the City Manager administers and enforces this ordinance, including making determinations on the proper classification of land uses, receiving all applications and fees, issuing required notices, inspecting premises, and issuing building permits, certificates of appropriateness and certificates of occupancy. References in this ordinance to the City Manager include the City Manager's duly authorized representative.

2.01.002. City Council.

City Council receives and acts upon reports and recommendations by the City Manager, the Planning and Zoning Commission and the Historic Landmark Commission, adopts amendments to the zoning maps and the text of this ordinance, designates historic districts and landmarks, and grants ad valorem tax exemptions to historically significant sites in need of tax relief to encourage their preservation.

2.01.003. Planning and Zoning Commission.

The Planning and Zoning Commission recommends a comprehensive plan for the development of the City, recommends amendments to the zoning maps and the text of this ordinance, and conducts studies and makes recommendations on other matters relating to the planning and development of the City.

2.01.004. Zoning Board of Adjustment.

The Zoning Board of Adjustment hears and decides appeals where it is alleged there is an error in the administration or enforcement of this ordinance, approves special exceptions to this ordinance and variances from the literal application of the terms of this ordinance in those cases authorized by state law.

2.01.005. Historic Landmark Commission.

The Historic Landmark Commission recommends the designation of historic districts and landmarks, recommends the granting of tax exemptions to historically significant sites in need of tax relief, approves the issuance of building permits and certificates of appropriateness for work involving landmarks and structures in historic districts, and works in general to preserve the City's historic heritage.

SECTION 02. LAND USE DETERMINATION

The City Manager shall make a Land Use Determination upon receipt of a written application, as set forth herein. The City Manager shall make such Land Use Determination within twenty one (21) days of receipt of such application. After the initial Land Use Determination is made by the City Manager a public hearing shall be held pursuant to the requirements below. Such Land Use Determination shall be reviewed by the City Council at the earliest possible meeting. In case the final determination cannot be made at the first meeting, the applicant shall be notified when it will be made and in no event shall it be longer than 60 days from receipt of the written application. *(Ord. No. 2013-23, §2, 7-23-2013)*

A. Filing of Application. An application for a Land Use Determination shall be filed with the City Manager. The application shall be accompanied by the appropriate filing fee established by City Council.

B. The applicant will be notified of the Land Use Determination made by the City Manager. Notification of a public hearing before City Council shall be posted as stated in section 2.02.001 and a public hearing will be held at which City Council shall approve or deny the Land Use Determination made by the City Manager.

12.02.001. Before the City Council.

A. ***Notice and Public Hearing Required.*** No Land Use Determination shall become effective until after the public hearing and approval by City Council. Notice of the time and place of such hearing shall be published in an official newspaper or a newspaper of general circulation in the city at least fifteen (15) days in advance. Written notice of the Land Use Determination public hearing shall be sent by the City Manager, or designee, to the owners of all real property which lies within 200 feet of the subject property, not less than 10 days before the date set for the public hearing. Notification of Land Use Determination to be made within the Industrial district shall be sent to property owners within 400 feet of the subject property not less than ten (10) Days before the date set for the hearing. The owners to be so notified shall be determined according to the last approved tax roll. Such notice may be served by depositing same, properly addressed and postage paid, in the city post office.

B. The applicant shall not proceed with the use of the property until after the Land Use Determination has been reviewed and approved by the City Council.

C. The Planning and Zoning Commission shall be notified at their next regular meeting of any Land Use Determination made by the City Manager and approved or denied by the City Council.

SECTION 03. CERTIFICATES OF OCCUPANCY

2.03.001. Certificate Required.

No land shall be occupied or used and no building or structure hereafter erected, structurally altered, or extended shall be used, occupied, or changed in use until a certificate of occupancy shall have been issued by the City Manager, stating that the building or structure and proposed use thereof complies with the provisions of this ordinance.

2.03.002. Certificates for Nonconforming Uses.

No nonconforming use shall be renewed, changed in use or extended without a certificate of occupancy having first been issued by the City Manager.

2.03.003. Records to be Kept.

The City Manager shall keep a record of all certificates of occupancy, and this record shall be available for inspection by the public.

2.03.004. Completion of Landscaping Required.

A certificate of occupancy shall not be issued until the requirements set forth in Article 4 of this ordinance have been complied with.

ARTICLE 3. GENERAL PROHIBITIONS AND REQUIREMENTS

SECTION 01. GENERAL REGULATIONS
SECTION 02. OUTDOOR LIGHTING
SECTION 03. TEMPORARY USE OF TRAVEL TRAILERS
SECTION 04. HOME OCCUPATIONS
SECTION 05. SUPPLEMENTAL HEIGHT, YARD, AREA AND SLOPE REQUIREMENTS
SECTION 06. ACCESSORY DWELLINGS
SECTION 07. NEIGHBORHOOD DESIGN STANDARDS
SECTION 08. COMMERCIAL CENTER DESIGN STANDARDS
SECTION 09. COMBINED COMMERCIAL DESIGN STANDARDS
SECTION 10. ON-SITE PARKING REQUIREMENTS
SECTION 11. RECONSTRUCTION OF DAMAGED BUILDINGS
SECTION 12. NONCONFORMING USES, STRUCTURES AND LOTS
SECTION 13. ZONING DISTRICTS ESTABLISHED
SECTION 14. MAP OF DISTRICT BOUNDARIES (ZONING MAP)
SECTION 15. RULES FOR INTERPRETATION OF ZONING MAPS
SECTION 16. ZONING OF NEWLY ANNEXED TERRITORY
SECTION 17. TRANSITIONAL USE

SECTION 01. GENERAL REGULATIONS

Except as provided in this ordinance:

A. No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, structure or land be used, for any purpose other than is permitted in the district in which such building, structure or land is located.

B. No building or structure shall be erected, reconstructed or structurally altered to exceed a height or bulk limit or setback requirement herein established for the district in which such building or structure is located.

C. No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this ordinance.

D. No yard or open space shall be provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building or structure.

E. Every building hereafter erected shall be located on a lot.

SECTION 02. OUTDOOR LIGHTING

3.02.001. Applicability.

All public and private outdoor lighting installed in the City of Boerne after the effective date of this ordinance shall conform to the requirements established by this ordinance.

3.02.002. Creation of Lighting Districts.

Lighting districts established in these regulations allow for uniform lighting from one district to the other. The lighting districts are generally defined below.

A ***District 1*:** Commercial properties contiguous to the IH-10 right-of-way, US 87 (Main Street) from the south exchange to the intersection of HWY 46 (Bandera Rd.) except as identified in District 3, HWY 46 or West Bandera Rd west US 87 (Main Street) to city limits and, from the intersection of US 87 at N. School Street to the north exchange for the depth of the property, or 350 feet whichever is greater.

B. ***District 2:*** Properties contiguous to US 87 North from HWY 46 (Bandera Rd.). The intersection of US 87 and N. School Street and from the intersection of FM 474 and US 87 East to the City limits, and from the intersection of HWY 46 E and US 87 East along River Road to the City limits.

C. ***District 3:*** River Rd from US 87 to the west side of Esser/Herff Road intersection and the remainder of the City of Boerne. Properties located in the SoBo Overlay district east of Hwy 87 shall adhere to District 3 lighting standards and shall have pole heights no taller than 20 feet except for street lights on Herff Road. *(Ord. No. 2017-03, §1, 1-24-2017)*

3.02.003. <u>Lighting Classification.</u>

A. ***Class 1 Lighting.*** Class 1 Lighting shall apply to all outdoor lighting where color rendition is required to preserve the effectiveness of the application. Designation of lighting as Class 1 requires an express finding of the City Manager that color rendition is an essential function of the application.

1. *Design Plan.* All luminaires used for Class 1 Lighting facilities which are installed after the effective date of this ordinance shall be fully shielded as defined herein, or be designed or provided with sharp cut-off capability, so as to minimize up-lighting, spill lighting, or glare.

2. *Recreational Facilities.* Any light source permitted by this ordinance may be used for lighting of outdoor recreational facilities (public or private), including, but not limited to, sports fields or courts, amphitheaters, and similar applications, provided the following conditions are met:

   a. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than three (3) foot-candles.
   b. Recreational facilities located in Lighting District 3 shall turn off Class 1 lighting within thirty (30) minutes of the end of an event.

3. *Outdoor Sales.* Any light source permitted by this ordinance may be used for lighting of outdoor sales located in Lighting District 1, provided the following conditions are met:

   a. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled “special event”; i.e. an all-night sale.
   b. A secondary low-level lighting system that complies with Class 2 Lighting lamps may be metal Haliad if the property owner desires shall be installed to facilitate security, cleanup, maintenance, and exit from the facility. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than six (6) foot candles.
   c. Lighting Levels - During operating hours: *(Ord. No. 2014-49, §3 12-16-14)*

      i. Feature display area (the area within 200 ft. of the main building) the average horizontal illumination level shall not exceed fifty (50) foot-candles. These areas shall not be located within 100 feet of a residentially zoned areas.
      ii. Other display areas the average horizontal illumination level shall not exceed (30) foot-candles. These areas shall not be located within 100 feet of a residentially zoned area
      iii. General parking areas for staff etc. shall not exceed two and one half (2.5) foot-candles.

4. Lighting Levels - After Hours: *(Ord. No. 2014-49, §4 12-16-14)*

   i. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled “special event” i.e. an all-night sale.
   ii. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility if the property owner desires. The lamps may be metal Haliad or LED. The low-level

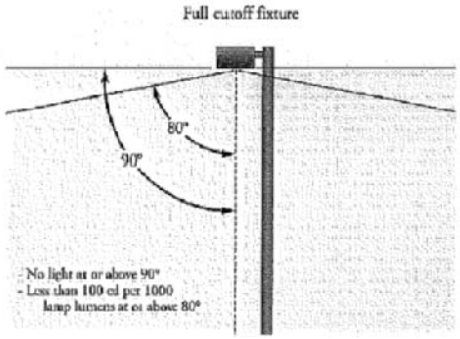
lighting system shall provide an average horizontal illumination, at grade level, of no more than two and one half (2.5) foot-candles.

B. ***Class 2 Lighting.*** Class 2 Lighting shall apply to all outdoor lighting where general illumination for safety and security of grounds is the primary concern and color rendition is not required to preserve the effectiveness of the application. The City Manager and/or the City Manager's designee may consider other lighting options if safety is of consideration. *(Ord. No. 2008-25, §3, 8-12-2008)*

1. *Parking Lots.* Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision, security and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets. Any light source permitted by this ordinance may be used for parking lots located in any Lighting District, provided the following conditions are met:

a. All luminaires used for parking lot lighting shall be either yellow high pressure sodium or LED and shall follow the standards for lighting identified below. Any exceptions to this section of the ordinance due to safety issues may be made by the City Manager and/or the City Manager's designee.

b. All luminaires shall use Full Cut-Off Fixtures or shall otherwise be fully shielded, as that term is defined herein.



c. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination.

d. No up-lighting

e. Poles are measured from grade

f. Light trespass at the property line is 0.00

g. Design goals should be the lowest levels that meet the requirement of the task

h. Any lighting under awnings or canopies shall be completely recessed or shielded

~~i.~~ Yellow high pressure sodium luminaires used for parking lot lighting may be installed at a maximum height of thirty (30) feet

i. Perimeter poles that abut a residence or residential district shall be no more than 10 feet in height. They shall turned off by 9:00 p.m. unless there is a special event.

j. River Road and River Corridor zoning districts parking lot lights shall be fully shielded, decorative, high pressure sodium lights with bulbs that do not exceed 100 watts, or LED with bulbs that do not exceed 3,000 kelvins. The poles shall not exceed twelve (12) feet in height.

k. LED parking lot lighting shall adhere to the following criteria.

i. All fixtures are Full cut-off.

ii. Poles shall be 20 feet in height with perimeter (at the property line) poles at 10 feet in height.

iii. Lumens per net acre shall not exceed 100,000 (does not include governmental owned streetlights).

- This lumen per net acre value is an upper limit and not a design goal
- Design goals should be the lowest levels that meet the requirement of the task

iv. Maximum 3,000 kelvins for bulbs.

v. Any lighting under awnings or canopies shall be completely recessed or shielded.

vi. Outdoor lighting intended to be left on more than 30 minutes after closing, or the completion of activities must be reduced to 25% or less of the normal lumen output. Motion sensor activation may be allowed to cause the light to resume normal lumen output only when activated and to be reduced back to 25% or less of normal lumen output with 5 minutes after activation.

vii. Wall packs may be used in combination with pole lights if they are full cut-off and/or shielded fixtures.

viii. SoBo area, east of Hwy 87 is limited to 50,000 lumens per acre.

2. *Street Lighting.* Street lighting shall be designed to provide minimum lighting necessary to ensure adequate vision, security and comfort in public and private streets, and to not cause glare or direct illumination more than five (5) feet beyond the right of way. Any light source permitted by this ordinance may be used for street lighting in any Lighting District, provided the following conditions are met:

a. Luminaires used for public/private street lighting that are installed after the effective date of this ordinance shall be installed using Full Cut-Off Fixtures or shall otherwise be fully shielded, as that term is defined herein. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination. City Council authorizes the use of the Granville series luminaire with the Leaf Style Casting and Lunar Optics as manufactured by Holophane.

b. Only high pressure sodium lighting fixtures shall be installed after the effective date of this ordinance with the exception of decorative lights which have been approved for street lighting uses by the City Council. The City Manager may approve the use of LED lighting fixtures for street lighting. *(Ord. No. 2009-06, §1, 3-24-2009)*

3. *Security Lighting.* For the purposes of this section, security lighting is defined as lighting intended to reduce the risk (real or perceived) of personal attack, or lighting intended to discourage intruders, vandals, or burglars, and to protect property. Any light source permitted by this ordinance may be used for security lighting in any Lighting District, provided the following conditions are met *(Ord. No. 2008-25, §3, 8-12-2008)*:

a. All security lighting fixtures installed after the effective date of this ordinance shall be fully shielded and aimed so that illumination is directed only within the owner's property boundaries and not cast on other areas. The use of general floodlighting fixtures shall be prohibited.

b. Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level eight (8) feet above grade or eight (8) feet above the bottoms of doorways or entries, whichever is greater. The use of up-lighting luminaires shall be prohibited.

c. Security lighting fixtures may be mounted on poles located no less than ten (10) feet from the perimeter of the property boundary.

d. Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five (5) feet of the perimeter. The zone of activation sensors must be within the property boundaries of the property wishing to be illuminated.

e. The use of partially shielded period light fixtures that are mounted on a pole of ten (10) feet in height or less, the illumination shall be directed only within the owner's property boundaries and not cast on other areas, and light bulbs shall not be rated for more than 3000 lumens is permitted. *(Ord. No. 2008-25, §3, 8-12-2008)*

f. In the River Road and River Corridor zoning districts, security lights shall be fully shielded, decorative, high pressure sodium lights (bulbs not to exceed 100 watts), or LED (with approval of the City Manager), that do not exceed twelve (12) feet in height measured from grade. *(Ord. No. 2012-04, §3, 4-24-2012)*

4. *Lighting of Canopies and Service Islands.* Lighting levels on service islands and under canopies shall be adequate to facilitate the activities taking place in such locations.

a. Areas on the apron away from the service islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in ordinance.

b. Areas around the service islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least 1.0 foot candles and no more than forty (40) foot candles in District 1 and twenty (20) foot candles in District 2.

c. Light fixtures mounted on canopies shall be fully shielded, or recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.

d. Lights shall not be mounted on top, or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

C. ***Class 3 Lighting.*** Class 3 Lighting shall apply to all outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, and seasonal holiday lighting.

1. *Lighting of Building Facades and Landscaping.* Any light source permitted by this ordinance may be used for lighting of building facades and landscaping in any Lighting District, provided the following conditions are met:

a. The maximum illumination on any vertical surface or angular roof surface shall not exceed three (3) foot-candles.

b. Lighting fixtures shall be at least partially shielded, as defined herein, and aimed so that no light is directed onto adjacent streets or roads.

c. The use of up-lighting luminaires shall be prohibited, unless such luminaires are fully shielded, and directed in such a way that no light is aimed beyond the building or landscaping directly into the night sky with the exception the illumination of governmental flags.

2. *Ornamental Lights.* Ornamental lights may be used in any Lighting District, provided the following conditions are met:

a. Decorative strings of lamps/bulbs must not create glare on adjacent streets or property.

b. Lighting (including strings of lamps/bulbs) for parties, celebrations, and other social gatherings is allowed.

3. *Lighting of Walkways, Bikeways, Sidewalks.* Any light source permitted by this ordinance may be used for lighting walkways, bikeways and sidewalks in any Lighting District, provided the following conditions are met:

   a. Where special lighting is to be provided for walkways, bikeways, sidewalks or parks, the following requirements shall apply:
      i. The walkway, pathway, sidewalk, or ground area may be illuminated with bollards. *(Ord. No. 2012-04, §3, 4-24-2012)*
      ii. Lighting fixtures shall be fully shielded, or otherwise designed to direct light downward, and light sources shall have an initial output of no more than 2000 lumens.

4. *Outdoor Advertising Signs.* Any light source permitted by this ordinance may be used for lighting of outdoor advertising signs located in any Lighting District, provided the following conditions are met. In the event of a conflict, the City of Boerne's Sign Ordinance shall control:
   a. All legally installed externally illuminated signs shall have top-mounted luminaires which meet the shielding and grandfathering requirements contained herein.
   b. Bottom-mounted luminaires on externally illuminated signs shall be prohibited.
   c. Legally installed internally illuminated signs, to the degree same are permitted by the Boerne Sign Ordinance, shall be constructed of translucent materials, and the source of internal illumination shall not be directly visible through said material. Internally illuminated signs are prohibited in Lighting District 3.

5. *Residential Area Lighting.* While fully shielded lights are preferred, individual lamps are limited to 2950 lumens or less.

3.02.004. Illumination Plan Requirements for Development Projects.

The submission shall contain, but shall not be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the ordinances of the City of Boerne upon application for the required permit.

A. Two copies of an illumination plan shall be submitted with the building permit for review for compliance with this section.

B. A site plan, drawn to a scale of one-inch equaling twenty (20) feet, showing buildings, landscaping, parking area, and all proposed exterior fixtures including lamps, supports, reflectors and other devices.

C. Specifications for all proposed lighting fixtures including photometric data designation as IESNA full cut-off fixtures where required, and other descriptive information on the fixtures. Photometric data need not be submitted when the full cut-off performance of the fixture is obvious to the reviewing official.

D. When a submittal includes a statement by a registered design professional that the existing site lighting is being modified less than 10%, it shall not be necessary to comply with paragraph 5 below in this section.

E. When the lighting plan includes a statement by a registered design professional that the design is accordance with this ordinance the requirements of paragraph 2 above shall not apply.

F. A schedule on the plans to confirm compliance with Table 1. The schedule shall include the following information:

   1. Each exterior luminaire type with the mean lumens for that type, the quantity of each type.
   2. The total of mean lumens for the parcel.
   3. A statement of the Lighting District, the size of the permitted parcel, and the maximum allowed mean lumens.

3.02.005. Total Outdoor Light Output and Shielding Requirements.

Table 1 gives requirements of the total light output permitted per acre for the different lighting areas for class of lighting, lamp type and lighting area. These requirements shall be met for all lighting installations subject to this section.

A. *Total Outdoor Light Output*. Total outdoor light output shall not exceed the lumen limits given in Table 1. In the table, Total means the sum of shielded. For determining compliance with this section the total lumens is the sum of the following:

1. One hundred percent of the lumens from outdoor light fixtures installed on grade, on poles, on the top or sides of buildings or other structures.
2. Outdoor lighting fixtures shall not be counted in determining the total light output when they are full cut-off light fixtures under canopies, building overhangs or roof eaves.

Table 1 Maximum Total Outdoor Light Output Requirements Lumen Caps: Mean Lumens per Net Acre (2)			
Lighting Districts (Defined in Subsection 3.02.002)			
	1	2	3
Commercial, Industrial and Multifamily			
All lighting must be FCO	225,000	100,000	50,000

Notes to Table 1:

1. Lumens resulting from the lighting of recreational facilities i.e. tennis/football/baseball facilities and primary lighting for outdoor sales facilities shall not be included in the determination of the Lumen Cap per acre.
2. Mean lumens per acre equals total outdoor light output divided by net acres.

3.02.006. <u>Nonconforming Luminaires and Establishments.</u>

A. All grandfathered luminaires legally in place prior to the effective date of this ordinance shall be considered lawful nonconforming outdoor lighting.

B. All grandfathered luminaires shall come into compliance as follows:

1. Any luminaire that replaces a grandfathered luminaire for any reason shall be replaced with a luminaire that complies with this ordinance.
2. Any grandfathered luminaire that is moved, remodeled or otherwise structurally altered, shall be in compliance with the requirements established by this ordinance.

3.02.007. <u>Exemptions.</u>

A. Emergency lighting utilized during natural or man-made disasters, but only for the duration of the emergency may be exempted.

B. Nonconforming lighting fixtures located in the Historic District, which are consistent with the character of the Historic District may be exempted with approval of the Historic Landmark Commission. Approved fixtures shall be consistent with the architectural period and design style of the Historic District.

C. Lighting elements, such as shades with perforated patterns and opaque diffusers, shall be exempted from the fully shielded requirement provided they do not exceed 100 watts.

D. Ornamental lights that are string lighting.

E. If a proposed lighting plan or fixture does not meet the requirements of this ordinance, but is of demonstrable community benefit, City Council may approve a permanent exemption. The applicant requesting a permanent exemption under this ordinance shall submit sufficient information so that City Council may adequately consider the proposed community benefit. All requests for permanent exemptions must comply with the zoning variance request procedures contained in the City of Boerne's Zoning Ordinance. Any appeals related to decisions regarding permanent exemptions shall comply with the appeals process as contained in the City of Boerne's Zoning Ordinance.

F. The provisions of this code do not prevent the replacement of an existing grandfathered luminaire with an alternate fixture, or the use of bottom-mounted luminaires on externally illuminated signs if it can be shown that the luminaire(s) to be used improve the view of the night sky consistent with the intent of this code. A person may request (and the City Manager may approve) an exemption if the following information is provided:

1. The location of the luminaire to be installed or replaced;
2. The purpose of the luminaire;
3. The total wattage of the grandfathered and the replacement luminaire, if applicable;
4. The type of luminaire to be installed, and if applicable, the type of replacement;
5. If the luminaire is a replacement, through manufacturer's literature or otherwise, the replacement luminaire will reduce light pollution, glare, or Total Outdoor Light Output; or,
6. When the luminaire is bottom-mounted, through the use of manufacturer's literature or otherwise, its use is superior in reducing light pollution, glare, or Total Outdoor Light Output as compared to a top-mounted luminaire.
7. Any other information deemed relevant.

3.02.008. <u>Prohibitions.</u>

A. The installation of any mercury vapor fixture or lamp, krypton, or argon discharge tubes intended for use as an architectural highlight to attract attention is prohibited.

B. The use of laser source light or any similar high-intensity light (such as a strobe light) is prohibited.

C. The operation of searchlights is prohibited.

D. The use of unshielded lights or floodlights that are not installed with a 45-degree downward tilt.

E. Outdoor lighting that interferes with the safe operation of a motor vehicle is prohibited.

F. Up-lighting is prohibited, except as otherwise provided in this ordinance.

G. It shall be unlawful for any outdoor lighting fixture to cause glare, as defined herein and determined by the City Manager or the City Manager's designee, of sufficient intensity as to create an unsafe condition on public or private streets between the hours of midnight (12:00 a.m.) and 6:00 a.m.

3.02.009. <u>Illumination Measurement.</u>

A. ***Metering equipment.*** Lighting levels of outdoor lighting shall be measured in foot candles with a direct reading portable light meter with a color and cosine corrected sensor with multiple scales. The meter shall read within an accuracy of plus or minus five (5) percent. It shall have been tested and calibrated by an independent commercial photometric laboratory or the manufacturer within one (1) year of the date of use as attested by a certificate issued by such laboratory.

B. ***Horizontal method of measurement.*** The meter sensor shall be mounted not more than six (6) inches above ground level in a horizontal position. Readings shall be taken only after the cell has been exposed to provide a constant reading. Measurements shall be made when the meteorological optical range is six (6) miles or further such that measurements will not be adversely affected by atmospheric scatter. Measurements shall be made after dark with the existing questioned light sources on, then with the same light sources off. The difference between the two (2) readings shall be compared to the foot candle ratings listed Table 1. This procedure eliminates the effects of moonlight and other ambient light.

C. ***Vertical method of measurement.*** The meter sensor shall be mounted at least five (5) feet above ground in a vertical position, perpendicular to the property line and facing the outdoor lighting in question.

D. ***Computation of illumination.*** Illumination at a point may be computed in lieu of measurement. Computation methods shall consist of generally accepted IESNA standards, using certified photometric data furnished by the fixture manufacturer, lamp manufacturer, photometric laboratory, or other reliable authority satisfactory to the City Manager. Computations shall be based on new, properly seasoned lamps, new and clean fixtures, and at rated voltage and wattage, with ballasts, lenses, shields, diffusers, and other

appurtenances in place, with proper regard taken for mounting height, relative elevation, natural and manmade objects.

3.02.010. Temporary Lighting for Sports Practices.

A. Where temporary lighting is to be provided for sports practices that are not located in City Parks, or schools the following requirements shall apply. *(Ord. No. 2010-10, §3, 5-25-2010)*

1. The field to be illuminated shall be a minimum of fifty (50) feet from a residential property line or a residential district.

2. Luminaires used for sports practices shall be at a maximum height of twenty (20) feet and may be positioned at that height up to the edge of the property on which the practice is being held.

3. The Luminaires shall be turned off at 9:00 p.m. or thirty (30) minutes after the practice is over, but in no event shall the field be illuminated after 9:30 p.m.

3.02.011. Temporary Exemption.

A. Any person may submit a written request, to the City Manager or the City Manager's designee for a temporary exemption from the requirements of this section. The Request for Temporary Exemption shall contain the following information:

1. Specific exemption or exemptions requested;
2. Type and use of outdoor fixture involved;
3. Duration of time for requested exemption;
4. Total wattage of lamp or lamps;
5. Proposed location on premises (if any) and addresses of premises;
6 Physical size of outdoor light fixture(s) and type of shielding provided;
7. Such other data and information as may be required by the Building Official.

B. ***Approval, Duration.*** The City Manager or the City Manager's designee shall have five (5) business days from the date of submission of the Request for Temporary Exemption to act in writing on the request. If approved, the exemption shall be valid for not more than thirty (30) days from the date of issuance of the approval. The approval shall be renewable at the discretion of the City Manager or the City Manager's designee upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty (30) days.

C. ***Disapproval, Appeal.*** If the Request for Temporary Exemption is disapproved, the person making the request will have the appeal rights as provided in the City of Boerne's Zoning Ordinance.

SECTION 03. TEMPORARY USE OF TRAVEL TRAILERS

The City Manager may grant approval to locate and occupy a travel trailer in any district for no more than two weeks at a time if the City Manager determines that such temporary occupancy would have no significant impact on surrounding properties.

SECTION 04. HOME OCCUPATIONS

3.04.001. In Business Districts.

All existing buildings located in a business district, either on the effective date of this ordinance or in the future, may be used as both a single-family dwelling and a business. Home occupations in business districts must meet the following requirements:

A. There shall be no exterior storage of equipment or materials used in the home occupation at any time.

B. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.

C. On-site parking in addition to that required for the dwelling shall not be required for those business uses which require three or fewer parking spaces.

D. No automobile engine or small engine repair shall be permitted as a home occupation.

3.04.002. In Residential Districts.

Home occupations in all residential districts must meet the following requirements:

A. The incidental use shall never be permitted as a principal use.

B. No business shall be permitted that principally involves the resale of tangible personal property at the business.

C. No manufacturing or industrial use shall be permitted.

D. No barber shop, beauty shop, carpenter shop, electrician shop, plumber shop, radio shop, or sign painting business shall be permitted. No automobile engine or transmission, or small engine repair or service work shall be permitted as a home occupation.

E. *Bed & Breakfasts.* A business providing tourist lodging services within rooms of a residence or within a separate accessory structure on the same lot. There shall be at least one On-site parking space per rental unit. A bed and breakfast does not have to be owner occupied or occupied at times other than its rental. The bed & breakfast must be registered with the City of Boerne and the State Comptroller's Office as a bed & breakfast and it must collect and pay the appropriate hotel/motel taxes. No new accessory structures will be permitted for additional rental units in a residentially zoned area.

F. A Day Care shall be limited to a maximum of six children.

G. All employees must reside on the premises.

H. The home occupation use shall not utilize more than 25% of the gross floor area of the building.

I. No construction features shall be permitted which are not customarily found in a dwelling.

J. No signs identifying the home occupation shall be permitted, except that a single nameplate, not exceeding one square foot in area, may be attached flat to the main building.

K. There shall be no exterior storage of equipment or materials used in the home occupation at any time.

L. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.

SECTION 05. SUPPLEMENTAL HEIGHT, YARD, AREA AND SLOPE REQUIREMENTS

3.05.001. Height Exception.

The height limits, which may be enacted in this ordinance for the various districts, shall not apply to design features not intended for human habitation such as church spires, belfries, cupolas, penthouses, domes or chimneys, ventilators, skylights, water tanks, parapet walls, cornices, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning and

are appropriate for urban design and scale, considering building, site and immediately adjacent buildings and sites. Height for commercial, industrial or multi-family structures adjoining or within 150 feet of a residential zoned district (other than an R-4 district), shall be limited within a bulk plane determined as follows: *(Ord. No. 2012-38, §3, 11-13-2012)*

A. Height for a structure's location from an adjacent residential district:
   1. Within 35 feet shall not exceed 20 feet or one story in height;
   2. Beyond 35 feet and within 75 feet shall not exceed 35 feet or two stories in height;
   3. Beyond 75 feet to 150 feet the height may be increased as follows: the setback will increase 2 feet for each additional foot of height above 35 feet to a maximum height as identified in Article 5 for the zoning district

3.05.002. Supplementary Yard Regulations.

A. ***Reversed Corner Lot.*** In any district, a reversed corner lot shall have provided on the intersection or side street of the corner lot, a side yard having a width at least equal to two thirds the depth of the front yard required for a structure on the lot to the rear of the corner lot.

B. ***Projecting Architectural Features.*** Every part of a required yard shall be open and unobstructed from the ground to the sky except for permitted accessory structures and for the ordinary projection of sills, belt courses, cornices, buttresses, eaves, and similar architectural features, provided that such projections shall not extend into any utility easement or extend more than two feet into any required yard. Open fire escapes may extend into any required yard not more than 3.5 feet.

C. ***Fences and Walls.***

   1. *Height Limit*. No fence or wall, other than the wall of a permitted structure, shall be erected or altered in any front yard to exceed the height of 4 feet.

   2. *Storage in Front and Side Yards.* There shall be no storage of vehicles (other than non-commercial on-site parking), or storage or display of any merchandise or materials of any kind in any front yard required by this ordinance in any district, or in any side yard or rear yard required by this ordinance which abuts any residential district.

   3. *Vision Clearance.* On any corner lot on which a front yard is required by this ordinance, no wall, fence or other structure shall be erected, and no hedge, shrub, tree or other growth shall be maintained within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points 25 feet from the point of intersection measured along such street lines.

3.05.003. Steep slope.

The maximum percentage of lot area or site area of a development which may be disturbed, graded, and cleared of vegetation during development and construction of the public and private improvements with the exception of incidental grading for structure construction is as follows: *(Ord. No. 2010-01, §3, 1-26-2010)*

A. **Purpose.** The purpose of this ordinance is to regulate the intensity of use in areas of steeply sloping, elevated terrain while promoting future development on a scale that maintains the hill country character and identity by preserving the natural environment and scenic corridors.

B. **Applicability.** This ordinance shall be applicable to any subdivision or development located in city limits of the City of Boerne. Land disturbance for the purpose of this ordinance shall mean any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed.

C. **Requirements for Nonresidential, Residential Subdivisions or Residential Planned Developments.** The maximum percentage of lot area or site area of a development which may be disturbed, graded, and cleared of vegetation during development and construction of the public and private improvements with the exception of incidental grading for structure construction is identified in the sections below. If steep slope is present on the site, a slope map shall be provided as described below to the City of Boerne demonstrating any slope of 15% or greater. *(Ord. No. 2014-02, §3, 2-25-2014)*

Slope Map:

(i) All site development and subdivision plans shall include a slope map depicting native slopes of 15–25%, 25–35%, and over 35%. Slopes shall be calculated for each two-foot contour interval over 50 horizontal feet and shall be established by measurement of distance perpendicular to the contour of the slope (rise in feet per horizontal distance in feet).

(ii) Information from the slope map shall be used to calculate the area of disturbance on a site and assist in appropriate layout of lots, streets, trails, parks and building placement within the development.

(1) *Nonresidential Development*. If steep slope of 20% or greater is present on the site, no more than 15% of the steep slope area may be disturbed. If disturbance is necessary for site development, it shall be achieved by terracing as outlined in item (3) below.

(2) *Residential Development*. Any residential development that has slope of 15% or greater shall limit the steep slope area disturbance as follows:

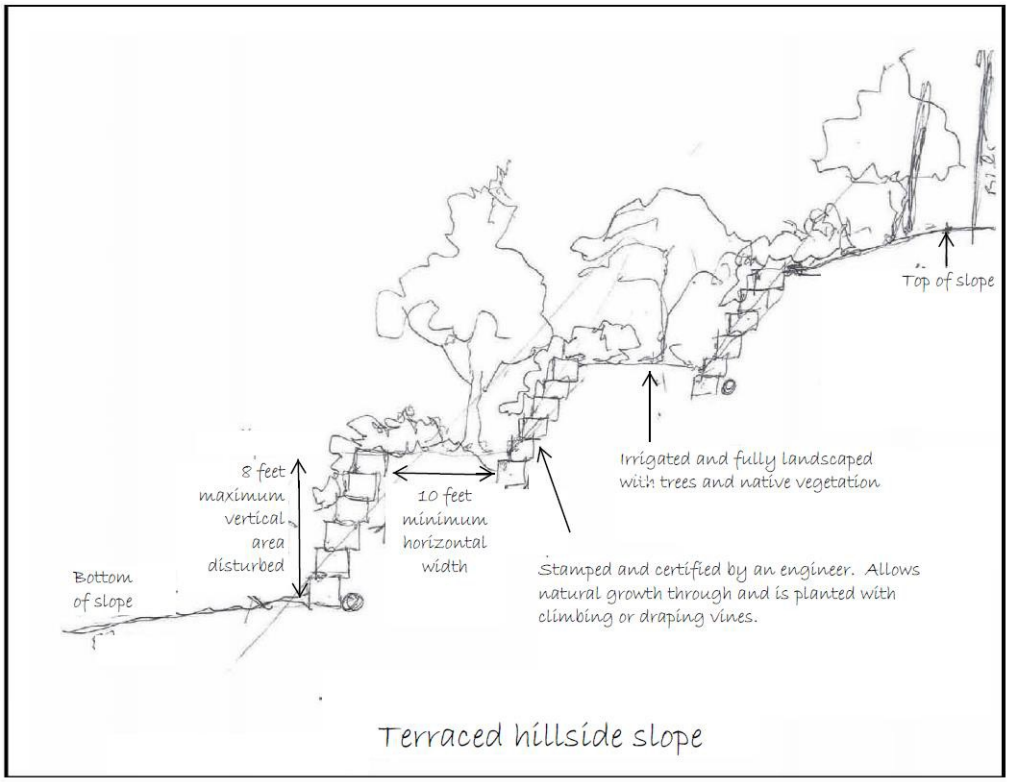
(i) 15% - 25% steep slope - 35% of the steep slope area may be disturbed

(ii) 25% or greater steep slope – 15% of the steep slope area may be disturbed

(3) Any terracing, regardless of grade shall be achieved by the following:

a) Terracing the area by allowing no more than eight (8) vertical feet of area disturbed at a time, and then a minimum of ten (10) feet of horizontal area creating a terrace.

1) The terraces must be designed by an engineer and certified after construction by the design engineer.
2) The terrace must be constructed using vegetated retaining walls to allow for drainage and plant growth.
3) The vertical terraces should allow natural growth through and the horizontal sections shall be irrigated and planted with climbing/draping vines or similar types of plants that will grow along the vertical sections. In addition the horizontal section of the terrace shall be fully landscaped to include planted trees that typically do not achieve a height of thirty (30) feet.
4) The terraced area shall not count towards a setback or open space whereas the steep slope, left undisturbed, may count toward the required open space. *(Ord. No. 2010-10, §3, 5-25-2010)*



D. A creative alternative to Section C (1), (2) and (3) may be approved by the Planning and Zoning Commission if the intent of this section is met. *(Ord. No. 2014-02, §3, 2-25-2014)*

SECTION 06. ACCESSORY DWELLINGS

3.06.001. <u>In General.</u>

Accessory dwellings shall be restricted to certain zoning districts identified in Table 5-1. Where an accessory dwelling is allowed, if the lot size is one-half (½) acre or larger, no further approval is necessary. If the lot size is less than one-half (½) acre, Planning and Zoning Commission and City Council approval is required. The following additional restrictions shall apply: *(Ord. No. 2015-36, §3, 11-10-2015)*

A. The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling as their residence, and shall at no time receive rent for the owner-occupied unit. 'Owner occupancy' means a property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means. The property owner shall sign an affidavit before a notary public affirming that the owner occupies either the main building or the accessory dwelling. The applicant shall provide a covenant and the appropriate filing fee suitable for recording with the County Recorder, providing notice to future owners or long term leasers of the subject lot that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by the person to whom the certificate of occupancy has been issued. The covenant shall also require any owner of the property to notify a prospective buyer of the limitations of this Section and to provide for the removal or disconnection of improvements that cause the premises to be defined as an accessory dwelling and to restore the site to a single family dwelling in the event that any condition of approval is violated. *(Ord. No. 2014-02, §3, 2-25-2014)*

B. The total number of occupants in the accessory dwelling unit combined shall not exceed three persons.

C. The accessory dwelling shall not exceed 1,200 square feet of gross floor area. This restriction applies only to that portion of a structure which constitutes living area for an accessory dwelling.
(Ord. No. 2010-30, §3, 12-14-2010

D. An ADDU shall not contain more than two (2) bedrooms.

E. Only one (1) accessory dwelling unit shall be permitted per lot.

F. Parking areas shall be located behind the front yard.

G. The ADDU shall maintain the architectural design, style, appearance and character consistent with the main building.
(Ord. No. 2010-30, §3, 12-14-2010

SECTION 07. NEIGHBORHOOD DESIGN STANDARDS

Neighborhood Design Standards do not apply to Subdivisions platted, or preliminary plats that have been submitted for approval, prior to the effective date of this ordinance.
(Ord. No. 2008-25, §3, 8-12-2008)

3.07.001. Specific Intent.

The Neighborhood Design Standards are intended to create neighborhood character and identity through a wide variety of diverse architectural details, patterns, and orientation, and to create well-designed frontages along streets and other public or community spaces throughout neighborhoods. By using one, or a combination of two development options within a subdivision as identified in section 3.07.002 and by following the options identified in section 3.07.003, it will allow for diversity in subdivision development. The goal of diversity is to lend visual interest and distinctive character and identity to the community. Creative alternative design options may be approved by the Planning and Zoning Commission if the intent of each section is met and demonstrated on the plat. *(Ord. No. 2010-32, §3, 10-12-2010)*

3.07.002. Development Options.

Transportation Network Types / Design Guidelines offer two types of street networks, Grid and Curvilinear. The subdivision design options are tied to the transportation network types that are identified in the Subdivision Ordinance. The Grid network and the Curvilinear network are described in the Table below. Creative alternative design options may be approved by the Planning and Zoning Commission if the intent of each section is met and demonstrated on the plat. *(Ord. No. 2010-32, §3, 10-12-2010)*

TABLE 3.02: TRANSPORTATION NETWORK TYPES

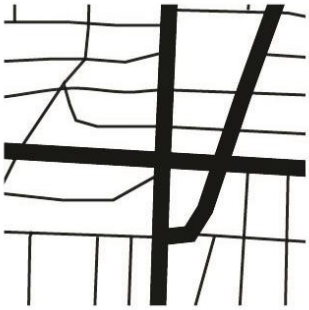
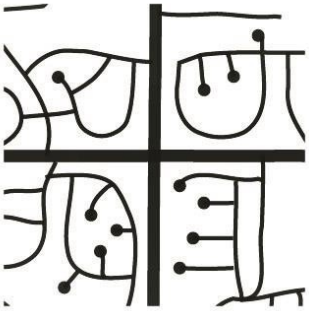
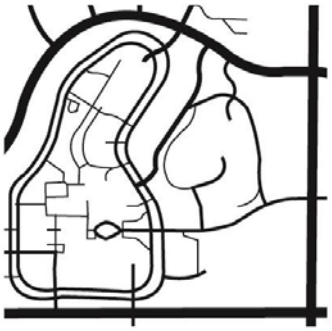
NETWORK TYPE	DESCRIPTION	EXAMPLE Scale = roughly ¼ section (1320' x 1320')
GRID NETWORK		
GRID / MODIFIED GRID NETWORK	A highly connected network with a more formal and organized block structure, supporting a more compact and walkable development pattern. Modifications of the grid are permitted to provide radial streets that angle across the grid and create and terminate at focal points or important community destinations; to provided off-sets, shifts, or T-intersections with local streets that preserve connectivity but discourage through traffic; and to allow interruptions or irregularities in the grid to preserve valuable topographic or natural features.	

TABLE 3.02: TRANSPORTATION NETWORK TYPES		
NETWORK TYPE	**DESCRIPTION**	**EXAMPLE** Scale = roughly ¼ section (1320' x 1320')
CURVILINEAR NETWORK – ALL NETWORKS BELOW ARE CONSIDERED A TYPE OF CURVILINEAR NETWORK WITH A MINIMUM CURVE IN WHICH THE CENTER LINE OF THE STREET HAS A TOTAL CURVE LENGTH THAT IS 50% OR GREATER THAN ANY STRAIGHT SECTION OF THE STREET.		
CURVILINEAR NETWORK	A moderately connected network with an informal and loose block structure that accommodates irregularly spaced local streets within an Arterial street grid.	
COVING NETWORK	A moderately connected network with an informal and loose block structure that accommodates irregularly spaced local streets, cul-de-sacs and short streets, supporting a mix of low-density and high-density development pattern.	
ORGANIC NETWORK	A strategically connected network that follows the topography and natural features of the land and features meandering low-volume/low-speed streets, supporting a low-density and rural development pattern.	
SPECIAL DISTRICT NETWORK	The special district network is based on a plan that is created to support one specific plan for building arrangements and uses, such as a campus or office park. The network primarily considers vehicle traffic flow within the district, and primary access and through traffic is focused on regional thoroughfares and arterial streets. Provisions for non-automobile transportation may need to deviate from the street network in order to provide more meaningful and practical connections.	

3.07.003. **Design Options.**

Design Options address the goal of diversity by incorporating four sections of design requirements. Each section offers a variety of options that provide sufficient variation in orientation, elevation, detailing, and landscaping which address the goal of diversity while maintaining an identifiable image for the subdivision. Creative alternative design options in subsection A. a, b and c may be approved by the Planning and Zoning Commission if the intent of each section is met and demonstrated on the plat.

A. **Subdivision Design.**

a. Vary the building's relationship to the street by choosing one of the following options:

i. In a Grid system - Stagger front setbacks for covered building elements in order to create a meandering setback effect. This stagger shall vary by a minimum of 5 feet; no more than 20% of the buildings on a block shall be located at the front setback with at least 5 feet of articulation of adjacent buildings (this does not include the allowed encroachments described in c below). No two adjacent structures shall have the same front building line, or

ii. Provide curvilinear streets

b. Vary the driveway orientation or location for the lots in each subdivision by using a combination of the following design guidelines:

i. Provide side-entry garages for all corner lots, excluding collectors or where prohibited by site visibility regulations, and

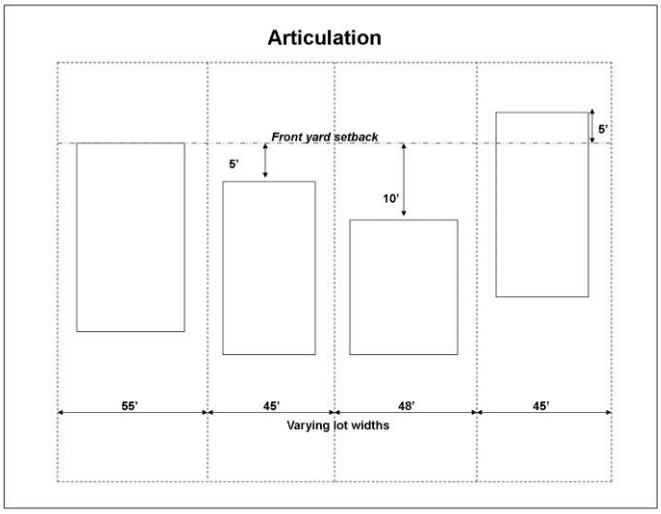
ii. Provide elbow, circular or angled driveways for 25% of the lots, or

iii. Provide alternate driveway surfaces, such as exposed aggregate, tire strips, patterns, colors or textures, etc. for 25% of the lots, or

iv. Provide varying driveway locations and/or orientations to break up patterns and rhythms.

c. Vary the relationship between buildings (does not apply to lots 80' or greater at the front setback):

i. The front façade of a single-story detached dwelling or the covered front porch of a detached dwelling may encroach up to 10' into the front setback but no more than 10' from the front lot line. No more than 25% on each block shall encroach 10' from the front lot line and no less than 10% on each block shall be constructed at the building setback -5 feet. If a dwelling on one side of the street encroaches, the dwelling on the opposite side of the street shall not encroach at all. If the front façade does encroach, the garage shall be constructed a minimum of 25' behind the front lot line unless an elbow driveway is provided. The building envelope shall not exceed the requirements set forth in Article 5, Table 5-2.



d. Rear patios may encroach into the rear setback but no more than 10' from the rear lot line. Covers for patios that encroach shall remain detached from the house.

e. Vary street orientation (does not apply to lots 80' or greater at the front setback):
   i. Provide street patterns that minimize the impact of sequential garages, e.g. cul-de-sac, short block lengths, eyebrows, etc.

f. Trails systems that provide connectivity within the subdivision and connectivity to adjacent subdivisions are required in all developments.

B. **Façade Design.**

a. Provide at least 3 standard plans for subdivisions with 50 or fewer lots, and 6 for those with greater than 50 lots.

b. Provide at least 3 body colors/shades of color for homes in a subdivision with 50 or less homes and 6 body colors/shades of color for subdivisions with more than 50 homes.

c. Provide 3 roof forms below or provide different street orientations using one of the forms below (does not apply to lots 80' or greater at the front setback). Roof forms are as follows:
   i. Gable
   ii. Hip
   iii. Shed *
   iv. Flat *

   * Shed or flat roofs may be used for porches or other wings to the main roof form provided the shed or flat roofs do not exceed more than 20% of the total roof area of the structure.

d. Provide at least one exterior accent material (e.g. brick, stone, masonry, stucco textures).

e. Provide exterior detailing on all elevations visible from public streets, such as recesses, pop-outs, accent materials or corbels.

f. Second story or above cannot exceed garage front setback.

g. No more than 36" of foundation may be exposed on any elevation. That shall be accomplished by providing a masonry drop lug or elevating earthen landscaping or a combination thereof. *(Ord. No. 2014-02, §3, 2-25-2014)*

C. **Garage Treatment.**

a. Provide house designs where the front plane of the garage projects no more than 10' beyond that of the living area, covered porch or architectural structure (e.g. arch, or porte cochere) for 75% of the lots. Those lots where the garages project more than 10' must be located on either corner lots, next to open space, or paired such that the front entries are located adjacent to a common lot line, and

b. Provide garage doors with windows, raised or recessed panels, architectural trim, and/or single garage doors.

c. Provide an architectural treatment above the garage, such as windows or balconies, to create visual interest, or

d. For 3-car garages, separate stalls such that no more than 2 stalls are in the same vertical plane or adjacent to each other (i.e. provide a 2-foot offset with architectural trim for at least 1 stall or provide 1 stall in a side-entry or tandem configuration).

D. **Landscape Design.**

a. Provide 3 different front yard plant palettes with consistent themes.

i. Lots over 45' at the front setback, the palettes shall consist of at least 2 – 6" in circumference (2" caliper) shade trees, 5 shrubs and turf or ground cover.

ii. Lots 45' or less at the front setback, the palette shall consist of at least 1 - 6" in circumference (2" caliper) shade tree, 5 shrubs and turf or ground cover.

iii. Xeriscaping is permitted on any lot. The xeriscape area shall consist of 1 – 6" in circumference (2" caliper) ornamental/shade tree and a combination of drought tolerant plants that incorporate dimension into the palette and does not require irrigation. The ground cover shall be minimum of ¾" rock and an edging shall be provided of sufficient size to protect against run-off of the ground material. *(Ord. No. 2014-02, §3, 2-25-2014)*

iv. A combination of xeriscaping, as identified in section iii above, and typical landscaping is permitted. At a minimum there shall be 1 – 6" circumference (2" caliper) ornamental/shade tree shall be planted. Depending on the percentage of xeriscaping in a front yard, the remaining area shall provide typical landscaping as stated above in an amount relative to the percentage of remaining yard. The ground cover shall be provided of sufficient size to protect against run-off of the ground material. *(Ord. No. 2014-02, §3, 2-25-2014)*

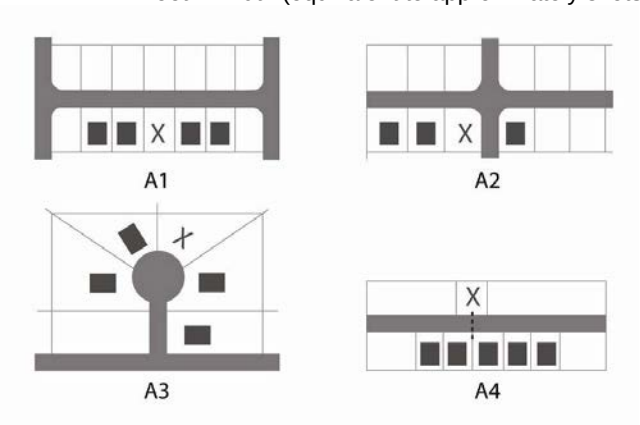
E. Offer evidence of a comparable landscaping incentive package provided to the homeowner and installed prior to the issuance of a Certificate of Occupancy.

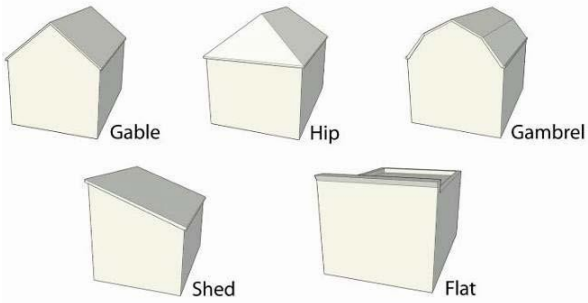
3.07.004. <u>Differentiation.</u>

No building permit shall be issued for any new detached dwelling unit, which is similar in appearance to any dwelling unit near the proposed building, as further defined below.

A. **Applicability.** Differences in appearance including bulk and massing shall be reviewed for only 4 lots on either side of the proposed Detached Dwelling units on the same side of the street (examples A1-A3), as well as the 5 lots across the street as reflected in example A4. Where an intervening street right-of-way is equal or greater than one lot width, this distance may count as one lot (example A-2). The proposed Detached Dwelling shall be considered different from any vacant lot for which no building permit has been issued without requiring further documentation. The Differentiation Standards shall not apply:

1. To Attached Dwelling Units or Multi-dwelling structures; and
2. Where lots are interrupted by an intervening street, park land or similar feature of at least 150 feet in width (equivalent to approximately 3 lots).





B. **Differentiation Standards.** The proposed Detached Dwellings shall differ from each other in at least 2 of the 3 criteria listed below.

1. Different number of full stories;
   a. Single-story; or
   b. Two-story. *(Ord. No. 2007-02, §3, 12-18-2007)*

2. Different Roof types, or distinctly different forms of dormers or different orientation of roof planes in the same roof types (except flat or shed roofs), all meeting the Design Standards of sub-section 3.07.006;
   a. Flat;
   b. Shed;
   c. Hip;
   d. Gable;
   e. Gambrel

3. Different façade massing, such as offsets, projections, bay windows between 3 and 5 feet in depth which are different in proportions, size and location from adjacent buildings.

3.07.005. Permit Review.

All residential buildings shall submit permits that demonstrate compliance with the Neighborhood Design Standards in this section.

A. Acceptable documentation may include photographs of the other structures in question (building elevations are not required).

B. A subdivision or phase thereof may be reviewed as a whole for conformity with this requirement, provided that adequate documentation to ensure conformity is submitted with the plat. Such documentation is not required to be recorded as part of the plat.

C. The Building Official shall review the submitted documentation and any previously approved building permits and make a determination. Where the Building Official finds that a Detached Dwelling for which a building permit is being requested and differentiation is required by sub-section 3.07.004 is similar in appearance based on the standards above, the permit shall be denied.

3.07.006. Appeal Procedures.

Should a building permit be denied due to similarity to neighboring structures or failure to meet the site and building design standards, the requesting party may appeal the decision of the reviewing authority to the Board of Adjustment and Appeals as prescribed in Article 7, City of Boerne Zoning Ordinance. No fees shall be required for an appeal under this section.

SECTION 08. COMMERCIAL CENTER DESIGN STANDARDS

3.08.001. Specific Intent.

A. **Purpose.** The Commercial Center Design Standards are intended to enhance the community character in more compact commercial or mixed use development patterns that have a closer relationship of smaller lots and public streetscapes, and to adjoining and supporting neighborhoods. Specifically they are intended to create character and identity through a wide variety of diverse architectural details within a more narrow range of consistent building forms, patterns, and orientation, and to create consistent well-designed frontages along streets and other public or community spaces throughout defined pedestrian-oriented centers.

B. **Plan Review.** Building Plans shall be reviewed by the City Manager or the City Manager's designee and approved prior to the issuance of a building permit for new construction (or remodeling) to evaluate the compatibility of the plans with the guidelines for Commercial Center Design Standards. Creative alternative

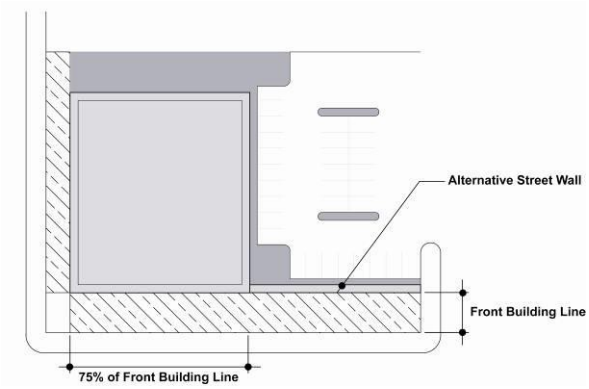
design options may be approved by the Planning and Zoning Commission if the intent of each section is met and demonstrated on the plat. *(Ord. No. 2010-32, §3, 10-12-2010)* Such application shall be accompanied by the appropriate fee established by City Council. *(Ord. No. 2008-25, §3, 8-12-2008)*

1. Application for review packages shall include the following:
   a. Letter requesting review.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening and parking plan.
   c. Two copies and digital file.

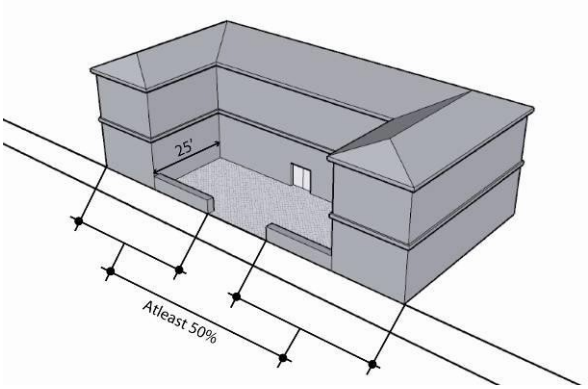
2. Factors to be considered:
   a. The effect of the proposed structure upon the general historic, cultural and architectural character of the community.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
   c. Two copies and a digital file.

3.08.002. <u>Building Frontage and Orientation.</u>

A. ***Required Front Building Line.*** The primary façade shall occupy at least 75% of the Required Front Building Line, except:

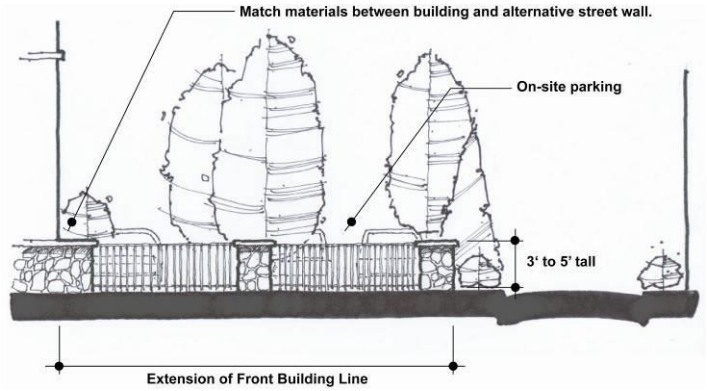


1. Where the Primary Building Entrance is accessed by a Courtyard, Plaza or similar Civic Open Space along the streetscape, the Front Building Line may be setback as much as 25'. At least 50% of the lot frontage along the street shall be either Building Façade or an Alternate Street Wall between 3 and 5 feet, and matching the materials or ornamentation of the building.



2. On secondary or support streets that are not the primary pedestrian and retail streets of the Center, the Planning Commission may approve a building façade that occupies as little as 30% of the Front Building Line, provided it does not impair the design standards for the public streetscape and is consistent with the site design of adjacent property; and where on-site parking is permitted to the

side of the building, according to Subsection 3.08.005 an Alternative Street Wall of between 3 and 5 feet and matching the materials or ornamentation of the building shall be at the extension of the Front Building Line to screen parking areas.



3. Buildings designed for Civic Uses may have greater setbacks provided the building façade orients to the street and any space between the building and public street is designed as Civic Open Space.

4. Buildings located on a single lot between a street and a waterway shall have a primary façade that meets the criteria set forth in Section 3.08.003 and a rear façade that uses like design and materials. Shared access and parking is encouraged. If shared parking is not an option, parking shall be located to the side of the building with the remainder divided between the front and the rear of the building. All parking visible from the street shall be heavily screened with a street wall and vegetation. Every effort shall be made to place mechanical equipment on the roof. If mechanical equipment must be placed on the ground, the equipment shall be screened thoroughly from view with fencing and vegetation. It is encouraged that the rear façade facing the waterway make the outside area accessible and usable for clientele (i.e. patios, dining and seating areas).

B. ***Primary Entrance Feature.*** Any façade that faces a public street or civic open space shall contain a single-story primary entrance feature subject to the following:

1. The primary entrance feature shall have enhanced architectural details such as a canopy or arcade, recessions of up to 5', and decorative moldings, framing, or roof and awnings.

2. Primary entrance features shall occur at least every 75' along a building façade. Where a single tenant occupies more than 75' of building frontage, the facade shall be differentiated with distinguished bays of no more than 50' of linear frontage, and more than one primary entrance features.

3.08.003. <u>Façade Design.</u>

Any façade that faces a public street or civic open space shall contain the following façade design features.

A. ***Façade Components.*** Each façade shall have a base, mid-section, and top differentiated with a change in materials, projections or ornamental architecture.

1. *Base.* The base shall be directly at grade and support storefront window sills, and consist of the lower 5% to 25% of the building height, but never more than the first story.

2. *Top.* The top shall be the upper most 5% to 15% of the façade and differentiated with a continuous horizontal architectural treatment such as a cornice line or parapet. Except that on pitched roof structures, the eave and roof structure shall be the top.

3. *Mid-section.* The mid-section shall be all portions of the façade that are not the base or body, and may consist of primary materials, secondary materials and window openings.

B. ***Façade Openings.*** Each facade shall have openings at street level and upper levels according to the following:

1. Between 60% and 90% of all street-level facades between 2 and 10 feet above grade shall be transparent with views to the interior of the building. No window starting at a level of greater than 3.5 feet above the street level should be included in the calculation. Where the interior operation or program of the building warrants screening from the street, a closed display window of at least 2.5 feet may be substituted along up to 50% of the façade.

2. No more than 20' of building frontage shall exist at the street level without window or door openings. On secondary or support streets that are not the primary pedestrian and retail streets of the Center, the Planning Commission may approve facades with greater than 20' of building frontage without window and door openings.

3. Upper level openings shall occupy between 20% and 50% of the façade and consist of punched and regularly spaced openings to create a rhythm and pedestrian scale for the façade.

4. Corner buildings with two street frontages may designate one frontage as the primary frontage; however, at least the first 30' of secondary frontage from the corner shall meet the above minimum opening requirements.

C. ***Materials.*** All facades shall consist of up to no more than 4 materials, exclusive of doors and windows, subject to the following:

1. A primary material shall cover at least 60% of the façade and may consist of:
   a. Brick, cultured stone, cast stone, natural rock, marble, or granite;
   b. Stucco or plaster;
   c. Cellulose fiber-reinforced cement building board products (i.e. hardi-board products or other cement building products approved by a nationally recognized building products evaluation service);
   d. Wood.

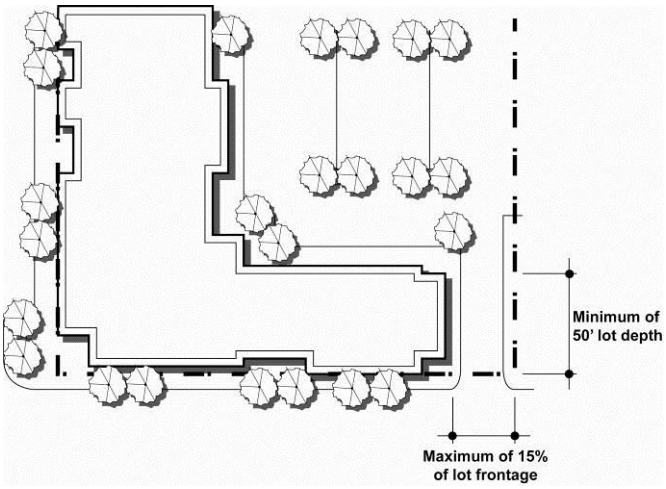
2. A secondary material may be used on up to 30% of the façade and may consist of:
   a. Any permitted primary material, or an equal or better simulated product of a permitted primary material may be used as a secondary material;
   b. Glass; or
   c. Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned to compliment the primary material.

3. Up to two accent materials are permitted for moldings and ornamental details, or other significant architectural features. Accent Materials shall consist of no more than 15% of the façade and may consist of:
   a. Any permitted primary or secondary material.
   b. Standing seam metal.
   c. Precast stone, metal, or wood moldings or similar architectural or ornamental details.

3.08.004. <u>Vehicle Access and Circulation.</u>

Site and lot access shall be coordinated with street access standards in Article 3 of the Subdivision Ordinance. Driveways for vehicle access to lots and interior of blocks shall be limited in width as follows within the first 50' of lot depth:

A. No more than 15% of the lot frontage on lots with frontage on any primary retail or pedestrian-oriented street in the Center. Where shared access easements for two or more lots are combined on a single block face, the width shall not be more than 10% of the entire block face. Individual and shared vehicle access from the lot frontage shall be prohibited on blocks with alley access to the internal of the block.



B. No more than 25% of the lot frontage on secondary or support streets, up to a maximum of 30' wide on a single lot frontage.

C. Any lots not capable of adequate vehicle access meeting these standards shall use alley or shared access easements for vehicle access.

3.08.005. <u>Parking Design and Circulation.</u>

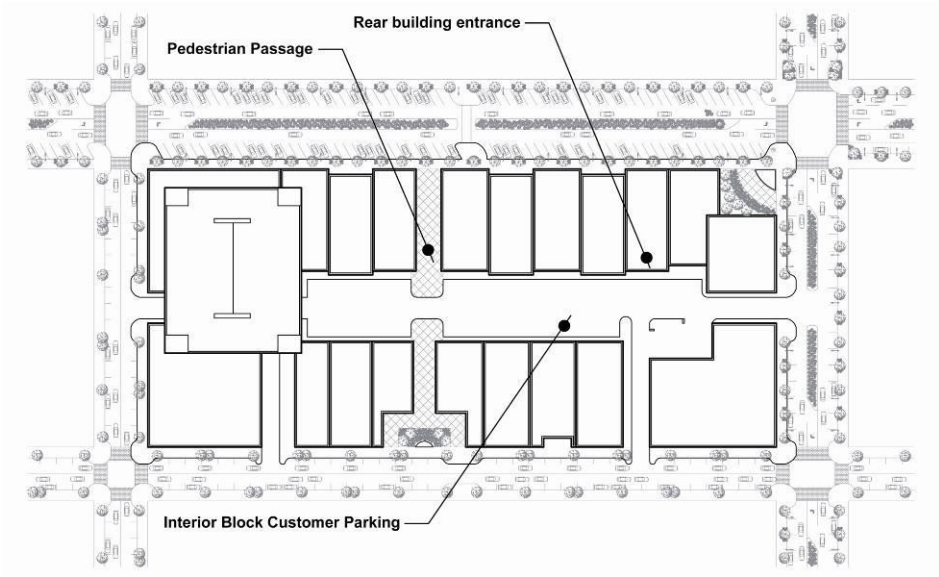
On-street and shared central parking areas shall be the primary parking strategy for commercial and mixed use center development patterns. In meeting the parking requirements of Article 3, Section 09, the following design and location standards shall apply to on-site parking:

A. All parking shall be setback at least 10' from the lot frontage with a 3-5' high landscape screen or alternative street wall, or located behind the building.

B. Customer parking areas interior to the block, with a contiguous building longer than 150' shall have pedestrian access to the buildings through one of the following:

1. A mid-block pedestrian passage at least 8' wide providing access to the public streetscape. The passage may be covered or un-covered, but shall not be enclosed; or

2. Secondary rear building entrances. Such entrances shall be discrete, and clearly secondary to the building design to avoid "double-frontage" buildings that de-emphasize the importance of the public streetscape as the primary public realm.



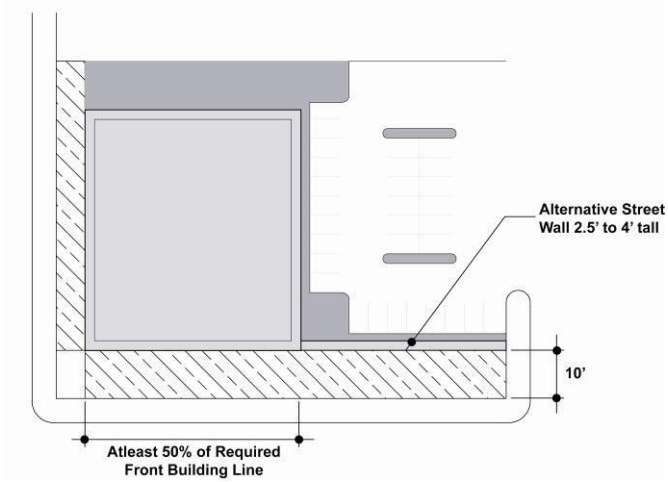
C. Shared or district parking serving 3 or more lots in the district, or parking areas for an Anchor building in the district, may front on secondary or support streets provided it is setback at least 10' and screened with a combination of landscape and low decorative and ornamental walls or fences between 3 and 5 feet high around the perimeter.

D. On secondary or support streets that are not the primary retail and pedestrian-oriented streets of the Center, the Planning and Zoning Commission may permit on-site parking for single or adjacent lots to be located up to 10' from the front lot line provided:

1. The parking is still located behind the front building line of buildings on site.

2. A building shall occupy at least 50% of the Required Front Building Line on the lot.

3. An Alternative Street Wall of between 3 and 5 feet and matching the materials or ornamental features of the building, or shall be used to screen the parking at the extension of the Front Building Line. Alternatively, the parking may be screened by landscape and Civic Open Space between the front lot line and street frontage.



3.08.006. <u>Open Space Design.</u>

Where site development occurs without subdivision of land, and where the lot does not have access to the Civic Open Space system required by the Subdivision Regulations, open space shall be provided on the lot subject to the following:

A. On-site open space shall be 5% of the building footprint plus an additional 5% for each story of the building greater than 2 stories.

B. On-site open space shall meet the Type and Design Standards of Article 3, Section 04 of the Subdivision Ordinance, and located as an extension of the public streetscape or other Civic Open Spaces in the commercial or mixed-use center.

C. Areas of the right-of-way that permit enhanced designs beyond the basic street standards, and which also meet the requirements of Article 3, Section 04 of the Subdivision Ordinance may contribute to required open space.

3.08.007. Site Screening.

Any delivery and service areas, external support equipment, site utility areas, or other similar high-impact elements of site and building design shall be subject to the following:

A. All delivery or service areas and loading docks shall be located on a discrete façade, and internal to the block wherever possible.

B. Any rooftop equipment shall be screened from view of the adjacent public streetscape or other public or common opens spaces by a parapet on flat roofs, or located on a discrete pitch for pitched roofs.

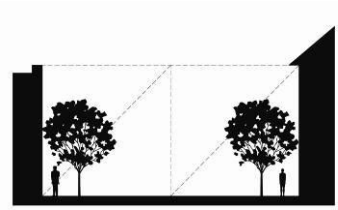
C. Any service areas, loading docks, service equipment, or other site utility area that is visible from adjacent property or public right-of-way shall be screened with a combination of landscape and wall built of a similar material to the main structure of at least 6 feet high. . *(Ord. No. 2017-03, §1, 1-24-2017)*

D. Any service use that involves vehicle service bays on a primary or secondary façade shall be located on only secondary or support streets, shall have the service bay portion of the building screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high, and shall not have service bays that occupy more than 40% of a single façade.

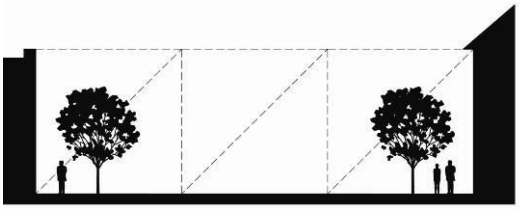
3.08.008. Enclosure Ratio.

Enclosure Ratio refers to the relationship of building frontages across a streetscape – specifically the dimensions and design of building facades, the private frontages if any, and the public rights of way along a streetscape. The ratio is expressed by Streetscape Width to Building Heights. The enclosure is important for achieving the scale, comfort and character of streets in pedestrian-oriented commercial and mixed-use centers – essentially framing the "public realm" of the streetscape. Spaces greater than the standards below result in ill-defined or poorly proportioned streetscapes that lack a clear public realm. Spaces less than the recommended enclosure can result in the perception of confined or congested areas. The Enclosure Ratio shall not alter any specific or required building height maximums for any particular zoning district, but may guide site and building designs dealing with the location, orientation and massing of buildings within the parameters allowed by the zoning district.

A. **General Ratio.** In general, the Enclosure Ratio shall be within a range of 2:1 to 3:1 for primary retail and pedestrian-oriented streets in commercial development patterns.



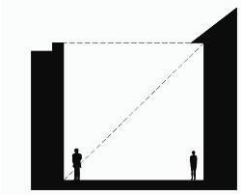
2:1 enclosure



3:1 enclosure

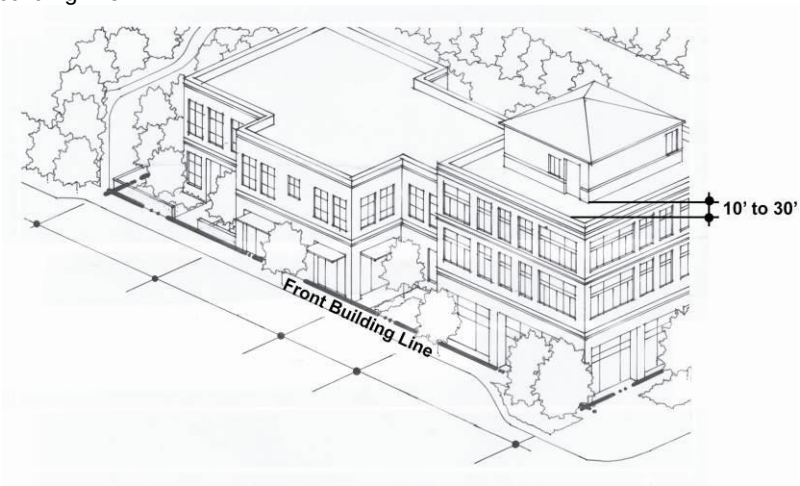
B. **Exception.** Ratios as tight as 1:1 may be approved by the Planning Commission on blocks that are short

(less than 400 feet) and on side streets.



1:1 enclosure

C. **Step-backs.** Where building heights are allowed and approved which would exceed these ratios, the lower story(ies) should maintain the ratios, and upper stories should be stepped back between 10 to 30 feet of the front building line.



3.08.009. <u>Design Guidelines.</u>

Guidelines are presented for four critical design elements of a walkable mixed-use center, with an intent statement followed by the guidelines. By interpreting and applying the Commercial Center Design Standards, the following design guidelines shall apply:

A. **Streetscapes.** Streets should not only be designed to get people someplace but also be designed to be "someplace," balancing the needs of multiple users of the public rights-of-way. The streetscape is the "destination" in the neighborhood center.

- ❑ Minimize the width and number of travel lanes so that vehicle design speeds are compatible with pedestrian travel.
- ❑ Maximize the use of on-street parking on all streets. On-street parking calms traffic, buffers pedestrians from moving vehicles, gives retail uses many "priority" front-door parking spaces, and allows for more efficient development of building sites.
- ❑ Use expanded landscape and pedestrian amenity areas to transition from the on-street parking to the pedestrian areas. Amenities such as landscape beds, tree wells, benches or other street furniture should be regularly spaced in a 4 to 6 foot wide area immediately adjacent to the street edge.
- ❑ Maintain significant pedestrian areas – typically at least 6 to 10 feet in addition the landscape and pedestrian amenity areas.
- ❑ On wide sidewalks where significant areas for through pedestrian traffic remain, areas may be used for street activities related to uses in the buildings, such as sidewalk sales, outside dining or seating areas, and kiosks.
- ❑ Street trees should be densely located to provide shade for pedestrians, yet achieve canopy heights and crown heights that maintain visibility of adjacent buildings and the street level uses. Alternatively, arcades may extend over the entire sidewalk areas
- ❑ Frequent connections to adjacent neighborhoods should provide multiple alternative routes between the neighborhood and the center.
- ❑ Curb-cuts should be limited in width, frequency, and location. Vehicular access to sites should not occur on any primary street, but be located on secondary streets or alleys. Access points should be combined and shared within blocks. Curb-cuts should always be designed to emphasize the priority of pedestrian movements along the streetscape, maintaining the grade and surface material of the

sidewalk across all alley or driveway access points to the interior of the block.

- ❑ Intersections should appropriately balance vehicle turning movements and pedestrian movements. Techniques to slow turning movements and decrease pedestrian crossing distances, such as bump-outs or curb-projections, smaller curb radii, and pedestrian refuge items should be incorporated into the streetscape.

B. **Buildings.** Buildings should create a "street wall" that defines the streetscape and animates pedestrian areas with active and "permeable" transitions from the public realm to the private realm.

- ❑ Buildings should be built to the front-lot line in most circumstances and occupy a significant portion of the lot frontage.
- ❑ All buildings should have its primary façade and primary entrance oriented towards the street.
- ❑ Street level facades should be "permeable" to animate the public streetscape and improve the interest, comfort, and safety for pedestrians. Significant proportions of transparent display windows and door openings should occur along street fronts.
- ❑ Upper level facades should include punched openings with transparent windows. Openings should create transparency and break up the massing of the upper facades. Each story should meet this requirement independently.
- ❑ No long horizontal blank wall space without openings to the interior of the building should occur along street level facades.
- ❑ Significant deviations from building alignments may occur along the street wall at limited locations along a block face. These deviations should be strategically located to emphasize and embellish important elements of the public realm and include features such as public art and water fountains. Examples of significant deviations in the street wall are front entry courts for dining or building entrances, courtyards or plazas.
- ❑ All facades shall include architectural elements such as accent banding, base plates, cornices, soffits, sills, parapets, transoms, and windows aligned horizontally. The horizontal alignment should differentiate stories in a building and create a base and crown for the building.
- ❑ Architectural diversity and creativity should be encouraged and rewarded to avoid dull or homogeneous buildings. Buildings should incorporate elements from the vernacular of buildings in Boerne, the Hill Country and Central Texas.

C. **Sites.** Sites should be designed to emphasize buildings and their relationship to the streetscape, rather than individual lots along a block.

- ❑ Link adjacent sites physically and perceptually, even when they are not being developed simultaneously, and maximize opportunities for multiple sites to share site design elements.
- ❑ Primary access to most individual sites should be pedestrian oriented, with vehicle access concentrated at shared entrances, provided internal to the blocks, or at central parking facilities and on-street parking.
- ❑ Any On-site parking should be located behind buildings out of view from public streets, wherever possible. When located on the sides of buildings, parking areas should be screened from the streetscape by a combination of ornamental walls and landscape materials, matching the design and creating a continuation of the street wall.
- ❑ High-impact site elements, storm water facilities, storage areas, or loading areas and should be limited or located and designed to minimize impact on the streetscape design. Design site utility areas to perform multiple functions wherever possible, such as parking areas designed to host occasional special events or designed with landscape and screening that infiltrates storm water.
- ❑ Exterior lighting and signs should be provided at a pedestrian scale and should coordinate with building architecture and landscape materials.
- ❑ Use screens and buffers only when a better site design that relates to adjacent sites, buildings, and uses is not possible.

D. **Open Spaces.** Open spaces are valuable for their ability to enhance public life in neighborhood centers, providing patrons of businesses opportunities for gathering and social interaction.

- ❑ Plazas or courtyards should be located at key focal points along the streetscape with high accessibility and visibility, and be consolidated within blocks.
- ❑ Open spaces should be designed to provide a balance of "hardscape" for public gathering and "landscape" for ornamental purposes.
- ❑ Open spaces should include elements of public art.
- ❑ Any green space in the neighborhood center should be designed to serve multiple functions of storm water mitigation, recreation, aesthetic amenities, or strategic screening. Undevelopable or remnant green space is not valuable to neighborhood centers unless it serves one of these broader functions.

- ❑ Incorporate sensitive natural areas or prominent topographic features into natural open space features.

E. **Network Nodes.** Wherever applicable (i.e. Overlay districts), Network Nodes and Node Support Poles shall adhere to the City of Boerne Design Manual for installation of Network Nodes and Node Support Poles criteria

3.08.010. <u>Plan Review.</u>

A. Building Plans shall be reviewed by the City Manager or the City Manager's designee and approved prior to the issuance of a building permit for new construction (or remodeling) to evaluate the compatibility of the plans with the guidelines for Commercial Center Design Standards. Such application shall be accompanied by the appropriate fee established by City Council.

1. Application for review packages shall include the following:
   a. Letter requesting review.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening and parking plan.
   c. Two copies and digital file.

2. Factors to be considered:
   b. The effect of the proposed structure upon the general historic, cultural and architectural character of the community.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
   c. Two copies and a digital file.

SECTION 09. COMBINED COMMERCIAL DESIGN STANDARDS

3.09.001. **Specific Intent.**

A. **Purpose.** The Combined Commercial Design Standards are intended to enhance the community character in Regional Centers and/or in the following Use Categories: Civic, Employment, Retail, and Service. Section 3.09.002B 2, 3, 4, 5, 9, and 11 apply to multi-family apartment structures. *(Ord. No. 2014-02, §3, 2-25-2014)*. Specifically they are intended to allow the flexibility to create character and identity through a wide variety of diverse architectural details, and to create consistent well-designed frontages along streets and other public or community spaces. Creativity is encouraged to avoid dull or homogeneous buildings, while incorporating elements of the Texas Hill Country style. To the greatest extent possible, buildings shall be located on front building lines as outlined in 3.09.002 and on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways. The location of the on-site parking surface areas shall be located to the side or rear of a building. On-site parking areas shall not be located between the front building line of any principal building and a street except for conditions outlined in Section 3.09.003. *(Ord. No. 2008-25, §3, 8-12-2008)* Structures located in an Industrial District shall incorporate into their building design only the primary façade standards identified in Section 3.09.002.B.3. *(Ord. No. 2013-23, §3, 7-23-2013)* Structures that are preexisting in the Historic District that are being renovated or added onto shall use matching or similar materials and provide design features that are similar to the existing structure without requesting a creative alternative. *(Ord. No. 2015-36, §3, 11-10-2015).* Network Nodes and Node Support Poles, wherever applicable (i.e. Overlay districts), Network Nodes and Node Support Poles shall adhere to the City of Boerne Design Manual for installation of Network Nodes and Node Support Poles criteria.

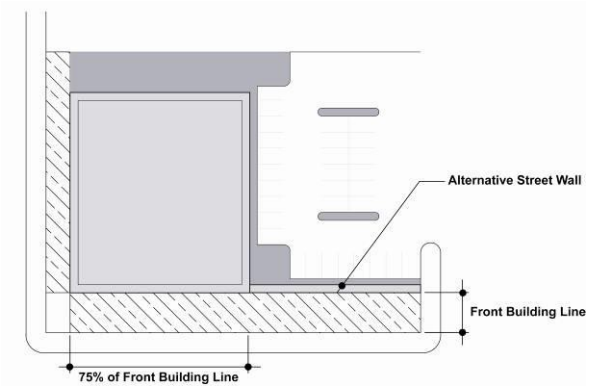
B. **Plan Review.** Building Plans shall be reviewed by the City Manager or City Manager's designee and approved prior to the issuance of a building permit for new construction (or remodeling) to evaluate the compatibility of the plans with the guidelines mentioned in this article utilizing the factors enumerated. Creative alternative design options may be approved by the Planning and Zoning Commission if the intent of each section is met and demonstrated on the plat. Such application shall be accompanied by the appropriate fee established by City Council. *(Ord. No. 2010-32, §3, 10-12-2010)*

1. Application for review packages shall include the following:
    a. Letter requesting review.
    b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
    c. Two copies and a digital file.

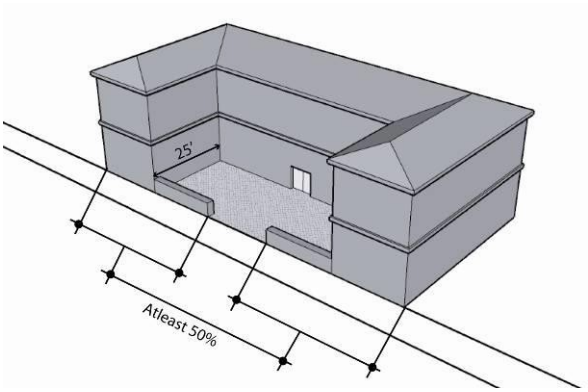
2. Factors to be considered:
    a. The effect of the proposed structure upon the general historic, cultural and architectural character of the community.
    b. The appropriateness of the exterior architectural features, which are visible from public rights-of-way and adjacent areas.
    c. Harmony with adjacent buildings and structures in terms of scale, height and mass.

3.09.002. **Building Frontage and Orientation.**

A. **Required Front Building Line.** The primary façade of a structure shall be located at the 0' setback line and shall occupy at least 50% of the Required Front Building Line, except:



1. Where the Primary Building Entrance is accessed by a Courtyard, Plaza or similar Civic Open Space along the streetscape, the Front Building Line may be setback as much as 25'. At least 50% of the lot frontage along the street shall be either Building Façade or an Alternate Street Wall between 3 and 5 feet, and matching the materials or ornamentation of the building or may use ornamental metal fencing. *(Ord. No. 2008-25, §3, 8-12-2008)*



2. Where the primary façade is located between the 0' - 20' setback as identified in Article 5, the primary façade shall then occupy at least 50% of the Required Building Line and on-site parking is permitted to the side of the building, according to Subsection 3.09.003.

3. On secondary or support streets the Planning Commission may approve a building façade that occupies as little as 30% of the Front Building Line, provided it does not impair the design standards for the public streetscape and is consistent with the site design of adjacent property; and

4. Buildings designed for Civic Uses may have greater setbacks provided the building façade orients to the street and any space between the building and public street is designed as Civic Open Space.

5. Buildings in the River Road District shall have a front building line between 5' – 25'; second story shall have a twenty-five (25) foot minimum building line fronting on River Road. If the Commission approves a third story height, the third story shall be stepped back from the second story a minimum of five (5) feet from all facades of the building. *(Ord. No. 2012-04, §3,4-24-2012)*

6. Where a commercial building is 40,000 square feet or larger, the building may be located at the center or back of the lot. Additional parking landscape requirements shall apply as described in Section 3.10.012.

7. Where the lot is located between a street and a waterway, the orientation of the structure may be at the center of the lot allowing for pedestrian and vehicular circulation around the structures.

8. Loading docks, bays or service areas shall not be visible from the primary street. A loading dock, bay or service area may face a secondary street if it is screened by dense landscaping and/or a minimum of a 6 foot masonry or like fence to be determined by the Planning Director. If they are not visible from a street, no screening is required. *(Ord. No. 2015-36, §3, 11-10-2015)*

B. **Primary and Secondary Façade Standards.**

1. The primary façade of a building shall be the main entrance and focal point of the structure. All buildings should have its primary façade and primary entrance oriented towards the street.

2. All primary façades of a building shall occupy at least 50% of the Required Front Building Line and shall be designed with consistent architectural style, detail and trim features that will keep within the architectural style and heritage of the community. The primary façade must incorporate:
   a. Entrance areas, arcades, display windows, awnings or other architectural variety features along no less than sixty percent (60%) of the primary façade. The remaining forty percent (40%) may not be contiguous.
   b. Offsets, reveals, or projecting ribs shall be used to express architectural or structural bays.

3. Building materials for primary facades - shall be finished using two or more of the following materials or finishes:
   a. Brick, cultured stone, cast stone, natural rock, marble, or granite
   b. Stucco or plaster
   c. Exterior Insulation and Finish Systems (EIFS) or equivalent product
   d. Glass with less than twenty percent (20%) reflectance; however, only fifty percent (50%) of the primary facade may be constructed in glass
   e. Metal (only in the Industrial District) *(Ord. No. 2013-23, §3, 7-23-2013)*

4. Secondary façades attached to a primary façade (such as a side wall not facing a public street) shall wrap around the building by incorporating building materials and features of the primary façade for a minimum of 60% of the overall wall length measured from the primary façade.

5. All facades shall include architectural elements such as accent banding, base plates, cornices, soffits, sills, parapets, transoms, and windows aligned horizontally. The horizontal alignment should differentiate stories in a building and create a base and crown for the building.

6. A rear wall that faces or has the likely potential to face the primary façade of another building must follow secondary façade standards.

7. No long horizontal blank wall space without openings to the interior of the building should occur along street level facades.

8. Any building containing a loading dock, bay or service area shall not be facing a primary street.

9. All buildings with a height of twenty-four feet (24') or greater shall be designed to express a base, midsection, and top. The base and tops of buildings shall vary in material.

10. All buildings within a planned development or development as shown on a concept plan or preliminary site plan shall have similar architectural styles, materials, and colors. Colors on adjacent sides and rear façades shall be finished in a similar color as the front of the proposed building.

11. Architectural diversity and creativity should be encouraged and rewarded to avoid dull or homogeneous buildings. Buildings should incorporate elements from the vernacular of buildings in Boerne, the Hill Country and Central Texas.

C. **Building Material Requirements for remaining facades.** The vertical walls of all buildings (excluding doors and windows) shall be finished in two or more of the following materials:

1. Any permitted primary material, or an equal or better simulated product of a permitted primary material may be used as a secondary material;

2. Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned to compliment the primary material.

D. **Accent Material Requirements.** Up to two accent materials are permitted for moldings and ornamental details, or other significant architectural features. Accent Materials shall consist of no more than 15% of the façade and may consist of:

1. Any permitted primary or secondary material.
2. Standing seam metal.
3. Precast stone, metal, or wood moldings or similar architectural or ornamental details.

E. **Roof Treatments.**

1. Parapets consisting of similar materials to those on the primary façade shall be used to conceal roof top equipment on flat roofs.

2. All sloping roofs less than or equal to a 2:12 pitch shall utilize full parapet coverage along the Entrance Corridor side and minimum of two (2) adjacent sides not less than two feet (2') above the highest point of the roof

3.09.003. <u>Parking.</u>

In meeting the parking requirements of Article 3, Section 10, the following design and location standards shall apply to on-site parking:

A. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.

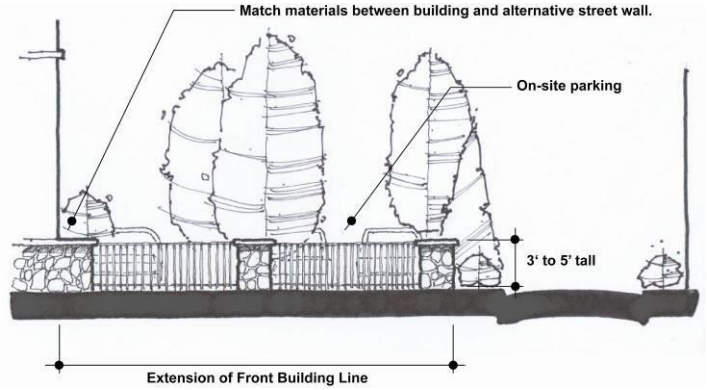
B. The location of the on-site parking surface areas shall be located to the side or rear of a building. On-site parking areas shall not be located between the front building line of any principal building and a street, except where the property is located between a street and a waterway as outlined in Subsection 3.09.008.

1. The City Manager may approve a different solution based upon existing site conditions, screening from the street and/or access drive is mandatory to define the street edge and soften the visual impact. If a different solution is dictated, no more than 15% of the required parking spaces may be located between the principal building front building line and the street. If the property fronts an Avenue, as defined by the City of Boerne Subdivision Ordinance, no parking shall be located between the principal building front building line and the street. *(Ord. No. 2008-25, §3, 8-12-2008)*

2. When on-site parking areas are located to the side of buildings, the facade of the building facing the parking area shall be transparent, between a minimum of 3 feet and 8 feet in height for at least 30% of the horizontal length of the structure.

3. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

4. Where on-site parking is permitted to the side of the building, according to Subsection 3.09.002 an Alternative Street Wall of between 3 and 5 feet and matching the materials or ornamentation of the building or using ornamental metal shall be ten (10) feet behind the Front Building Line to screen parking areas.



C. Entrances and Exits.

1. *Shared Access*. In order to reduce pedestrian and vehicular conflict, shared driveways and access drives are encouraged through cross-access easement agreements.

2. *Bonus for combining access points*. When two or more adjacent property owners agree to combine access points, the City may grant an incentive bonus, in which case the required number of parking spaces combined would be reduced by 10% for the development.

D. All developments with greater than 200 parking spaces shall include an internal street system to facilitate pedestrian and vehicular circulation, creating an interconnected circulation network.

E. The parking areas shall be bounded by a street, building, planting median or internal street.

F. All on-site parking lots shall include planting islands and planting medians as required by Article 4, subsection 4.05.004.

G. Parking areas shall be designed to allow for logical interconnection to abutting properties. All parking areas located within 50 feet of a common property line in a non-residential zoning district shall be interconnected to adjacent lots in a nonresidential zoning district, consistent with the following requirements:

1. For each nonresidential use, the applicant must provide an access easement for proposed parking areas and driveways guaranteeing access to all abutting lots that are within a nonresidential zoning district where such easements enhance traffic circulation and connectivity. In addition, this easement shall provide for the construction of the interconnection between the development's proposed parking area and any parking area on adjacent lots.

2. When an access easement has been provided on an adjacent lot in accordance with this Section, the development must directly connect the parking areas via a driveway.

3. Access easements shall logically connect to internal streets, where practical.

4. Access easements and maintenance agreements or other suitable legal mechanism shall be provided for common parking areas or driveways of each nonresidential use, in a form acceptable to the City of Boerne.

H. On-site parking or shared parking serving 3 or more lots, or parking areas for an Anchor building, may front on secondary or support streets provided it is setback at least 10'.

I. On secondary or support streets, on-site parking is permitted to be located up to 10' from the front lot line provided the parking is still located behind the front building line of buildings on site.

3.09.004. <u>Setbacks.</u>

Setbacks are determined in Article 5 for each zoning district. At the setback or Front Building Line a "street wall" should be created that defines the character and identity through a wide variety of diverse architectural details, creating consistent well-designed frontages along streets and other public or community spaces.

If the property fronts an Avenue, as defined by the City of Boerne Subdivision Ordinance, the building shall be located at the 0' setback line. *(Ord. No. 2008-25, §3, 8-12-2008)*

3.09.005. <u>Screening.</u>

A. *Parking areas.*

1. A street wall between 3 and 5 feet, using matching the materials and ornamentation of the building is permitted along the building front line and secondary street frontage.

2. The street wall must provide openings for pedestrian traffic and act as a screen between the right-of-way and any visible parking area.

3. The materials for fencing should match the materials and ornamentation of the building.

4. Landscaping in front of the street wall must be incorporated every ten feet (10') using the methods described below.
   a) A three-foot landscaped berm
   b) A planting of native trees or large evergreen shrubs that shall grow to a minimum height of eight feet as determined by a registered landscape architect, certified nurseryman or master gardener, or as determined by the City Manager or the City Manager's designee
   c) A combination of the above

B. *Screening of Mechanical Equipment.*

1. All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) from view at ground level of the property line.

2. Roof-mounted mechanical equipment shall be shielded from view on four sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers, which are painted to blend with the primary building.

3. Screening shall result in the mechanical equipment blending in with the primary building and not appearing separate from the building. The slab shall be sized to accommodate the proposed container and sufficient area to receive the front axle loaded points of the collection vehicle.

4. Wall or ground-mounted equipment screening shall be constructed of one of the following:
   a) Evergreen planting screens
   b) Brick, stone, reinforced concrete, or other similar masonry materials
   c) Redwood, cedar, preservative pressure treated wood, or other similar materials
   d) A combination of the above

5. All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars.

C. *Screening of Outside Storage.*

1. Outside storage shall be located on the side or rear of the primary building and shall be screened from public view.

2. Outside storage shall be screened with:
   a) A masonry wall or other material that is similar to the primary structure and at least eight feet tall
   b) A three-foot landscaped berm
   c) A planting enclosure of large evergreen shrubs planted a maximum of four feet (4') apart that shall create a solid screen to a minimum height of eight feet within five (5) years as

determined by a registered landscape architect, certified nurseryman or master gardener, or as determined by the City Manager or the City Manager's designee

d) A combination of the above

D. *Screening of Waste Containers.*

1. Waste containers shall be discretely located on the side or rear of the building and screened from public view.

2. Waste containers must be located at least 50 feet (50') away from residentially zoned property lines.

3. Waste containers shall be located on a minimum six-inch (6") reinforced slab, sloped to drain.

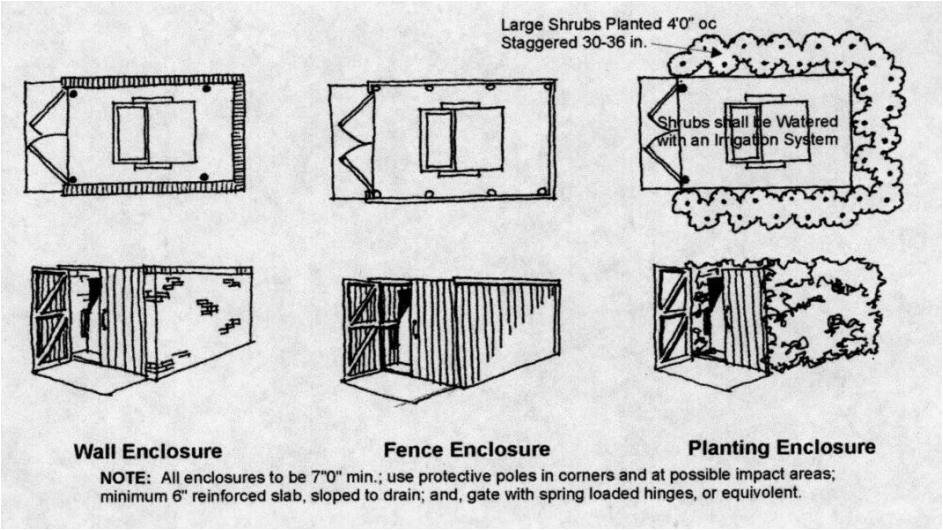
4. Waste containers shall be screened on four sides, using an enclosure that screens the waste container from view at the property line. Screening shall be composed of:
   a) Brick, stone, reinforced concrete, or other similar masonry materials that have a similar finish to the primary finish; or
   b) Redwood, cedar, preservative pressure treated wood, or other similar materials; or
   c) Large shrubs planted four feet on center and staggered 30 to 36 inches. Shrubs shall be watered with an irrigation system; and

5. All fence posts shall be rust-protected metal, concrete based masonry or concrete pillars; and
6. Six inch (6") concrete filled steel pipes or better shall be located to protect the enclosure from truck operations.

7. Waste container enclosures shall have steel framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. When in use, tiebacks should be used to secure the steel framed gates in the open positions.

8. Waste container screening shall be maintained by the owner at all times.

9. Planting Enclosures using large evergreen shrubs shall incorporate plants similar to those used elsewhere on primary site and shall be not less than 15-Gallon in size.



E. *Screening of Loading Docks.*

Any delivery and service areas, loading docks, external support equipment, site utility areas, or other similar high-impact elements of site and building design shall be subject to the following *(Ord. No. 2017-03, §1, 1-24-2017)*:

1. All delivery or service areas and loading docks shall be located on a discrete façade, and internal to the block wherever possible.

2. Any rooftop equipment shall be screened from view of the adjacent public streetscape or other public or common opens spaces by a parapet on flat roofs, or located on a discrete pitch for pitched roofs.

3. Loading areas shall be enclosed on three sides by a wall or other screening device not less than seven feet in height.

4. Loading areas shall not be located closer than 50 feet (50') to any single-family lot, unless wholly located within an enclosed building.

5. Any service areas, loading docks, service equipment, or other site utility area that is visible from adjacent property or public right-of-way shall be screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high.

6. Any service use that involves vehicle service bays on a primary or secondary façade shall be located on only secondary or support streets, shall have the service bay portion of the building screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high~~,~~ and shall not have service bays that occupy more than 40% of a single façade.

3.09.006. <u>Drainage and Detention Facilities.</u>

A. Drainage facilities, provided they are non-structural drainage facilities, shall be designed and engineered to include substantial natural features and serve as an amenity to the site.

B. Detention ponds designed with a curvilinear contoured shape, are designed not to require fencing, and shall utilize vegetative slope stabilization with a slope not exceeding 3:1, with no structural retaining walls are used.

3.09.007. <u>Design Standards for Nonconforming Structures/Lots.</u>

A. Structures that were existing at the time of the adoption of this ordinance (8/12/08) (shall be considered nonconforming) inclusive of the property that the structure is located on, shall be exempt from Section 3.09 of the Ordinance so long as the structure remains in its present form, condition, and location, except in the following circumstances:
   1. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value of the structure as a whole, the pre-existing structure and addition shall be required to conform to Subsections 3.09.002 to 3.09.005. All remodeling of the exterior or adding onto a pre-existing or nonconforming structure at less than fifty percent (50%) of the value of the structure as a whole shall conform to Section 3.09.005 and shall have the same level or better standard of materials, architectural features, and styles as the pre-existing or nonconforming structure, or
   2. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the pre-existing or nonconforming structure, the new structure and the pre-existing structure shall be required to conform to Subsections 3.09.02 to 3.09.05. New structures less than seventy-five percent (75%) of the gross square footage of the pre-existing or nonconforming structure shall conform to Section 3.09.005 and shall have the same level and standard of materials, architectural features, and styles as the existing structure, or
   3. When adding, replacing /relocating waste (dumpster) and/or storage containers. The requirements in Subsection 3.09.05, Screening, shall be adhered to on all pre-existing or nonconforming lots.

   4. Value for a pre-existing structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.

3.09.008 Design Standards specific for Development of Property between and adjacent to a Street and Creek (Cibolo, Menger, Frederick and Browns).

A. **Purpose.** The purpose of this section is to provide development options for properties between and adjacent to a creek and a street. This section of the ordinance is in addition to the Combined Commercial Design Criteria providing some exceptions to building and parking orientation and screening to preserve the natural environment and scenic corridors allowing visual appreciation of the waterway as well as access to trails and the development. The design standards in this section shall apply to those developments that are making use of the waterway as a feature of the site (i.e. Rear patios for dining). No creative alternative is required for these standards to apply.

B. **Applicability.** This section of the ordinance shall be applicable to any subdivision or development in which the site or lot being developed is located between and adjacent to a street and a creek being where the creek is a feature of the site.

C. **Setbacks.** The standard setbacks as determined in Article 5 for each zoning district shall apply.

D. **Building Frontage and Orientation.**

1. The orientation of the structure shall be centered on the lot allowing for pedestrian and vehicular circulation around the structures.

2. Primary and secondary façade standards shall follow the standards set forth in Section 3.09.002B, except as follows:

   a. A rear wall that faces the waterway shall follow provide enhanced design standards that incorporate the material standards of the primary façade, allowing for outside seating and/or viewing of the waterway. These shall be reviewed and approved by the City Manager.

E. **Parking.**

In meeting the parking requirements of Article 3, Section 10, the following design and location standards shall apply to on-site parking for those developments making use of the waterway as a feature of the site:

1. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.

2. The location of the on-site parking may be located in front of and to the side of the structure and only 15% of the required parking spaces may located between the principal building and the waterway.

3. On-site parking areas shall be connected to adjacent parcels through a side lot line access drive or private street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

F. **Screening for parking.**

A 15 ft. landscape screening area shall be provided between the parking area and the street and outside of any easement. If the landscape area is in the Entrance Corridor Overlay District it shall be 25 ft. as required by the ordinance.

1. Any trees existing in the landscape area shall be preserved. Decorative trees or larger shall be provided every 10 - 20 feet (depending on size of tree) in the 15 ft. landscape area.

2. Additional landscaping shall be provided to fully screen the parking area. Plants shall be maintained at least 36 inches (36") in height. Native plants are highly encouraged so that minimal watering is required. Preservation of significant understory vegetation (such as clusters of

Possumhaw, Yaupon Holly, and Texas Wild Plum) is encouraged.

3. Live screening shall be capable of providing a solid 36-inch screen within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.

4. Landscape rock, native rock walls, fountains, statuary, signs in compliance with the City's Sign Ordinance and accent features compatible with the landscape theme and determined not to impact shade trees already growing on the site may be incorporated into this area.

5. Lawn grass areas should be planted in drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sodded. Solid sod shall also be used in swales or other areas subject to erosion.

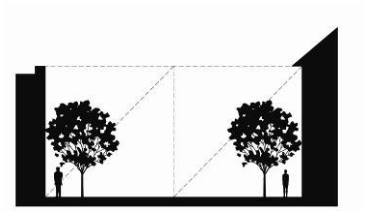
G. **Low Impact Development Requirements.** The developer shall incorporate methods methods into the development of the site identified in the City of Boerne Edition – San Antonio River Basin Low Impact Development Technical Design Guidance Manual.

H. **Compatibility with Other Permit and Ordinance Requirements.** Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by other applicable codes, rules, acts or ordinances. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare and the protection of water quality.

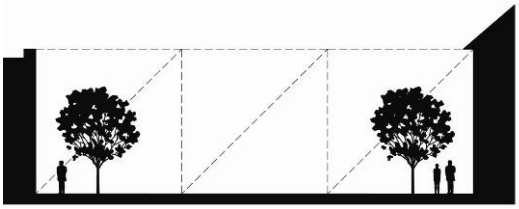
3.09.009. Enclosure Ratio.

Enclosure Ratio refers to the relationship of building frontages across a streetscape – specifically the dimensions and design of building facades, the private frontages if any, and the public rights of way along a streetscape. The ratio is expressed by Streetscape Width to Building Heights. The enclosure is important for achieving the scale, comfort and character of streets in pedestrian-oriented commercial and mixed-use centers – essentially framing the "public realm" of the streetscape. Spaces greater than the standards below result in ill-defined or poorly proportioned streetscapes that lack a clear public realm. Spaces less than the recommended enclosure can result in the perception of confined or congested areas. The Enclosure Ratio shall not alter any specific or required building height maximums for any particular zoning district, but may guide site and building designs dealing with the location, orientation and massing of buildings within the parameters allowed by the zoning district.

A. **General Ratio.** In general, the Enclosure Ratio shall be within a range of 2:1 to 3:1 for primary retail and pedestrian-oriented streets in commercial development patterns.

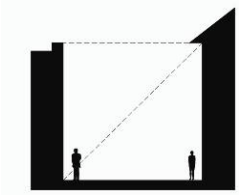


2:1 enclosure



3:1 enclosure

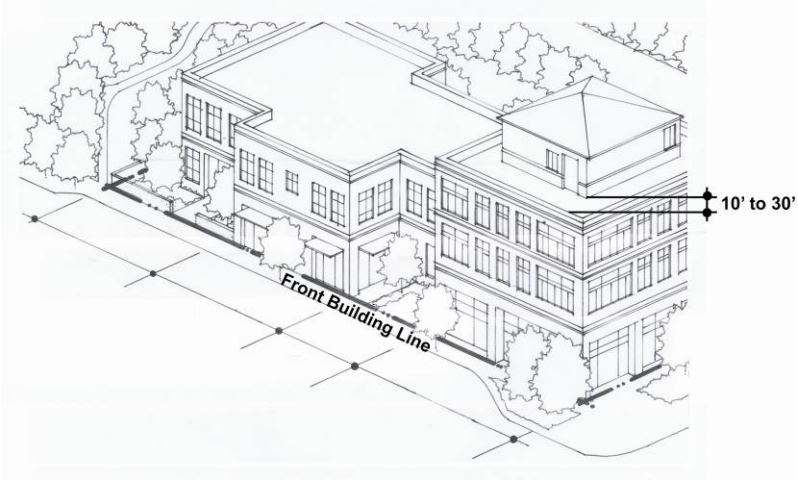
B. **Exception.** Ratios as tight as 1:1 may be approved by the Planning Commission on blocks that are short (less than 400 feet) and on side streets.



1:1 enclosure

C. **Step-backs.** Where building heights are allowed and approved which would exceed these ratios, the lower

story(ies) should maintain the ratios, and upper stories should be stepped back between 10 to 30 feet of the front building line.



SECTION 10. ON-SITE PARKING REQUIREMENTS

3.10.001. General Requirements - When Applicable.

No building or structure shall be designed, erected, altered, used, or occupied, and no use shall be operated in any zoning district unless the On-site parking facilities herein required are provided. On-site parking requirements do not apply to property located in the River Corridor Zone. In the B-3 district the on-site parking requirements are defined in subsection 3.10.009. In the Historic District, on-site parking requirements may be waived or reduced with Planning and Zoning Commission approval, for businesses as set forth in subsection 3.10.010. Lots that are located outside the Historic District which have structures that have obtained a Historic Landmark designation may also request from the Planning and Zoning Commission waived or reduced on-site parking requirements as set forth in subsection 3.10.010. In the River Road District the on-site parking requirements are defined in subsection 3.10.011. *(Ord. No. 2012-04, §3, 4-24-2012)* On-site parking facilities in excess of the amounts heretofore required need not be provided or maintained for land, buildings, structures or uses actually used, occupied and operated on the effective date of these regulations. In the event that after the effective date of this ordinance, land, buildings, structures or uses are enlarged, expanded, or changed, the land, buildings, structures and uses hereby excluded shall not be used, occupied, or operated unless there is provided, for any increment of such land, building, structure or use, at least the amount of On-site parking facilities that would be required hereunder if the increment were a separate tract of land, or a separate building, structure or use. *(Ord. No. 2009-06, §1, 3-24-2009)*

3.10.002. Responsibility for Provision of Facilities.

The provision for and maintenance of On-site parking facilities herein required shall be the joint and several responsibility of the operator and owner of the land, building, structure or use on which is located the use for which On-site parking facilities are required.

3.10.003. Size and Location.

Each On-site parking space shall be not less than nine feet by 18 feet, exclusive of access or maneuvering area, ramps and other appurtenances. Except as otherwise permitted under a special plan for location or sharing of facilities, On-site parking facilities shall include adequate maneuvering room and shall be located on the lot on which the use for which they are provided is located, with the following exceptions; that maneuvering room will not have to be located on the same lot of one- and two-family dwellings. No parking space shall be nearer than 10 feet to any adjacent residential lot, except that the driveway for a detached dwelling or duplex dwelling unit may extend to the side yard if it is to have a rear or side entry garage. Commercial/Construction vehicles cannot be parked on the premises or on any street adjacent to property zoned RE-1, R-1, RN-1, R-2 or R-3 containing 1.5 acres or less.

Exception: A commercial vehicle may be parked in a residential district for the limited purposes of loading and unloading such a vehicle, or for temporary work that has been contracted by a resident.

3.10.004. Construction and Maintenance.

On-site parking facilities shall be constructed, maintained and operated in accordance with the following specifications:

A. *Drainage and Surfacing.*

1. All commercial parking areas, vehicle maneuvering areas and driveways shall be paved with concrete, asphaltic concrete, asphalt, brick or interlocking paving blocks, or other durable and all-weather material acceptable to the City of Boerne Planning and Zoning Commission.

2. Driveway and parking areas for a detached or attached dwelling shall be paved, in the area within the lot up to the lot line, with gravel, crushed stone, concrete, asphalt or another durable and all-weather material acceptable to the City Manager. The area between the lot line and the road shall be concrete. *(Ord. No. 2012-04, §3, 4-24-2012)*

3. It shall be a violation of this ordinance to park a passenger vehicle in any front or side yard that is not paved as described above. The paved area shall be attached to the driveway as a parking pad. No more than 50% of the required front yard may be covered with a parking pad and or driveway.

4. All facilities shall be properly graded for drainage and maintained in good condition, free of weeds, dust, trash and debris.

B. *Wheel Guards.* Boundary or perimeter areas shall be provided with wheel guards or bumper guards, so located that no part of a parked vehicle will extend beyond the lot line of the parking area.

C. *Protective Screen Fencing.* Parking areas shall be provided with solid protective screen fencing so that occupants of adjacent uses are not unreasonably disturbed, during day or night, by the movement of vehicles.

D. *Lighting.* Lighting facilities shall be arranged so that they do not unreasonably disturb occupants of the site or of adjacent residential properties or interfere with traffic.

E. *Entrances and Exits.* Parking areas shall be provided with entrances and exits so located as to minimize traffic congestion.

F. *Prohibition of Other Uses.* Parking areas shall not be used for any business involving the sale, repair, dismantling or servicing of any vehicles, or the sale of any equipment, materials, or supplies.

3.10.005. Shared Parking.

In meeting the requirements of sub-section 3.10.008., adjacent land uses, lots, or sites may share parking under the following conditions and standards:

A. All landowners participating in the shared parking shall execute the necessary cross-access easements to facilitate shared parking and record all documents for the easements with the County.

B. A written agreement for the joint use of parking facilities shall be executed by the parties and approved by the City.

C. All shared parking spaces shall be within a reasonable proximity of the main entrance of any building sharing the parking and provide direct pedestrian access to the entrance either by way of pedestrian alleys and passages, or by way of public sidewalks in the streetscape. In general, locations greater than 600' shall not qualify unless exceptional circumstances justify.

D. Parking requirements shall be the cumulative requirements of the uses sharing the parking, except where different categories of uses (Retail or Service, Employment, Civic, or Dwellings) are participating in the sharing agreement and are likely to generate distinctly different times of peak parking demand. The following table is a base guide for shared parking. Each use should provide a percentage of parking required by these regulations according to *Table 3-1 Shared Parking*. Whichever time period requires the highest total parking spaces among the various uses should be the amount of parking provided subject to the shared parking agreement. Alternative parking allocations may be approved by the City based on industry data or other sufficient evidence and analysis of peak parking

demands for specific uses.

TABLE 3-1: SHARED PARKING					
➢ LAND USE	PERCENTAGE OF REQUIRED PARKING SPACES BY TIME PERIOD				
	WEEKDAY DAY & EVENING		WEEKEND DAY & EVENING		NIGHTTIME
	6 AM TO 5 PM	5 PM TO 1 AM	6 AM TO 5 PM	5 PM TO 1 AM	1 AM TO 6 AM
EMPLOYMENT	100 %	10 %	5 %	5 %	5 %
RETAIL OR SERVICE	75 %	75 %	100 %	90 %	5 %
RESTAURANT	50 %	100 %	75 %	100 %	25 %
ENTERTAINMENT & RECREATION	30%	100 %	75 %	100 %	5 %
CHURCH	5 %	25 %	100 %	50 %	5 %
SCHOOL	100 %	10 %	10 %	10 %	5 %
DWELLINGS	25 %	90 %	50 %	90 %	100 %
LODGING	50 %	90 %	75 %	100 %	100 %

3.10.006. <u>Parking Credits.</u>

A credit may be given to the requirements of the sub-section 3.10.008. under the following conditions:

A. ***On-street Parking Credit.*** On-street parking within 300 feet of any lot line may be credited to the parking requirement at a rate of one credit for every two on-street parking spaces, provided the parking used as a credit is in front or on the side of a commercially zoned tract of land, and the parking does not extend beyond the commercially zoned property line.

B. ***Bicycle Parking Credit****.* Bicycle parking facilities within 150 feet of the primary building entrance may be credited at a rate of one credit for every four bicycle parking spaces, up to a maximum of 5% percent of the required vehicle parking. The applicant shall provide sufficient justification that the site can be reasonably accessed by bicycles and that land uses on the site can generate bicycle access in order to receive the bicycle parking credit.

C. ***Walkable Neighborhood Credit.*** Where the density and pattern of the development is such that there exists more than 1 dwelling unit for each 200 square feet of leasable non-residential area in the district as a whole, located within less than ½ mile radius of the center of the district, individual uses in the district may apply for a Walkable Neighborhood Credit. If substantial pedestrian connections exist between the site and the adjacent residential neighborhoods, non-residential uses located may propose that the parking requirements of sub-section 3.09.008. be reduced by up to 25%. The City may approve the credit based on an assessment of the existing mix of uses, the likely parking impact generated by the proposed use, and other physical conditions that contribute to the pedestrian access to the site.

D. ***Valet Parking Credit.*** By utilizing valet parking, the number of required parking spaces may be reduced up to 40%, subject to review of the City Manager. Valet parking credit may only be applied for businesses in the Central Business District (B-3), River Corridor (R-C), Historic Overlay District and for those lots that are Zoned B-1 that front River Road.

1. A business utilizing the valet parking credit shall have a valid valet parking permit before a Certificate of Occupancy is issued. Failure to institute valet parking upon the occupancy of the building for which valet parking is provided or cessation of valet parking after occupancy has commenced without approval of the City Manager shall constitute a violation of this ordinance.

2. Site Plan required: An individual requesting the valet parking credit shall present a site plan of the business that identifies kiosks, fare gates, walkways, customer waiting areas and all other facilities necessary to accommodate valet parking to the City Manager.

3. Attendant parking service shall be available for the days and hours required by the City Manager.

4. If the valet parking service utilizes the public right-of-way, it may be located at the face of the existing curb.

(Ord. No. 2009-13, §1, 5-26-2009)

E. **Tree Preservation Credit.** Parking Space Reduction – Upon application and verification by the City Manager, an individual shall be entitled to a reduction in the minimum parking requirements of Section 10, On Site Parking Requirements of this Ordinance to help meet the community's tree preservation goals. The minimum parking requirements may be reduced by one parking space for every tree having a trunk circumference of 37 inches that has been preserved or mitigated on a site. Up to 15% of the required spaces may be waived regardless of trees location; however, a waiver in excess of 15% of the required spaces shall require that some of the preserved or mitigated trees be in the interior of the parking areas. No waiver may exceed 30% of the required spaces. In order to promote placing trees in the parking lot to provide additional cooling and shade benefits it is suggested that the developer attempt to retain a portion of the preserved and/or mitigation trees in the interior of the parking areas. *(Ord. No. 2010-30, §3,12-14-2010*

3.10.007. <u>Maximum Parking.</u>

No use shall provide more than 10% percent over the minimum required parking in sub-section 3.10.008 without exhausting all options for Parking Credits or Shared Parking, and shall only be permitted to exceed 10% of the minimum requirements by incorporating **two or more** of the following mitigating design features:

A. The surface of lesser used or overflow parking areas shall be a porous surface that allows all storm water to be infiltrated below the surface, subject to the approval by the City. Any porous surface used shall demonstrate that it has at least the same or better performance standard as the required standard parking surface and does not present any maintenance issues.

B. The site shall be required to provide additional area, equal to or greater than the area of parking in excess of the maximum, as public or common open space. This additional open space shall be subject to the design and location requirements of the Civic Open Space System in the Subdivision Regulations, and shall be in addition the minimum open space requirements for the site. Alternatively, the excess area may be designed as Civic Open Space that has the capability of accommodating overflow parking at limited peak times, such as a plaza surface or stabilized green surface which can accommodate cars.

C. Landscape material requirements for the site shall be increased by 10% percent above the minimum amount required in the Landscape Design standards of Article 4 and shall be allocated to provide enhanced buffering of all on-site parking; or

D. Internal landscape islands for the on-site parking shall be increased by 5% percent above the minimum percentage requirements of Article 4.

3.10.008. <u>Parking Requirements.</u>

A. The minimum requirements for On-site parking facilities of Table 3-2 are general and are intended to include all similar uses. Where the classification of use is not determinable from said table, the City Manager shall determine the appropriate classification. Parking requirements shall be the cumulative requirements of the uses within a building and the total may be considered separately for a cumulative total (i.e. Restaurant dining area and an office or kitchen area for staff only) – all would be counted as separate uses to come up with a total number of parking spaces). *(Ord. No. 2015-36, §3, 11-10-2015)*

B. In the B-3 central business district and B-2 highway commercial districts, On-site parking facilities may be located on a separate site from the lot on which the use is located, provided such separate lot is no further than 600 feet. This distance shall be measured by a straight line from the nearest point of the lot on which the use is located to the nearest point of the separated On-site parking facilities.

C. The requirements for On-site parking facilities in all districts shall be governed by Table 3-2. Each fractional parking space required by the table shall be rounded up to the next whole number.

3.10.009. <u>B-3. Central Business District On-site Parking Requirements.</u>

On-site parking requirements in the B-3 district are as follows:

A. On-site parking is not required for commercial properties in the B-3 district

B. If On-site parking is made available for commercial property, the parking area shall not be located between the front of the building line of any principle building and front lot line. Parking shall be located on the side or rear of the building.

C. On-site Parking spaces for commercial properties:

1. In determining the maximum number of on-site parking spaces the property owner shall first:

a. Measure the street frontage of the property and then divide by 20 feet to determine the number of on-street parking spaces that are available.

b. This number shall be subtracted from the requirements demonstrated in Table 3-2 and the remaining number of spaces may be permitted as the maximum number of on-site parking spaces.

D. Residential properties located in the B-3 district shall be required to provide on-site parking at a rate of ½ required by Table 3-2 parking rate.

(Ord. No. 2009-06, §1, 3-24-2009)

3.10.010 Historic Buildings in the Historic District – Historic Landmark Designation On-site Parking Requirements.

Property owners must make every effort to provide on-site parking required by this ordinance. If a property owner owns a structure built prior to the passing of this ordinance located in Boerne's Historic District, or owns a structure that has a Historic Landmark designation, and is unable to meet the parking requirements set forth in this section they may make application to the Planning and Zoning Commission requesting relief to the on-site parking requirements.

The application shall include the following:

1. Location of the property;

2. History of the structures;

3. Site plan of the property, building locations, area available for on-site parking;

4. Proposed uses of the property and number of required parking places based on uses;

5. Describe and proposed change in uses if any;

6. Explanation why parking cannot be accommodated on the site and why the waiver is being requested.

A. The property owner or representative shall explain and provide examples why the requested waiver is needed to insure the preservation of the historic building or that the structure/site would be compromised if on-site parking were provided.

B. The property owner or representative shall demonstrate they have explored all parking credits available and have applied those to this property (i.e. letters from adjacent property owners who do not wish to enter into a shared parking agreement).

C. The Planning and Zoning Commission may grant a waiver to the on-site parking requirements if the property owner uses one of the following alternative parking methods. These alternatives may be considered toward granting parking credits towards the on-site parking requirements.

1. Off-site parking with shuttle service for employees

2. Street improvements to install on-street parking in the general area.

3. Alternative suggestions presented by the property owner or representative may also be considered

D. If all methods of parking have been exhausted for the property, the Planning and Zoning Commission may consider granting a waiver for any parking requirements. *(Ord. No. 2009-06, §1, 3-24-2009)*

TABLE 3-2: PARKING RATES	
USES	MINIMUM PARKING SPACES REQUIRED
Dwelling, except Multi-Family	2 for the first three bedrooms plus 1 for each additional bedroom in each family unit
Multi-Family Dwelling	1.5 for each studio, one or two-bedroom unit; 2 for each unit with 3 or more bedrooms
Retirement Community	1 for each dwelling unit
Church, auditorium, theater, gymnasium, assembly hall, convention hall, stadium, funeral home	1 for each 4 seats w/ outdoor facilities – add 1 for each 800 square feet of outdoor area
Health Clinic/Medical Office	1 for each 200 square feet of gross floor area
Mixed Use	1 for 300 square feet of gross floor area
Hospital	1 for each 1.5 beds
Long Term Care Facility	1 for each 4 beds
Residential Care Facility	1 for each on duty or resident care provider and 1 for each bedroom
Office	1 for each 300 square feet of gross floor area
Library, club or lodge	1 for each 300 square feet of gross floor area
Hotel, motel, travel trailer court	1 for each guest room or travel trailer space, plus 1 for each 2 employees. (Bars and restaurants are counted as additional uses.)
General retailing, business and commercial uses	1 for each 200 square feet of gross floor area
Retailing with outdoor sales yards	2 for each 1,500 square feet of site area
Gas station	2, plus 3 for each service bay
Restaurant	1 for each 100 square feet of gross floor area
Mobile Food Vendor	2 for each vendor
Bar, night club	1 for each 150 square feet of gross floor area
Outdoor recreation and entertainment facilities	1 for each 800 square feet of outdoor recreational area
Manufacturing, processing, wholesaling	1 for each 400 square feet of gross floor area
Warehousing	1 for each 1,000 square feet of gross floor area
Shopping Center	1 for each 175 square feet of gross floor area The total floor area used for restaurants and health clinics (but not including bar/nightclub) which exceeds 25% of the shopping center floor area, shall require additional parking to be provided in accordance with the requirements for restaurants or health clinics.

3.10.011 RR. River Road District Parking Requirements.

Property owners must make every effort to provide shared parking or valet parking. On-site parking requirements in the RR district are as follows:

A. On-site parking for commercial use is half (1/2) of the requirements identified in Table 3-2.
B. On-site parking shall not be located between the front of the building line of any principle building and front lot line. Parking shall be located on the side or rear of the building except on the south side of River Road where parking is allowed behind a decorative fence at the front lot line and to the side of the building.

3.10.012 Landscaping of Parking Areas.

A. **Parking for *Under 100 vehicles:*** There shall be at least one shade tree nine inches or larger in circumference planted for each 12 parking spaces, and a minimum of 100 square feet for each 12 parking spaces shall be devoted to landscaping islands, peninsulas or medians. A minimum of one shade tree of nine inches or larger in circumference shall be planted in each such landscaped area. If a shade tree of nine inches or larger in circumference or larger already exists in the landscaped area, there shall be no requirement to plant an additional shade tree. The location, size and shape of these islands, peninsulas, and medians shall be at the discretion of the owner within the following guidelines: the placement of trees in parking lots provide additional cooling and shade it is suggested that the developer attempt to plant and or retain a portion of the preserved trees in the interior of the parking areas at a ratio of one tree for every 12 parking spaces, and attempt to have no parking space further than 80 feet from any tree. The island, peninsula size, shape and location may be adjusted to accommodate existing trees or other natural features so long as the total area and tree requirements are satisfied. All landscaping which is in required landscaped areas adjacent to pavement shall be protected with concrete curbing or equivalent barriers such as car bumpers or railroad ties. Alternatively, the islands may be designed with a curb-less or perforated curb system provided they are engineered to infiltrate run-off from the parking lot, such as a rain garden or bioswale. *(Ord. No. 2010-30, §3, 12-14-2010)*

B. **Parking area for *Over 100 vehicles:*** A planting median shall be placed between every third parking bay of adjacent parking bays, at a minimum, to prevent traffic movement across parking isles. *(Ord. No. 2015-36, §3, 11-10-2015)*

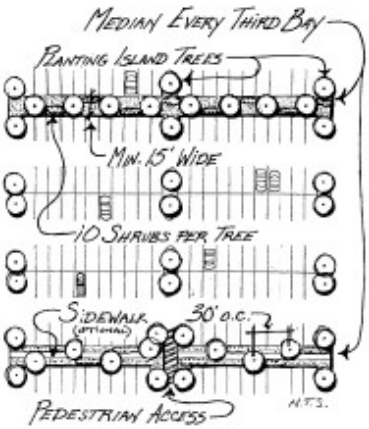
1. The planting median shall be a minimum of 15 feet wide and may be designed with a curb-less or perforated curb system provided they are engineered to infiltrate run-off from the parking lot, such as a rain garden or bioswale.

2. The planting median shall contain the following vegetation, at a minimum:

   a. One nine inch or larger in circumference shade tree planted every 35 feet on center, in a continuous or staggered row. A commercial building with a footprint of 40,000 square feet or larger that has more than 15% of the parking between the building line and the street shall incorporate one nine inch or larger in circumference legacy/ornamental tree planted every 40/20 feet on center, in a continuous or staggered row.

   b. Ten shrubs for every tree required, planted in rows or clustered groups.

   c. The planting median shall contain defined breaks, as necessary, to provide pedestrian circulation between bays of parking. The breaks shall allow for handicap accessibility from one side of the planting median to the other and onto the sidewalk within the planting median if a sidewalk is located within the median.



3. The planting median should incorporate as many existing trees as possible.

4. In addition to any other required plantings, all parking lot planting areas shall be planted with drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sided. Mulch, stone, or similar materials may be used sparingly. *(Ord. No. 2010-30, §3,12-14-2010*

SECTION 11. RECONSTRUCTION OF DAMAGED BUILDINGS

Nothing in this ordinance shall be taken to prevent restoration of a building or structure damaged to the extent of not more than 50 per cent of its reasonable value by fire, explosion or other casualty, or act of God, or public enemy, or the continued occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction.

SECTION 12. NONCONFORMING USES, STRUCTURES AND LOTS

3.12.001. Nonconforming Uses – In General.

A. The lawful use of land existing on the date of this ordinance, although such use does not conform to the provisions of this ordinance, may be continued, but if such nonconforming use is discontinued for a period of six months or more, any future use of such premises shall be in conformity with the provisions of this ordinance.

B. The lawful use of any building or structure existing on the date of adoption of this ordinance may be continued even though such use does not conform to the provisions of this ordinance, and such use may be extended throughout the building or structure, provided no structural alterations, except those required by law or ordinances, are made therein.

C.. Whenever a nonconforming use is discontinued for six months or more, all nonconforming use rights shall cease, and the use of the premises shall be in conformance with this ordinance. The term “discontinue” shall mean that the property or structure is vacant and no attempt to market the property is observable on the property or from the exterior of any structure, or that the property or structure is vacant and City taxes owed on the property are delinquent. The Board of Adjustment may grant a variance to this provision only if the owner can show there was a clear intent not to abandon the use even though the use may have been discontinued for six months.

3.12.002. Nonconforming Uses in the RC District.

The continuation and expansion of nonconforming uses existing in the RC district at the time the land is zoned RC shall be permitted provided the following requirements are met:

A. The expansion of the nonconforming use within an existing building or structure, or into an adjacent building or structure, or the structural alteration of an existing building or structure in order to accommodate such expansion, shall only be for the use which was in operation at the time of the RC district zoning.

B. Should land adjacent to a nonconforming use, which is in the same ownership but not itself the site of the nonconforming use, be sold separately from the nonconforming use, the use of the land which is sold shall conform to those uses permitted in the RC district.

C. Should the nonconforming use change, the new use shall conform to those uses permitted in the RC district.

D. The right to continue a nonconforming use shall be transferable by deed provided the preceding requirements are met.

3.12.003. Completion of Buildings under Construction.

Nothing contained in this ordinance shall require any change in the plans, construction or designated use of a building or structure actually under construction, and for which a building permit was issued, on or before the date of adoption of this ordinance, and which entire building or structure is completed within one year from that date.

3.12.004. Nonconforming Structures.

A. Continuance of Nonconforming Structures: Except as hereinafter provided, any nonconforming structure may be occupied and operated and maintained in a state of good repair.

B. Enlargement or Extension of Nonconforming Structures: A nonconforming structure in which a nonconforming use is operated shall not be enlarged or extended. A nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this ordinance established for structures in the district in which the nonconforming structure is located.

C. Restoration of Damaged Nonconforming Structures: A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than 50 per cent of its replacement cost may be restored, provided restoration is begun within one year and completed within two years of the date of damages.

D. Neighborhood and Medical Offices built in the Industrial District prior to July 23, 2013 are exempt from 3.12.004 B and C. *(Ord. No. 2013-23, §3, 7-23-2013)*

3.12.005. Nonconforming Lot Area.

On any lot or tract of land subdivided or platted before the date of adoption of this ordinance, such lot or tract being of record at the time, a single-family dwelling may be erected even though the lot is of less area than required by the regulations relating to area in the district in which it is located; provided, however, in any event, the combined area of the dwelling and accessory buildings shall not cover more than 40 per cent of the total area of the lot.

SECTION 13. ZONING DISTRICTS ESTABLISHED

Zoning regulations and districts as set forth in this ordinance are established and the City is divided into districts as follows:

R-A	Single Family Rural Residential - Agriculture
RMA	Single Family – Residential Manor
R-E	Single Family Residential-Estate
RE-1	Low Density Single Family Residential
R-1	Medium Density Single Family Residential
RN-1	Neighborhood Residential
R-2	Moderate Density Residential
R-3	High Density Residential
R-4	Multi Family Residential
CL	Rural Cluster Overlay
RMO	Modular Residential
RR	River Road
B-1	High Density Residential and Neighborhood Commercial
MU-1	Mixed-use Neighborhood Center
B-2	Highway Commercial
B-2R	Highway Commercial - Restricted
MU-2	Mixed-use Community Center
B-3	Central Business District
O	Office District
RC	River Corridor
I	Industrial
PUD	Planned Unit Development District
MHC	Manufactured Home Community
EC	Entrance Corridor Overlay
CHD	Cottage Housing Development Overlay

SECTION 14. MAP OF DISTRICT BOUNDARIES (ZONING MAP)

The boundaries of the districts established in the preceding section are shown upon maps on file in the office of the City Manager. Such zoning maps and all notations, references and other information shown on such maps are as much a part of this ordinance as if the matters and information set forth by such maps were all fully described herein.

SECTION 15. RULES FOR INTERPRETATION OF ZONING MAPS

A. When definite district boundaries are intended to be along existing street, alley or lot lines, or extensions of or from the same.

B. When the location of a district boundary line is not otherwise determined, it shall be determined by the scale of the maps measured from a given line.

C. Where the street layout actually on the ground varies from the street layout as shown on the zoning map, the Zoning Board of Adjustment may apply the designations shown on the paved streets distances in feet are not shown on the zoning maps, the in such a way as to carry out the intent of the plan for the particular area in question.

SECTION 16. ZONING OF NEWLY ANNEXED TERRITORY

All territory annexed to the City hereafter shall be temporarily classified as R-A until permanently zoned by the City Council. The Planning and Zoning Commission shall, as soon as practicable after annexation of any territory to the City, institute proceedings on its own motion to give the newly annexed territory a permanent zoning district

classification, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.

SECTION 17. TRANSITIONAL USE

A transitional use, as well as time constraints, shall be incorporated into the Table of Permitted Uses following the same procedures as outlined in Article 6, Planning and Zoning Commission, Section 05.

The length of time a transitional use is valid shall be incorporated in the Table of Permitted Uses. The transitional use shall cease to exist on the date set forth, and the Table of Permitted Uses shall be corrected to reflect that the use is no longer permitted in that zoning district from that date forward.

SECTION 18. RESIDENTIAL CARE FACILITY

Residential Care facilities include but are not limited to the following: Rooming House/Boarding Houses, Personal Care Homes, Community Homes and Group Homes as defined by this ordinance. If special accommodations for handicapped accessibility are necessary to afford persons with a disability an equal opportunity to use and have enjoyment of the dwelling, a variance to the requirements of this ordinance may be granted by the Board of Adjustments. The following are restrictions applied to Residential Care Facilities: *(Ord. No. 2014-02, §3, 2-25-2014)*

3.18.001. In Business Districts.

Residential Care Facilities in business districts shall meet the following requirements:

A. No more than two (2) persons are permitted per bedroom.

B. No other use, including a home occupation, shall be conducted on the premises of a Residential Care Facility, except for such activities clearly incidental to the administration of the facility and the provision of services in connection with the facility's State license.

C. Parking rates are as required for each zoning district use as identified in Table 3-2 of this ordinance. If special accommodations for handicapped accessibility are necessary to afford a person with a Disability an equal opportunity to use and enjoyment of the dwelling, a variance to the requirements of this ordinance may be granted by the Board of Adjustments.

3.18.002. In Residential Districts.

Residential Care facilities in residential districts shall meet the following requirements:

A. No more than two (2) persons are permitted per bedroom.

B. A Residential Care Facility that requires licensing shall not be located within 2,500 feet of another licensed Residential Care Facility and/or a Long Term Care Facility, measured door-to-door. If, after passage of this Section of the City of Boerne Zoning Ordinance, a facility is sought in violation of the spacing requirements contained in 3.18.002B then approval of use must be obtained from City Council.

C. A Residential Care Facility that requires licensing shall register with the City of Boerne Code Enforcement Department.

   a. Registration shall be made with the City of Boerne thirty (30) days prior to commencement of the use of the facility. All licensed facilities currently in the city shall make application within 120 days of the passage of this Section of the City of Boerne Zoning Ordinance. Applicable licenses shall be provided to the City and verification shall be determined as to the distance between licensed facilities. If the distance between Residential Care Facilities is less than 2,500 feet, the proprietor shall obtain a variance by the Board of Adjustments before use of the facility may be permitted.

D. Conformance of design standards as provided by this ordinance shall be adhered to by Residential Care Facilities. The facility shall be compatible in appearance with the surrounding residential dwellings.

E. No other use, including a home occupation, shall be conducted on the premises of a Residential Care Facility, except for such activities clearly incidental to the administration of the facility, the provision of services in connection with the facility's State license.

F. Parking rates are as required for each zoning district use as identified in Table 3-2 of this ordinance. If special accommodations for handicapped accessibility are necessary to afford a person with a Disability an equal opportunity to use and enjoy the dwelling, a variance to the requirements of this ordinance may be granted by the Board of Adjustments.

ARTICLE 4. TREE PRESERVATION REQUIREMENTS. *(Ord. No. 2012-04, §4, 4-24-2012)*

SECTION 01. IN GENERAL
SECTION 02. PURPOSE
SECTION 03. APPLICABILITY OF TREE PRESERVATION REQUIREMENTS
SECTION 04. TREE PRESERVATION
SECTION 05. REQUIREMENTS FOR PERMITS AND INSPECTIONS
SECTION 06. MINIMUM COMMERCIAL LANDSCAPE STANDARDS
SECTION 07. MITIGATION FOR STANDARD OR HERITAGE TREE REMOVAL
SECTION 08. LEGACY STANDARD OR HERITAGE TREE PRESERVATION AND PROTECTION
SECTION 09. WAIVER FROM TREE PRESERVATION REQUIREMENTS
SECTION 10. VIOLATIONS AND PENALTIES

SECTION 01. IN GENERAL

No tree shall be removed unless such removal meets all the provisions of this or any other applicable ordinance adopted by the City Council of the City of Boerne, Texas.

SECTION 02. PURPOSE

It is the purpose of this Ordinance to ensure environmental sensitive site planning to facilitate site design and construction, to contribute to the long term viability of existing trees, to control the removal of trees when necessary, specifically, preservation of the trees defined as Legacy Trees, to enhance the environmental and ecological performance and aesthetic quality of commercial and residential developments, and to prohibit the indiscriminate clear cutting of property.

This Ordinance does not preclude the removal of any tree from a proposed building foot print or the only practical sites for ingress and egress from parking areas.

SECTION 03. APPLICABILITY OF TREE PRESERVATION REQUIREMENTS

4.03.001. <u>Applicability.</u>

This Ordinance shall regulate all activities that result or may result in the removal of tree(s) in the City limits of Boerne Texas. Said activities include any of the following conducted on property to which the section applies:

1. All residentially zoned property for which a subdivision is accepted by the City after the effective date of this ordinance

2. Industrial, commercial, office, multi-family, institutional development and schools, including all new construction and any additions greater than 2500 square feet.

3. Construction of a new parking lot or expansion of an existing parking lot.

4. Any grading, filling or clearing of land.

5. Chemical or biological treatment of tree(s) that may result in the death or destruction of any tree(s) as defined.

6. Trenching or excavating that may damage or destroy Legacy as defined.

7. All governmental development shall comply with the tree preservation plan review procedure regardless of the zoning district in which they are located.

8. Detached and attached dwelling lots platted after the effective date of this ordinance.

4.03.002. <u>Exceptions for Certain Buildings and Lots.</u>

The following shall be exempt from the requirements of this Ordinance:

1. Lots on which buildings were constructed prior to the adoption of this ordinance and subsequently damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind, provided a building Permit is issued for restoration within 12 months after the damage occurs and additional square footage is not proposed.

2. All residentially zoned lots of one half (1/2) acre or less whether platted prior to or after the effective date of this ordinance.

SECTION 04. TREE PRESERVATION

4.04.001. Minimum Tree Preservation Requirements:

No Legacy tree shall be removed from any real property within the City of Boerne without following the provisions as stated below. Exceptions are identified in Section 4.03.002.

A. The following shall apply to Legacy trees:

1. Commercial and Multi-family – A minimum of 30% of Standard trees exclusive of Heritage trees shall be preserved on a lot.

2. Subdivision Development of Single-family and other residentially zoned areas – The removal of trees for the purpose of clearing and installation for infrastructure (roads, utilities, etc.) and lot lines is allowed.

3. Commercial, Industrial and Multi-family – Heritage trees shall be preserved and shall not be removed without mitigation.

4. Single-family and other residentially zoned areas – Heritage trees shall be identified on the plat and shall be preserved.

5. Steep slopes – Standard and Heritage trees shall not be removed from a Steep Slope area.

6. Stream Setback zones -

No trees shall be removed without following the procedures set forth in Section 05 to include the limitations identified below:

Stream Setback Zone 1 – Legacy trees shall be preserved as follows:
Standard trees – 80%
Heritage trees – 100%

Stream Setback Zone 2 – Legacy trees shall be preserved as follows:
Standard trees – 50%
Heritage trees – 100%

SECTION 05. REQUIREMENTS FOR PERMITS AND INSPECTION

4.05.001. <u>Permits and Inspection.</u>

Permits are required prior to the removal of any trees from a tract of land with the exceptions of those parcels covered in Section 4.03.002. The Permit shall be either A or <u>B and C</u> as identified below:

A. A Building Permit (Section 4.05.002)

B. A Standard or Heritage Tree Removal Permit (Section 4.05.003)

C. A Tree Removal Permit (Section 4.05.004)

The Permit application and required attachments shall be submitted with the fee established by City Council to the Code Enforcement office for review.

Prior to issuance of any Permit the property shall be inspected by either a representative of the Planning Department or Code Enforcement department.

4.05.002. <u>Building Permits.</u>

A. **Commercial:** A property/developer shall submit a Tree Preservation Plan (TPP) at such time they submit a building permit application for a commercial, industrial or multi-family development on any real property in the City of Boerne.

1. The building Permit shall not be issued until such time as the City Manager has approved the TPP, the Code Enforcement Department has been notified and the required tree protection (Section 4.07.001) is in place and approved by the Code Enforcement department. If, prior to completion of construction, the tree protection is removed, a Stop Work Order will be imposed until the tree protection has been replaced and approved.

2. Tree Removal Permit shall be applied for and approved before removal of any Standard or Heritage tree.

B. **Residential:** A property owner who plans to construct a residence on any real property shall apply for a Building Permit. The Permit application shall include a plot plan, in lieu of a TPP, the plot plan will include the identification of Standard or Heritage trees located on the lot. Movement of the proposed structure on the lot within the building envelope may be adjusted by the City Manager taking into consideration the location of the Standard trees on the lot. Mitigation of Standard trees removed on residential lots is not required.

1. Heritage trees shall be preserved if it was identified on the final subdivision plat that contains the lot.

4.05.003. <u>Standard or Heritage Tree Removal Permit.</u>

A Standard or Heritage Tree Removal Permit shall be applied for and approved before removal of any Standard or Heritage tree from any real property within the City. An application for the removal of a Standard or Heritage tree shall be made by the owner/developer of the property on which such tree is located.

6. When an applicant submits a Standard or Heritage Tree Removal Permit application, they shall present either a TPP (Section 4.05.006) or, if a TPP is not required, a survey or plot plan identifying the Standard and Heritage trees and trees to be removed to the City Manager.

7. A valid reason for removal of a Standard or Heritage tree shall be submitted to the City Manager in writing.

8. If on-site Legacy trees are to be used for mitigation for removal of Standard or Heritage trees (Section 4.06.001), the mitigating trees shall be identified on the Plan.

9. If mitigation includes replacement trees (Section 4.06.001), the Permit shall include a tree replacement plan that reflects the location, circumference and placement of replacement trees. If payment shall be made in lieu of replacement trees, a statement of such shall be attached.

10. The Standard or Heritage Tree Removal Permit shall not be issued until such time as a City Manager approval has been received by the Code Enforcement department and the required tree protection (Section 4.07.001), if necessary, is in place and approved by the Code Enforcement department.

11. Such other information as may be reasonably required by the City Manager.

Standard and or Heritage Tree Removal Permit Approval:

The City Manager may approve an application to remove a Standard or Heritage tree after determining that the tree:

g. Prevents reasonable access to the property; or
h. Prevents a reasonable use of the property; or
i. Is a hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
j. Is dying or dead;
k. the restoration to sound condition is not practical; or
l. disease may be transmitted to other trees and endanger their health; or
m. For a tree located on public property or a public street or easement:
    i. prevents the opening of necessary vehicular traffic lanes in a street or alley; or
    ii. prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

4.05.004. <u>Tree Removal Permit.</u>

If a property owner desires to selectively remove non-Legacy trees or Legacy trees that are smaller than 37 TC inches from any real property that does not require a Building Permit (is not being developed), they shall be required to obtain a Tree Removal Permit. The removal of trees that are dead or dying (as identified by an arborist or landscape architect) and cannot be restored to sound condition do not require a Tree Removal Permit.

1. A valid Tree Removal Permit application must be filed with the City Manager and approved by the Planning Department before a property owner begins to remove trees.

2. The TPP (Section 4.05.006) shall be prepared without items (3), (10), and (11) unless they are existing on the lot.

3. The property shall be inspected by either a representative of the Planning Department or the Code Enforcement department. After said inspection the Tree Removal Permit shall be issued if the trees marked on the site correspond to the submitted on the TRP at which time the appropriate trees can be removed.

4.05.005. <u>Inspections.</u>

The Code Enforcement department shall inspect each site for conformance with the approved Tree Preservation Plan prior to the issuance of a Certificate of Occupancy.

4.05.006. <u>Tree Preservation Plan Requirements.</u>

The Tree Preservation Plan (TPP) shall be prepared by a Certified Arborist or Landscape Architect and shall include the following:

1. The date, scale, north point, project title, and name of property owner.

2. The location of existing lot lines, setback lines and dimensions of the lot.

3. The location of all proposed buildings and parking areas on the lot/tract of land.

4. The location and size of existing and proposed streets and alleys and existing and proposed easements on or adjacent to the lot.

5. The approximate center lines of existing water courses, the location of the 100 year flood plain, and the approximate location of significant drainage features on the lot.

6. All Standard or Heritage trees as defined by this ordinance shall be numbered, marked with a metal tag and enumerated by species on the site as well as on the plan.

7. The plan shall identify those Legacy trees for which a removal Permit shall be requested (Section 4.05.004) as well as and a mitigation plan based on Section 4.06.001.

8. The trees shall be measured using trunk circumference (TC).

9. The following information shall be submitted with the TPP:

   a. A list of Standard or Heritage trees that show the species, classification, and the TC of the tree;
   b. A list of those Standard or Heritage trees that may have been identified for removal on the plan by species and TC;
   c. If on-site trees are to be used for mitigation for the removal of a Standard or Heritage tree the TPP shall include a list of trees that are to be suggested for mitigation by species and TC;
   d. If replacement trees are to be planted on-site for the removal of a Standard or Heritage tree, the TPP shall contain a list of those trees by species and TC.

10. Approximate delineation of the root protection zones and notes indicating how the applicant plans to protect from damage during grading and construction the existing trees which are proposed to be retained.

11. A description of the proposed watering methods for each part of a landscaped area.

12. Other proposed landscape plants and features.

4.05.007. Plan Review by City Manager.

The City Manager shall review the Tree Preservation Plan (TPP) within 10 working days to determine whether it meets the requirements of this Ordinance. Upon completion of this review, the City Manager shall approve or disapprove the Tree Preservation Plan, and shall notify the Code Enforcement office of such.

SECTION 06. MINIMUM COMMERCIAL LANDSCAPE STANDARDS

4.06.001. Applicability of Standards.

In addition to the preservation requirements stated in this ordinance, the following standards shall apply to the front yards of all commercial zoned lots.

4.06.002. Minimum Ratio of Trees to Lot Frontage.

In the front yard, at least one tree shall be preserved, planted or replaced as necessary to maintain a minimum ratio of either one tree (at least 9 TC) for every 40 linear feet of lot frontage (including a fraction above 20 feet). A newly planted tree shall be planted in an area with a minimum of 100 square feet of permeable surface area, except that this area may be reduced to 50 square feet if an irrigation system and an internal drainage mechanism are incorporated into the planting area. Each newly planted tree shall be located at least 30 inches from any paved area.

SECTION 07. MITIGATION FOR STANDARD OR HERITAGE TREE REMOVAL

4.07.001. Replacement of Trees Removed.

A. Standard or Heritage trees which are removed and require mitigation shall be 1) mitigated with existing Legacy trees, and/or 2) replaced by new Legacy trees or other indigenous tree species deemed acceptable by the City Manager, and/or 3) mitigated by paying into the Tree Restoration Fund. Any combination of the three options is acceptable.

   1. The preservation of Legacy trees on-site is encouraged and may be used as mitigation to offset the removal of Standard or Heritage trees. The mitigating trees may be of any Legacy tree or species with an aggregate TC in inches of one the trees removed (1:1).

2. Replacement trees shall be planted on the same lot according to an approved TPP or another site as be determined by the City Manager. The replacement trees may be of any Legacy tree species or other indigenous tree species deemed acceptable by the City Manager with an aggregate TC in inches of one and a half the trees removed (1:1 ½) with a minimum circumference of nine inches (9").

3. If there is not a suitable location as determined by the City Manager for the replacement trees on the subject site or another site, payment shall be made into the Tree Restoration Fund in the following amounts:

Standard or Heritage Trees
$50 p/TC of Standard or Heritage tree removed

If it is necessary to convert circumference to caliper when purchasing replacement trees, use the following equation - caliper inch = TC/3.1415.

B. A minimum of five different Legacy tree species must be planted if more than 300 inches in trunk circumference of trees are required. The City Manager may approve other indigenous tree species as acceptable replacement trees if it is determined the trees are indigenous, live longer than 35 years and grow to a height of at least 35 feet. This requirement is meant to prevent large monocultures from being planted on sites, which increases chances of disease epidemics.

C. The planting of Spanish Oak (quercus shumardii), Texas Red Oak (quercus texana) and similar thin bark red oaks is prohibited. These trees are potential sources of innoculum for the Oak Wilt fungus, Ceratocystis fagacearum. Fungal spore mats formed on these types of trees are attractive to insect vectors, which results in long range dissemination of the fungus.

4.07.002. Penalties for Unauthorized Removal or for Intentional Death of a Tree.

If any Standard or Heritage trees are removed from any real property without an approved permit, or if such trees are injured because of failure to follow required tree protection measures such that the tree dies or may reasonably be expected to die, the City shall have the authority to enact one or more of the following administrative and civil penalties on the developer and/or owner of the property.

1. A monetary penalty of $250.00 per TC of the Standard or Heritage trees removed payable to the City and replace with trees as stated in subsection (2) below.

2. Replacement with Legacy trees having an aggregate TC which is five times the aggregate TC of the Legacy trees that were removed or killed.

SECTION 08. LEGACY STANDARD OR HERITAGE TREE PRESERVATION AND PROTECTION

4.08.001. Tree Preservation and Protection.

Legacy Standard or Heritage trees shall be protected under the following conditions:

1. No clear cutting is permitted.

2. No materials intended for the use in construction or waste materials accumulated due to excavations or demolition shall be placed within the limits of the trees' root protection zone.

3. Neither substances used to clean equipment nor other foreign materials shall be deposited or allowed to flow overland within the root protection zone of a Legacy Standard or Heritage tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.

4. No signs, wires or other objects, other than those of a protective nature, shall be attached to any Legacy tree. However, lighting of a decorative nature may be attached to a Legacy tree. The lighting shall be attached in a manner so as not to damage the Legacy Standard or Heritage tree.

5. No vehicular and/or construction traffic or parking shall take place within the limits of the root protection zone of a Legacy Standard or Heritage tree other than on an existing paved surface. This restriction does not apply to access within the root protection zone for purposes of clearing underbrush.

6. All trees to be retained as part of an approved Tree Preservation Plan shall be protected during grading and construction. A protective barrier shall be erected around the root protection zone before the beginning of grading and construction, and the barrier shall be maintained until construction is completed. During grading and construction, no excess soil, additional fill, equipment, liquids or construction debris shall be placed inside the protective barrier, and no soil shall be removed from within the barrier. The proposed finished grade of the land within the root protection zone shall not be raised or lowered by more than six inches, but welling and retaining methods may be used to protect the area outside the root protection zone. The root protection zone shall remain unpaved. If wells are used to a preserve a Legacy Standard or Heritage tree the wells shall have a drain installed or a pump shall be installed to insure that the well does not hold water.

7. No paving with asphalt, concrete or other impervious materials shall be placed within the root protection zone of a heritage tree.

8. In those situations where a Legacy tree is within 50 feet of a construction area, a protective fence, minimum of four feet in height, shall be erected and maintained outside of the root protection zone of each Legacy Standard or Heritage tree or tree group.

SECTION 09. WAIVER FROM TREE PRESERVATION REQUIREMENTS

4.09.001. Waiver.

Waivers to the terms and requirements of this Article may be granted by the City Manager where a literal enforcement of the provisions of this Article will result in an unnecessary hardship. No waiver may be granted unless:

1. Such waiver will be in harmony with the spirit and purpose of this ordinance; and

2. The waiver will not substantially weaken the general purposes of this Article or the regulations herein established for the preservation/protection of trees; and

3. The waiver granted is limited in scope of relief to only that which is necessary to relieve the hardship condition.

4.09.002. Procedure to Request a Waiver.

A. A person who feels they qualify for a waiver, under the conditions outlined in Section 4.08.001 above, from the literal application of this section to their property may request a waiver from such application of one or more of the provisions of this Article. All requests for waivers shall be made in writing to the City Manager and shall include:

1. The subject of the requested waiver; and

2. The justification for granting a waiver.

a. Burden. The party requesting a waiver has the burden of demonstrating that sufficient evidence exists for the granting of a waiver to application of this Article. The City Manager shall consider and provide a written response to all such requests for waiver as quickly as possible but not more than fifteen (15) working days from the date a valid request for waiver is received.

b. If Granted. If a waiver is granted as requested, or with modification, the recipient of the waiver may develop their property according to all applicable provisions of this Article; to the extent such provisions have not been waived or modified by the waiver.

4.09.003. <u>Appeals to Waiver Denial.</u>

Appeals to waiver denial: A property owner who requests a waiver pursuant to this section and objects to the decision of the City Manager which denies all or part of the relief requested may appeal such denial to the Planning and Zoning Commission by filing a written request with the City Manager requesting the Planning and Zoning Commission to review the waiver request.

The Planning and Zoning Commission shall then review the waiver request at its next regularly scheduled meeting and determine what relief from the provisions of this ordinance, if any, should be granted. In making this determination, the Commission shall consider the nature of the use which is proposed on the lot, the size, shape and topography of the lot, the size and location of proposed buildings and structures on the lot, the nature and extent of other landscaping which is proposed as part of the landscape plan, the practical requirements of vehicular access to the lot, and the relationship between the proposed project and existing uses on adjacent lots. If the Commission determines that some relief from the provisions of this Article should be granted, it shall grant the minimum relief which it considers necessary in order to achieve the purpose and preserve the essential spirit and purpose of this Article, and the record of the Commission's action shall state the rationale which justifies this decision.

SECTION 10. VIOLATIONS AND PENALTIES

Wherever by the provisions of this Article the performance of any act is required or the performance of any act is prohibited, or wherever any regulation is imposed, a failure to comply with the provisions of this Article shall constitute a violation of this Article. The City Manager may institute any appropriate action or proceedings to prevent the unlawful removal or destruction of trees, and to restrain, correct or abate such violation. Every day on which a violation exists shall constitute a separate violation and a separate offense. The penalty for each offense shall not exceed one thousand dollars ($1,000.00).

ARTICLE 5. ZONING DISTRICTS AND USE REGULATIONS.

SECTION 01. INTERPRETATION OF TABLE OF PERMITTED USES
SECTION 02. PROCEDURE FOR COUNCIL APPROVAL OF CERTAIN USES
SECTION 03. PERMITTED USES
SECTION 04. RESIDENTIAL LOT TYPES AND STANDARDS
SECTION 05. R-A - SINGLE-FAMILY RURAL RESIDENTIAL – AGRICULTURE DISTRICT
SECTION 06. R-E - SINGLE-FAMILY RESIDENTIAL ESTATE DISTRICT
SECTION 07. RE-1 - LOW-DENSITY SINGLE-FAMILY DISTRICT
SECTION 08. R-1 - MEDIUM-DENSITY SINGLE-FAMILY DISTRICT
SECTION 09. RN-1 - NEIGHBORHOOD RESIDENTIAL DISTRICT
SECTION 10. R-2 - MODERATE-DENSITY RESIDENTIAL DISTRICT
SECTION 11. R-3 - HIGH-DENSITY RESIDENTIAL DISTRICT
SECTION 12. R-4 - MULTI-FAMILY RESIDENTIAL DISTRICT
SECTION 13. CL - RURAL CLUSTER OVERLAY DISTRICT
SECTION 14. RMO - MODULAR RESIDENTIAL DISTRICT
SECTION 15. B-1 - HIGH-DENSITY RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL DISTRICT
SECTION 16. MU-1 - MIXED-USE NEIGHBORHOOD CENTER
SECTION 17. B-2 - HIGHWAY COMMERCIAL DISTRICT
SECTION 18. B-2R – HIGHWAY COMMERCIAL – RESTRICTED DISTRICT
SECTION 19. MU-2 - MIXED-USE COMMUNITY CENTER
SECTION 20. B-3 - CENTRAL BUSINESS DISTRICT
SECTION 21. O – OFFICE DISTRICT
SECTION 22. RC - RIVER CORRIDOR DISTRICT
SECTION 23. I - INDUSTRIAL DISTRICT
SECTION 24. PUD - PLANNED UNIT DEVELOPMENT DISTRICT
SECTION 25. EC - ENTRANCE CORRIDOR OVERLAY DISTRICT
SECTION 26. MHC - MANUFACTURED HOME COMMUNITY
SECTION 27. RMA - SINGLE-FAMILY RESIDENTIAL MANOR DISTRICT
SECTION 28. NCO – NEIGHBORHOOD CHARACTER OVERLAY
SECTION 29. RR – RIVER ROAD COMMERCIAL DISTRICT
SECTION 30. R-D – DUPLEX RESIDENTIAL DISTRICT
SECTION 31. CHD – COTTAGE HOUSING DEVELOPMENT OVERLAY DISTRICT
SECTION 32. SBD – SOBO OVERLAY DISTRICT
SECTION 33. NH – NORTH HERFF ROAD OVERLAY DISTRICT

SECTION 01. INTERPRETATION OF TABLE OF PERMITTED USES

The uses which are permitted in each zoning district are summarized in Table 5-1, Permitted Uses & Base Zoning Districts. The uses which are permitted subject to the general standards of this ordinance are designated in these tables by the symbol "P". Uses that are restricted in particular districts, are permitted provided they meet specific and additional site design, operational, or other limiting factors specified in this ordinance for that particular district, and are designated in these tables by the symbol “R”. Additional uses in each district which may be allowed by the City Council under certain conditions and based on a special review process, and are designated by the symbol "CC". No land shall be used for uses other than those specified for the district in which the land is located. Should a specific use not be explicitly named or described in this ordinance, such use is prohibited. *(Ord. No. 2013-23, §3, 7-23-2013)* Because it is not possible to enumerate every conceivable land use, the City Manager shall determine whether a proposed use is included or excluded from the scope of the uses listed in these tables and the provisions concerning particular districts, according to Article 1, Section 7 and as provided in Article 2, Section 2 of this ordinance.

SECTION 02. PROCEDURE FOR COUNCIL APPROVAL OF CERTAIN USES

5.02.001. Application for Approval.

Where a Table of Permitted Uses indicates by the symbol "CC" that a particular use may be allowed with City Council approval, an applicant for approval of such a use shall first submit an application for approval, together with the appropriate fee, to the City Manager. The application shall be accompanied by one or more site plans drawn to a common scale and showing all of the following information:

A. The project title, name of owner/applicant, scale, north point and date.

B. The dimensions of the lot or tract, the location of all lot lines, and the location and nature of all easements on the property.

C. The general arrangement of the project, including the locations of all proposed buildings and structures, and the uses proposed to be permitted in each.

D. The general location and arrangement of driveways, On-site parking areas, On-site loading areas, and internal traffic circulation patterns.

E. The classification and condition of all streets and alleys adjacent to or serving the subject property.

F. The existing zoning district classifications of all property within 200 feet of the subject property.

G. The location and use of all buildings within 200 feet of the subject property.

H. The limit of the 100 year flood plain, and calculations and drawings by a registered professional engineer sufficient, in the opinion of the City Manager, to determine the impact of the project on both on-site and off-site drainage.

I. The location of all protected trees on the subject property.

The application shall also be accompanied by such additional information as the City Manager may reasonably require in order to evaluate the proposal and formulate a recommendation to the Planning and Zoning Commission. Notice of the public hearings required by this section shall be provided to the neighboring property owners within 7 days of the hearings and published in a paper of general circulation at least 7 days before the scheduled hearing.

5.02.002. Action by Planning and Zoning Commission.

The Planning and Zoning Commission shall hold a public hearing on the application and make a report to City Council containing the Commission's recommendations. The Commission may recommend that approval by City Council incorporate such requirements, limitation or safeguards as are necessary in the Commission's judgment to protect adjacent property and the surrounding neighborhood. These requirements, limitations and safeguards may address such matters as the location, size and orientation of buildings and structures on the lot, the location and design of sidewalks, driveways, On-site parking areas and On-site loading areas, provisions relating to drainage, signage, lighting, landscaping, protective screening, setbacks greater than would otherwise be required, or the hours or manner of operation of the use, or any other matter which might affect the value, benefit or enjoyment of use of nearby property.

5.02.003. Action by City Council.

After receiving the report and recommendations of the Planning and Zoning Commission, City Council shall hold a public hearing and act on the application in the same manner as with an application for a change of zoning. In granting approval of the proposed use, City Council may impose such requirements, limitations and safeguards as it deems necessary for protection of adjacent property and the surrounding neighborhood. The applicant must comply with these conditions before a certificate of occupancy may be issued. In the case of conditions affecting the manner of operation of the use, a violation of such conditions shall constitute a violation of this ordinance.

SECTION 03. PERMITTED USES

TABLE 5-1: PERMITTED USES & BASE ZONING DISTRICTS

PERMITTED USES BY DISTRICT P= Permitted generally, subject to ordinance standards R= Restricted, subject to specific conditions in this Ordinance CC= Conditional, subject to City Council review and approval L= Limitations as provided in Article 3, Section 18	**CHD Overlay**	**R-A**	**RMA**	**R-E**	**RE-1**	**R-1**	**RN-1**	**R-2**	**R-3**	**R-D**	**R-4**	**CL Overlay**	**RMO-1**	**RMO-2**	**RMO-3**	**MHC**	**B-1**	**B-2**	**B-2R**	**B-3**	**RC**	**RR**	**O**	**I**	**MU-1**	**MU-2**
Residential Use Category	Only permitted in residential districts or B-3 at least one block off Main											All uses of the underlying R-														
Detached Dwelling		P	P	P	P	P	P	P	P	P			P	P	P	P	R	P		R			P		R	R
Duplex Dwelling										P				P	P		R			R						
Attached Dwelling								R	P	P				P	P		R			R	P				R	R
Multi-Dwelling Structure											P						R	CC		R		R			R	R
Mixed-Use Dwelling																	P	P	P	P	P	P	P		P	P
Accessory Dwelling		R	R	R	R	R	R	R	R								R	CC					R			
Garden Home								P	P					P	P		R								P	P
Community Home		L	L	L	L	L	L						L	L			L			L			L			
Personal Care Home		P	P	P	P	P	P	P	P	P			P	P	P	P	P	P		R			P		P	P
Retirement Community						CC		CC	CC				CC	CC	CC		CC	CC	CC							
Civic Use Category																										
Assembly		CC	CC	CC	CC	CC	CC	CC	CC		CC		CC	CC	CC		CC	CC	CC	CC					CC	CC
Club or Lodge																	CC	P							P	P
Community Athletic Field		CC		CC	CC	CC		CC	CC				CC	CC	CC			P								
Developed Athletic Field or Stadium		CC		CC	CC	CC		CC	CC				CC	CC	CC			CC								
Government Facility		CC	CC	CC	CC	CC		CC	CC				CC	CC	CC		CC	CC	CC	CC			CC	CC	P	P
Museum or Library																	P	P		P					P	P

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School		P		P	P	P		P	P				P	P	P										P	P
Employment Use Category																										
Home Occupation		R	R	R	R	R	R	R	R				R	R	R	R	R			R	R		P			
Neighborhood Office																	P	P	P	P	CC	P	P		P	P
General Office																		P	P	P	CC	P			CC	P
Major Office or Office Complex																		P	P					CC		CC
Business Park or Campus																		CC	CC		CC			CC		
Retail Use Category																										
Automobile Gas Station																		CC								
Automobile Gas Station fronting IH-10																		P								P
Automobile Convenience Store																	CC	CC	CC	CC					CC	CC
Automobile Convenience Store fronting IH-10																		P								P
Automobile Parts & Parts Sales																		P		CC						
Automobile Sales																		CC								
Brew Pub																		P		P	P	P			P	P
Brewery																								P		
Mobile Food Vendor																	P	P	P	P		R		R	P	P

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Restaurant (Convenience – non drive-thru)																	P	P	P	P	P	P			P	P
Restaurant (Convenience – drive-thru)																		P	CC	CC					R	P
Restaurant (Limited)																	P	P	P	P	P	P			P	P
Restaurant (General)																		P		P	P	P			P	P
Grocery Store																	P	CC		CC					P	P
Supermarket Store																		CC								R
Retail (Drive-thru)																	P	P	CC	CC					P	P
Retail (Neighborhood)																	P	P	P	P	P	P			P	P
Retail (General)																	P	P	CC	CC	CC				R	P
Retail (Major)																		CC								R
Thrift Store (without outside storage/donation bin)																	P	P	P	P	P	P			P	P
Thrift Store (with outside storage/donation bin)																		CC						P		
Warehouse Retail																		CC						CC		
Winery																		P		P	P	P		P	P	P
Outdoor Retail Display																	P	P		P		P			P	P
Outdoor Retail Sales Area																	P	CC		P		P		CC		
Outdoor Retail Sales Yard																								P		
Shopping Center																		CC							P	P
Service Use Category																										

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Automobile Rental																	P	P		CC					P	
Automobile Service w/outside storage																		CC		CC				CC		CC
Automobile Service w/o outside storage																		P		CC				P	CC	P
Bank and Financial Institutions																		P	P	CC	P				P	P
Bank Kiosks																	P	P	P	P	P	P		P	P	P
Bar																		P	CC	R	P	R			R	P
Barber and Beauty Shop (also see Spa)																	P	P	P	P	P	P	P		P	P
Bed & Breakfast		R	R	R	R	R	R	R	R				R	R	R		R	R	R	R	R	P	P		R	R
Bus Terminal																		P		P	P			P	P	P
Car Wash																		P						P		
Day Care Nursery (more than 6 children with or without home occupation)									CC								P	P	P						P	P
Day Care / Before or After School																	P	P	P						P	P
Day Care / Adult																	P	P	P					P		
Funeral Home or Mortuary																		P		CC				P	CC	P
Golf Course		CC																								
Group Home		L	L														L	L	L	L						
Gym (Neighborhood)																	P	P	P	P		P			P	P

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Gym (General)																	P	P	CC	CC					P	P
Gym (Major)																		CC								CC
Health Clinic																		P	P	P						P
Hospital																	CC	CC	CC							
Hotel or Motel																		P	CC	CC	CC				CC	CC
Hotel (Boutique)																	P	P	P	P	P	P			P	P
Kennel		CC																						R		
Laboratory																			CC	CC				P		
Laundry (Self Service)																	P	P	P						P	P
Long Term Care Facility																	CC	P	P						CC	P
Medical Office																	P	P	P	P		P	P		P	P
Nightclub																		P		CC						P
Parking Lot or Parking Garage																		CC		CC	CC	CC			CC	CC
Pawn Shop																		P								
Recreational and Entertainment Facility																		CC		CC		CC			CC	CC
Rooming or Boarding House						L	L	L	L				L	L	L		L			L						
Spa																	P	P	P	P	P	P	P		P	P
Theater																		P		P					CC	P
Trade School																		P						P		
Trailer Court		CC																CC	CC							
Veterinary Clinic																		P	CC					P		P

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Veterinary Clinic w/kennel																								P		
Video or Pinball Arcade																		P		P					P	P
Wholesale																		CC						P		
Manufacturing and Utility Use Category																										
Contractor																		CC						P		
Commercial Communication System		CC																CC						P		
Industrial Park																								P		
Junk Yard																								CC		
Large Vehicle and Machinery Rental, Sales and Service																		CC						P		
Manufacturing																		CC						P		
Mini-Warehouse.																		CC						P		
Portable Building Sales																								P		
Processing																								P		
Utility Station, Sub-station, or Service Center		CC		CC	CC	CC		CC	CC				CC	CC	CC		CC	CC	CC	CC	CC	CC	CC	CC	CC	CC
Warehousing																								P		
Agriculture and Natural Resource Use Category																										
Agriculture		R																								

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Exhibition or Fairgrounds		CC																								
Plant Nursery		CC																P						P		
Stable		CC																						P		
Sexually Oriented Business Use Category																										
Adult Bookstore																								R		
Adult Entertainment Establishment																								R		
Adult Motion Picture Theater																								R		

SECTION 04. RESIDENTIAL LOT TYPES AND STANDARDS

The following residential lot types are enabled in the various residential zoning districts. Table 5-2 establishes the lot and building dimension standards for each lot type.

1. Rural Lot
2. Large Lot
3. Manor Lot
4. Estate Lot
5. Low-density Lot
6. Standard Lot
7. Neighborhood Lot
8. Small Lot
9. Duplex Lot
10. Attached Lot
11. Multi Dwelling Lot
12 Mixed-use Lot

TABLE 5-2: RESIDENTIAL LOT AND DIMENSION STANDARDS

LOT / DWELLING TYPE ➤		DETACHED DWELLING LOTS								ATTACHED DWELLING LOTS			
⮟ DIMENSION STANDARD		RURAL LOT	LARGE LOT	MANOR LOT	ESTATE	LOW-DENSITY LOT	STANDARD LOT	NEIGHBORHOOD LOT	SMALL LOT	DUPLEX LOT	ATTACHED	MULTI-DWELLING	MIXED-USE
MINIMUM LOT SIZE	AREA	10 acres (435,600 sqft.)	2 acres (87,120 sqft.)	1 acre (43,560 sqft.)	½ acre (21,780 sqft.)	¼ acre (10,890 sqft.)	7,800 sqft.	5,400 sqft.	4,000 sqft.	3,500 sqft.	2,000 sqft.	6,000 sqft. for first two units, plus 1,200 sqft. for each additional unit.	Lots for Mixed-use dwellings are based on the lot standards listed for each specific zoning district in which they are enabled.
	FRONTAGE	300’	200’	150’	100’	80’	65’	50’ 60’ on corner lots	40’ 50’ on corner lots	35’ 45’ on corner lots	20’ 25’ on end lots	50’ 60’ on corner lots	
MINIMUM BUILDING SETBACKS (PRINCIPAL) * Creative alternative design options may be approved by the Planning and Zoning Commission (see Section 3.07.001)	FRONT – CURVILINEAR SYSTEM [a]	80’	50’	50’	40’	30’	20’ [a]	20’ [a]	20’ [a]	15’ – 30’ [a]	0’ -20’ [a]	15’ – 30’	
	FRONT – GRID SYSTEM [a]	80’	50’	50’	40’	30’	20’ [a]	20’ [a]	20’ [a]	15’ – 30’ [a]	0’ -20’ [a]	15’ – 30’	
	GARAGE FRONT SETBACK	GARAGE FRONTS THAT FACE THE STREET SHALL BE SETBACK A MINIMUM OF 25 FEET FROM THE PROPERTY LINE. REFER TO SECTION 3.07.003 A AND C FOR ORIENTATION AND DESIGN STANDARDS *(Ord. No. 2012-04, §5,4-24-2012)*											
	MINIMUM 1 SIDE / MINIMUM COMBINED BOTH SIDES	50’/ 100’	20’ / 40’	20’ / 40’	15’ / 30’	10’ / 20’	5’ / 10’ 10’ additional street side of corner lots	5’ / 10’ 10’ additional street side of corner lots	3’ [b] / 10’ 10’ additional street side of corner lots	0’ [c] • 5’ end lots • 15’ corner lots	• 0’ [c] • 5’ end lots • 15’ corner lots	5’ 15’ corner structures	
	MINIMUM REAR / MINIMUM COMBINED FRONT AND REAR	150’	50’	50’	25’	25’	20’ / 40’ [e]	20’ / 40’ [e]	20’ / 40’ [e]	20’ / 50’ [e]	15’ / 35’ [e]	20’ / 50’ [e]	
BUILDING SETBACKS (DETACHED ACCESSORY)	FRONT	Behind front building line	5’ behind rear building line	5’ behind rear building line	5’ behind rear building line	5’ behind rear building line	5’ behind rear building line	5’ behind rear building line	5’ behind rear building line	10’ behind rear building line	10’ behind rear building line	n/a	
	SIDE	50’	10’ 25’ on the street side of corner lots	10’ 25’ on the street side of corner lots	10’ 25’ on the street side of corner lots	10’ 25’ on the street side of corner lots	5’ 25’ on the street side of corner lots	5’ 0’ if party wall [d] 25’ on the street side of corner lots	5’ 0’ if party wall [d] 25’ on the street side of corner lots	5’ 0’ if party wall [d] 25’ on the street side of corner lots	5’ 0’ if party wall [d] 25’ on the street side of corner lots		
	REAR	50’	10’	10’	10’	5’	5’	5’	5’	5’, unless alley loaded	5’, unless alley loaded		
MAX. BUILDING HEIGHT (PRINCIPAL)		2.5 story, up to 36’	2.5 story, up to 36’	2.5 story, up to 36’	2.5 story, up to 36’	2.5 story, up to 36’	2.5 story, up to 32’	2.5 story, up to 32’	2.5 story, up to 32’	2.5 story, up to 32’	3 story, up to 38’	4 story, up to 50’	
MAX. BUILDING HEIGHT (ACCESSORY) [d]		2 story, up to 20’ 50’ for Agriculture accessory building	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	2 story, up to 20’	n/a	

See Notes below

a. On any street where the City has formally adopted a specific setback or specific front building line map for a block face, that specific line established on that map shall control. If no setback has been established by a previous plat, then the current ordinance in place will apply. In a Grid system, staggered front setbacks are required under Section 3.07.003. In a Grid or Curvilinear system, encroachments into the front setbacks are permitted under Section 3.07.003.
b. Setbacks lesser than 5' are allowed, including 0-lot line development provided a minimum 10' separation between buildings and any necessary maintenance easements are indicated on a recorded plat.
c. 0' setbacks on attached dwelling lots requires a party wall meeting all building code standards and proper designation on a recorded plat
d. Building heights of accessory buildings shall not exceed the actual height of the principle building on the same lot.
e. If the front building line encroaches into the front setback as provided in Section 3.07.003, the rear setback will adjust reflective of the front encroachment thereby, the building envelope will not be increased.
f. Structures built on 0' setbacks require row of gutters on the structure that faces the 0' lot line.

(Ord. No. 2010-32, §5, 10-12-2010)

SECTION 05. R-A - SINGLE-FAMILY RURAL RESIDENTIAL – AGRICULTURE DISTRICT

A. **Purposes.** The Single-family Rural Residential – Agriculture District is intended for agriculture and residential uses in detached dwellings on large lots or unsubdivided parcels requiring little or no public infrastructure in the short term, or rural level standards in the interim or long-term. These districts are composed mainly of unsubdivided lands that are vacant or in agricultural uses, with some detached dwellings and some accessory uses. The regulations are designed to protect the essentially open rural character of the districts by prohibiting the establishment of scattered business, industrial, and other uses that are unrelated to any general plan of development and that might inhibit the best future urban utilization of the land, and establish a predominantly low-density residential development pattern.

B. **Applicability.** The Single-family Rural Residential – Agriculture District is applicable to any areas where significant open spaces are to be protected; Specifically the Rural Residential and Low-density designation in the Boerne Master Plan. In this application, the Single-family Rural Residential – Agriculture District is also appropriate in conjunction with a Rural Cluster Residential Overlay that permanently preserves greater amounts of contiguous open space. When applied the district is designated RA-RC. The Single-family Rural Residential – Agriculture District is also applicable as an interim or holding zone for areas that may be further developed, re-subdivided and reclassified in the long-term, but where minimal development activity in the interim is acceptable and will not prematurely establish a development pattern through infrastructure investments, street networks, or smaller lot patterns.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-A district:
1. Rural Lot
2. Large Lot

D. **Permitted Uses.** The uses permitted in the R-A district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Specific Uses.**

1. Uses in the Agriculture and Natural Resource Use Category are limited to the Rural Lot types, or parcels that are 10 acres or more.

2. Kennels and stables must conform to all of the requirements of the City's Animal Control Ordinance.

3. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

4. Home Occupations shall meet the restrictions in Article 3, Section 04.

5. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

SECTION 06. R-E - SINGLE FAMILY RESIDENTIAL ESTATE DISTRICT

A. **Purposes.** These districts are composed of detached dwellings with lots and tracts of 22,500 square feet or more of a suburban nature. The regulations are designed to protect the essentially suburban character of the districts and to provide more privacy and open space than is usually associated with more intensely developed urban areas of single family dwellings. The regulations prohibit the establishment of commercial, industrial or other incompatible uses.

B. **Applicability.** The R-E district is applicable to areas where sub-urban development patterns area desired, and specifically the Low-density Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are at least ½ mile, but no more than 1.5 miles from any existing or planned Neighborhood or Community Center. Large uninterrupted applications of this district, without transitions to either higher densities or more rural open spaces should be avoided so that significant populated areas that must rely solely on automobile travel are not created. The R-E district is most appropriate with an Organic Transportation Network and Rural Street Design Types indicated in the Subdivision Regulations. It is also appropriate in conjunction with a Rural Cluster Residential Overlay that can better and permanently preserve greater amounts of contiguous open space.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the RE district:
1. Large Lot
2. Manor Lot
3. Estate Lot

D. **Permitted Uses.** The uses permitted in the RE district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

SECTION 07. RE-1 - LOW-DENSITY SINGLE-FAMILY DISTRICT

A. **Purposes.** These districts are composed of detached dwellings with lots and tracts of 12,500 square feet or more of a suburban nature. These areas are very similar to R-E districts except for the lot dimensions. As in R-E districts, the regulations prohibit the establishment of commercial, industrial or other incompatible uses.

B. **Applicability.** The RE-1 district is applicable to areas where sub-urban development patterns area desired, and specifically the Low-density Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are at least ½ mile, but no more than 1.5 miles from any existing or planned Neighborhood or Community Center. Large uninterrupted applications of this district, without transitions to either higher densities or more rural open spaces should be avoided so that significant populated areas that must rely solely on automobile travel are not created. The RE-1 district is most appropriate with an Organic Transportation Network and Rural Street Design Types indicated in the Subdivision Regulations, or at the edges of areas that have a Grid or Modified Grid Transportation Network. It may be appropriate in conjunction with a Rural Cluster Residential Overlay in areas of significant topographic or natural features, to better and permanently preserve greater amounts of contiguous open space.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the RE-1 district:
1. Large Lot
2. Manor Lot
3. Estate Lot
4. Low-density Lot

D. **Permitted Uses.** The uses permitted in the RE-1 district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

SECTION 08. R-1 - MEDIUM-DENSITY SINGLE-FAMILY DISTRICT

A. **Purposes.** These districts are composed of areas of detached dwellings and open land where similar residential development seems likely to occur. Medium density development of land is encouraged by allowing smaller lot areas, with a maximum density of six dwelling units per acre, exclusive of streets and other public land uses.

B. **Applicability.** The R-1 district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically the Neighborhood Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are within 1 mile from any existing or planned Neighborhood or Community Center. While this area may be immediately adjacent to a Center, it is most appropriate for the center or edges of neighborhoods where a mix of larger lot types is desire, and so that more critical mass of smaller lots and higher density can be created within walking distance of the Center. The R-1 district is most appropriate with a Modified Grid Transportation Network using the Neighborhood or Parkway Street Design Types indicated in the Subdivision Regulations.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-1 district:

1. Large Lot
2. Manor Lot
3. Estate Lot
4. Low-density Lot
5. Standard Lot

D. **Permitted Uses.** The uses permitted in the R-1 district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the R-1 district.

SECTION 09. RN-1 - NEIGHBORHOOD RESIDENTIAL DISTRICT

A. **Purposes.** The purpose of the Neighborhood Residential District is to create a compact, walkable neighborhood with a mix of lot sizes for detached dwelling building types, in close proximity to Neighborhood and Community Centers that provide many of the daily needs and services for residents.

B. **Applicability.** The RN-1 district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically the Neighborhood Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are within ½ mile or six blocks from any existing or planned Neighborhood or Community Center, with the larger lots located portions more remote from the center, or limited to a few locations near the center with the smaller lots primarily supporting the center. The RN-1 district is most appropriate with a Modified Grid Transportation Network using the Neighborhood or Parkway Street Design Types indicated in the Subdivision Regulations.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the RN-1 district:

1. Large Lot
2. Manor Lot
3. Estate Lot
4. Low-density Lot
5. Standard Lot
6. Neighborhood Lot

D. **Permitted Uses.** The uses permitted in the RN-1 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the RN-1 district.

SECTION 10. R-2 - MODERATE-DENSITY RESIDENTIAL DISTRICT

A. **Purposes.** These districts are composed of areas similar to the R-1 districts, except that greater intensity of land development is permitted through the inclusion of garden home and attached dwelling building types. These developments can be compatibly integrated with detached dwelling building types by spatial and architectural design, limits on the overall intensity of development, and minimum yard and lot area requirements.

B. **Applicability.** The R-2 district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically the Neighborhood Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are within ¼ mile or 4 blocks from any existing or planned Neighborhood or Community Center, where a mix of lot and dwelling types is appropriate to create a critical mass within walking distance of the Center. The R-2 district is most appropriate with a Modified Grid Transportation Network using the Neighborhood or Parkway Street Design Types indicated in the Subdivision Regulations.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-2 district:

1. Standard Lot
2. Neighborhood Lot
3. Small Lot
4. Attached Lot*

* Attached Lots are only permitted in the R-2 district provided:

a. the entire block face on the same side of the street is platted with a duplex or attached lots; or

b. in the discretion of City Council if other physical circumstances exist that make this lot type compatible with other lot types in the district, compatible with the character in the general vicinity, and compatible with the development pattern of the area, so that the purposes of the District are achieved and the intent of the Neighborhood Design Standards in Article 3, Section 07 are met.

D. **Permitted Uses.** The uses permitted in the R-2 district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

4. Attached Dwelling uses shall be restricted to the eligibility and application of the corresponding lot types provided in Sub-section C.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the R-2 district.

SECTION 11. R-3 - HIGH-DENSITY RESIDENTIAL DISTRICT

A. **Purposes.** These districts are composed of a mixture of detached and attached dwelling building types. The district regulations are designed to protect the residential character of the areas by prohibiting industrial and commercial activities, except certain neighborhood convenience businesses as indicated in the Table of Permitted Uses.

B. **Applicability.** The R-3 district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically at transitions between the Neighborhood Residential and Center designations in the Boerne Master Plan, or at transitions to Neighborhood Residential along thoroughfares or arterial streets in the neighborhoods. Typically this district should be used only in areas that are within 1200 feet or 3 blocks from any existing or planned Neighborhood, Community Center or Downtown, where a mix of lot and dwelling types is appropriate to create a critical mass within walking distance of the Center. It is also appropriate along block faces fronting on a significant street. The R-3 district is most appropriate with a Modified Grid Transportation Network using the Neighborhood or Parkway Street Design Types indicated in the Subdivision Regulations.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-3 district:
1. Neighborhood Lot
2. Small Lot
3. Attached Lot

D. **Permitted Uses.** The uses permitted in the R-3 district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted.”

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the R-3 district.

SECTION 12. R-4 - MULTI-FAMILY RESIDENTIAL DISTRICT

A. **Purposes.** These districts are composed of multi-dwelling building types. The district regulations are designed to protect the residential character of the areas by prohibiting industrial and commercial activities as indicated in the Table of Permitted Uses.

B. **Applicability.** The R-4 district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically at transitions between the Neighborhood Residential and Commercial designations in the Boerne Master Plan. Typically this district should be used only for residential blocks in Centers or in areas that are within 800 feet or 2 blocks from any existing or planned Neighborhood or Community Center, where higher density is appropriate to create a critical mass and walkable Center. The R-4 district is most appropriate with a Modified Grid Transportation Network using the Neighborhood, Parkway, or Avenue Street Design Types indicated in the Subdivision Regulations.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-4 district:

1. Multi-dwelling Lot

D. **Permitted Uses.** The uses permitted in the R-4 district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the R-4 district.

SECTION 13. CL - RURAL CLUSTER OVERLAY

A. **Purposes.** The CL district is intended to preserve rural and open landscapes better than currently occurs through larger lot and low-density residential development. The regulations are designed to protect the open and rural character of the district, and prohibit development patterns and uses that are incompatible with rural and agriculture lifestyles and activities. It grants flexibility and incentives in site design and development patterns to best relate to natural and topographical features in exchange for permanent preservation of those features. It requires greater attention to master planning and environmental and site design, but grants flexibility in lot size and arrangement so that large and contiguous amounts of open space are preserved.

B. **Applicability.** The CL district is applicable as an overlay district to base or underlying residential zoning districts. It is applicable to any areas where the rural and open landscapes are to be permanently preserved and in low-density residential areas that have significant natural features worthy of preservation. Specifically it is applicable in the Rural Residential and Low-density Residential designation in the Boerne Master Plan. In this application the CL district is appropriate in conjunction with the RR, R-A, RE, RE-1, and R-1 districts and designated with a "-CL" after the base zoning. It requires an Organic Transportation Network and Rural Street Design Types indicated in the Subdivision Regulations and must meet all of the planning and design standards for Rural Cluster Subdivisions in the Subdivision Regulations.

C. **Eligible Lot Types.** Lot types eligible in the base zoning district shall be used to establish the development yield for the areas. Lot standards and density shall be modified according to the standards for Rural Cluster subdivisions in the Subdivision Regulations. The standards for building and impervious cover indicated in Table 5-2 may be further limited by the City in order to best meet the purpose of this district and the standards for Rural Cluster Subdivisions in the Subdivision Regulations.

D. **Permitted Uses.** The uses permitted in the CL district shall be the same as those indicated in Table 5-1 for the base zoning district.

SECTION 14. RMO - MODULAR RESIDENTIAL DISTRICT

A. **Purposes and Required Lot Dimensions.** There are three subtypes of RMO districts, designated RMO-1, RMO-2 and RMO-3. The permitted uses and minimum required yard and lot dimensions in these districts are the same as in the R-1, R-2 and R-3 districts respectively. The purpose of the RMO districts is to provide for the siting of modular homes as an alternate housing form in accordance with the Texas Department of Licensing and Regulation. The maximum building height shall be 28 feet.

B. **Restrictions on Particular Uses.**

1. All modular homes shall bear a State of Texas Compliance Decal in accordance with the Texas Department of Labor and Standards Rules. All modular homes shall be affixed to a permanent foundation in accordance with the City of Boerne Building Code requirements. Any space variation between the finished floor elevation and the foundation shall be concealed.

2. All other uses shall be subject to the same requirements and restrictions in the RMO-1, RMO-2 and RMO-3 districts as are applicable to those uses in the R-1, R-2 and R-3 districts respectively.

3. Home Occupations shall meet the restrictions in Article 3, Section 04.

4. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

SECTION 15. B-1 - HIGH-DENSITY RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL DISTRICT

A. **Purposes.** These districts are composed of mixed-use dwellings and structures occupied by or suitable for such uses as offices, studios and neighborhood-compatible commercial uses. Although usually located between residential areas and business areas, these districts are in some instances free-standing in residential areas or they may include hospital or college groups and related uses. The district regulations are designed to protect and encourage the transitional character of the districts by permitting a limited group of uses of a commercial nature while protecting the abutting and surrounding residential areas by requiring minimum yard areas and setbacks comparable to those called for in the residential districts.

B. **Applicability.** The B-1 district is applicable to any area where small scale retail and services are desired to support adjacent non-retail land uses. The total area of the district should not exceed more than 20 to 30 acres without transitioning to the adjacent districts and land uses. The B-1 district requires a Grid Transportation Network with Avenue Street Design Types on the primary streets. Standard Street designs may be used on secondary or support streets if necessary.

C. **Required Lot and Building Dimensions for Non-Residential Uses.**

MINIMUM LOT AREA	5,000 square feet
MINIMUM LOT WIDTH	50 feet
MAXIMUM LOT WIDTH	150 feet, or ½ of a block width, whichever is less; Except lots for Civic Uses shall have no maximum lot width.
MINIMUM FRONT YARD	0' to 10'; in Neighborhood Commercial 0' to 25' in a B-1 High Density Residential
MINIMUM SIDE YARD*	0 feet, if party wall; 5 feet, if no party wall;
MINIMUM REAR YARD	0' Neighborhood Commercial - See Combined Commercial Design Standards for rear/side location parking requirements 10' High Density Residential
MAXIMUM BUILDING HEIGHT	38' - See 3.05.001 for Height exceptions

** All permitted residential uses shall have the Lot Dimensions and Standards in Table 5-2.

D. **Permitted Uses.** The uses permitted in the B-1 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section. *(Ord. No. 2012-04, §5,4-24-2012)*

1. Mixed-use Dwelling Units must meet the following specific site and building design standards:

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
   d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

4. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.**

1. Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots in the B-1 District.

SECTION 16. MU-1 - MIXED-USE NEIGHBORHOOD DISTRICT

A. **Purposes.** The MU-1 district is intended for walkable mixed-use areas at a small scale, primarily for a blended mix of residential, commercial service and retail uses that support adjacent neighborhoods. It maintains a compact form and significant connections between adjacent areas for vehicles, bicycles and pedestrians. It should include a balanced mix of street level retail and service uses, and permits employment or residential uses. The mixed use district serves to promote the health and well-being of nearby residential by encouraging physical activity, social interaction and alternative transportation. Civic uses may also occupy prominent locations in the district, but should not be the primary functions or destinations.

B. **Applicability.** The MU-1 district is applicable as a focal point for residential neighborhoods. The overall district should primarily feature businesses that serve a typical target market area of ½ to 1 mile for the majority of its on-site business, and generally contains between 25,000 and 125,000 square feet of ground-level commercial district-wide. Retail and service uses typically found in a B-1 district, although one anchor or destination tenant may support the Mixed Use District. The district shall be composed of two or more use categories: Retail, Service, Employment, Residential and Civic.

The total area of the district should be between 5 to 15 acres (2 to 6 blocks).

C. **Required Lot and Building Dimensions.**

	DIMENSION	STANDARD	EXCEPTION
NON-RESIDENTIAL USES	LOT AREA	At least 2,000 sf, but no more than 25% of the block	Lots for an Anchor building, lots with multi-tenant building frontages, or lots for Civic uses, may occupy up to 50% of a block.
	LOT FRONTAGE	25' – 50'	Lots for an Anchor building, lots with multi-tenant building frontages, Cottage style/condominium and lots for Civic uses may occupy an entire block face.
	REQUIRED FRONT BUILDING LINE	0' to 10' 0' to 50' if abutting a waterway	▪ See Commercial Design Standards (3.08)
	SIDE SETBACK	0' if party wall; or 5' if no party wall	
	REAR SETBACK	0' if abutting commercial; 10' if abutting a residential	▪ See Commercial Design Standards for rear/side location parking requirements (3.08)
	MAXIMUM BUILDING HEIGHT	28'	
RESIDENTIAL USES	Same as the residential lot types and standards as identified in Table 5-2		

D. **Permitted Uses.** The uses permitted in the MU-1 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section.

1. Detached/*Attached Dwelling Units and Multi-dwelling Structures.* Detached/Attached dwelling units and multi-dwelling structures shall be located on secondary or support streets of the District, and shall not be permitted on the primary retail and pedestrian-oriented streets. Apartments may be allowed in an MU District, provided they are located on the upper level of a commercial use and if they stand alone they do not exceed a height of 28 feet or two stories, are in small pods, and have no more than 50 units. They shall be separated from other apartment complexes by a distance of 1,000 feet. *(Ord. No. 2010-10, §5, 5-25-2010)*

2. Mixed-use Dwelling Units must meet the following specific site and building design standards:

(Ord. No. 2012-04, §5, 4-24-2012)

a. Each unit, residential and commercial, shall have two clearly distinct areas.
b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

3. *Automobile Convenience Stores.* Automobile Convenience Stores must meet the following specific site and building design standards in the MU-1 district:
   a. Pump islands and service locations shall be limited to no more than two islands and no more than 8 service locations, and shall be set back at least 20 feet from any right-of-way or lot line.
   b. Canopies shall be no more than 14 feet high gabled roofs with recessed lighting, shall be setback at least 10 feet from any property line, and shall cover no more than 1,500 square feet of area.
   c. Gas stations shall be located only on secondary or support streets and shall otherwise meet the intent, guidelines, and design standards for buildings in the district.
   d. Curb cuts and driveways shall be limited to no wider than 30 feet and no more than 30% of the lot frontage, whichever is less.

4. Restaurant (Convenience – drive-thru) shall be approved by the Planning and Zoning Commission. *(Ord. No. 2010-10, §5, 5-25-2010)*

5. Bars that are located in an MU-1 district shall be located no closer than 100 feet of a Residential Use and shall be no more than 2,500 square feet.

6. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Commercial Center Design Standards in Article 3, Section 08 of the Zoning Ordinance shall apply in the MU-1 district.

SECTION 17. B-2 - HIGHWAY COMMERCIAL DISTRICT

A. **Purposes.** The B-2 districts are located along principal arterial streets, adjacent to other non-residential districts. They are areas suitable for general retail trade and a wide variety of other commercial uses. The district regulations are designed to encourage these uses, while also protecting the abutting and nearby areas.

B. **Applicability.** This district is applicable in areas where large scale and regional businesses are appropriate, and where the impacts on other more walkable development patterns can be minimized, both in terms of physical design and in terms of uses that have a regional draw. Therefore it should be limited in application to areas with good highway access, and away from areas where smaller-scale, and neighborhood oriented businesses are desired.

C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	10,000 square feet
MINIMUM LOT WIDTH	60 feet
MINIMUM FRONT YARD	0 - 20 feet
MINIMUM SIDE YARD	0 feet, if party wall; 5' if not party wall;
MINIMUM REAR YARD	0' - See Combined Commercial Design Standards for rear/side location parking requirements
MAXIMUM BUILDING HEIGHT	75' - See 3.05.001 for Height exceptions – City Council may approve a height over 75' *(Ord. No. 2017-03, §1, 1-24-2017)*

D. **Permitted Uses.** The uses permitted in the B-2 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.**

1. A trailer court must provide water and sewer service for each unit.

2. Mixed-use Dwelling Units must meet the following specific site and building design standards:

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
   d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.
   (Ord. No. 2012-04, §5, 4-24-2012)

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.**

1. Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots in the B-2 District.

2. All lots in the B-2 District which are located in the Entrance Corridor Overlay as specified in Article 5, Section 25 of the Zoning Ordinance shall meet the standards of that section.

SECTION 18. B-2R - HIGHWAY COMMERCIAL – RESTRICTED DISTRICT

A. **Purposes.** The B-2R districts are usually located between residential areas and business areas. They are areas suitable for general retail trade and a more limited range of uses than that of other commercial districts. The district regulations are designed to encourage these uses, while also protecting the abutting and nearby residential areas.

B. **Applicability.** This district is applicable on the fringes of B-2 zoning, and in areas abutting large scale and regional businesses are appropriate in a limited and controlled manner. Limitations should be focused on minimizing impacts on other more walkable development patterns in adjacent areas or on adjacent residential neighborhoods, both in terms of physical design and in terms of uses that have a regional draw.

C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	10,000 square feet
MINIMUM LOT WIDTH	60 feet
MINIMUM FRONT YARD	0 - 20 feet
MINIMUM SIDE YARD	0 feet, if party wall; 5' if not party wall;
MINIMUM REAR YARD	0 feet - See Combined Commercial Design Standards for rear/side location parking requirements
MAXIMUM BUILDING HEIGHT	38' - See 3.05.001 for Height exceptions

D. **Permitted Uses.** The uses permitted in the B-2R district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.**

1. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.**

1. Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots in the B-2R District.

2. The City Council may grant a waiver to the application of any or all of the Commercial Center Design Standards, after a recommendation by the Planning and Zoning Commission, if:
   a. The particular standard or standards are not applicable to the specific lot by reason of its context of the lot;
   b. Consideration of alternative methods of meeting the intent of the Combined Commercial Design Standards, and the Design Guidelines had been incorporated in the project design;
   c. An alternative design that equally or better meets the intent of the Combined Commercial Design Standards is used; and
   d. Waiver of the standard or standards does not compromise existing or potential future development on adjacent lots or the ability of the zoning district as a whole to best meet the intent of the district.

3. All lots in the B-2R District which are located in the Entrance Corridor Overlay as specified in Article 5, Section 25 of the Zoning Ordinance shall meet the standards of that section.

SECTION 19. MU-2 - MIXED-USE COMMUNITY DISTRICT

A. **Purposes.** The MU-2 district is intended for walkable mixed-use areas at a moderate scale, primarily for commercial service and retail uses that support adjacent or nearby neighborhoods in an alternative format than the more conventional highway or large-scale commercial uses. It maintains a compact form and significant connections between adjacent areas for vehicles, bicycles and pedestrians. The mixed use district serves to promote the health and well-being of nearby residential by encouraging physical activity, social interaction and alternative transportation. It should include a balanced mix of street level retail and service uses, and permits upper level employment or residential uses. Civic uses may also occupy prominent locations in the district, but should not be the primary functions or destinations.

B. **Applicability.** The MU-2 district is applicable as a community focal point for several neighborhoods. The overall district should primarily feature businesses that serve a typical target market area of 1 to 2 miles for the majority of its on-site business, and generally contains between 100,000 and 350,000 square feet of ground-level commercial district-wide. Retail and service uses typically found in a B-2 district, although some tenants that occupy between 30,000 and 70,000 square feet may support the Center. The district shall be composed of three or more use categories: Retail, Service, Employment, Residential and Civic.

The total area of the district should be between 10 to 70 acres.

C. **Required Lot and Building Dimensions.**

	DIMENSION	STANDARD	EXCEPTION
NON-RESIDENTIAL USES	LOT AREA	At least 2,000 sf, but no more than 50% of the block	Lots for Civic uses, may occupy up to 100% of a block if it is a smaller block designed as a focal point of the Community center.
	LOT FRONTAGE	25' – 200'	Lots with multi-tenant building frontages, and lots for Civic uses may occupy an entire block face.
	REQUIRED FRONT BUILDING LINE	0' to 10' 0' to 50' if abutting a waterway	See Commercial Center Design Standards for exceptions. (3.08)
	SIDE SETBACK	0' if party wall; or 5' if not party wall	
	REAR SETBACK	0' if abutting commercial; 20' if abutting a residential	▪ See Commercial Design Standards for rear/side location parking requirements (3.08)
	MAXIMUM BUILDING HEIGHT	4 stories, up to 48'	▪ See 3.05.001 for Height exceptions
RESIDENTIAL USES	Same as the residential lot types and standards as identified in Table 5-2		

D. **Permitted Uses.** The uses permitted in the MU-2 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section:

1. *Detached/Attached Dwelling Units and Multi-dwelling Structures.* Detached/Attached dwelling units and multi-dwelling structures shall be located on secondary or support streets of the District, and shall not be permitted on the primary retail and pedestrian-oriented streets. Apartments may be allowed in an MU District, provided they are located on the upper level of a commercial use and if they stand alone they do not exceed a height of 28 feet or two stories, are in small pods, and have no more than 50 units. They shall be separated from other apartment complexes by a distance of 1,000 feet. *(Ord. No. 2010-10, §5, 5-25-2010)*

2. Mixed-use Dwelling Units must meet the following specific site and building design standards: *(Ord. No. 2012-04, §5, 4-24-2012)*

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
   d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

3. *Automobile Convenience Stores.* Automobile Convenience Stores must meet the following specific site and building design standards in the MU-2 district:
   a. Pump islands and service locations shall be limited to no more than two islands and no more than 8 service locations, and shall be set back at least 20 feet from any right-of-way or lot line.
   b. Canopies shall be no more than 14 feet high, gabled roofs with recessed lighting, and shall be setback at least 10 feet from any property line, and shall cover no more than 1,500 square feet of area.
   c. Gas stations shall be located only on secondary or support streets and shall otherwise meet the intent, guidelines, and design standards for buildings in the district.
   d. Curb cuts and driveways shall be limited to no wider than 30 feet and no more than 30% of the lot frontage, whichever is less.

4. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Commercial Center Design Standards in Article 3, Section 08 of the Zoning Ordinance shall apply in the MU-2 district.

SECTION 20. B-3 - CENTRAL BUSINESS DISTRICT

A. **Purposes.** This district is located at the convergence of the principal thoroughfares of the City, anchored by Main Street. It is generally surrounded by higher-density residential and other supporting non-residential districts. The area is suitable for a wide variety of retail uses and certain limited wholesaling and manufacturing uses that support the function and pattern of the walkable central business district of the city. The district regulations are designed to permit the further development of the area for these uses, subject to limitations designed to prevent further congestion of the area and to preserve the traditional and historical function and character of downtown as the heart of the city.

B. **Applicability.** The B-3 district is applicable in the traditional downtown area of the City as indicated in the Boerne Master Plan. It is intended that no other area of the city will have this zoning classification.

C. **Required Lot and Building Dimensions for Non-Residential Uses.**

MINIMUM LOT AREA	5,000 square feet
MINIMUM LOT WIDTH	50 feet
MAXIMUM LOT WIDTH	150 feet, or ½ of a block width, whichever is less; Except lots for Civic Uses shall have no maximum lot width.
MINIMUM FRONT YARD	0' to 10'
MINIMUM SIDE YARD	0 feet, if party wall; 5 feet, if no party wall
MINIMUM REAR YARD	0 feet - See Combined Commercial Design Standards for rear/side location parking requirements
MAXIMUM BUILDING HEIGHT	40' - See 3.05.001 for Height exceptions - City Council may approve a height over 40' or three stories 60' Along Main Street

** All permitted residential uses shall have the Lot Dimensions and Standards in Table 5-2.

D. **Permitted Uses.** The uses permitted in the B-3 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section:

1. Mixed-use Dwelling Units must meet the following specific site and building design standards: *(Ord. No. 2012-04, §5, 4-24-2012)*

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
   d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

2. Bars that are located off Main Street shall be located no closer than 100 feet of a Residential Use and shall be no more than 2,500 square feet.

3. Home Occupations shall meet the restrictions in Article 3, Section 04.

4. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

5. Office uses shall not be permitted on the first floor fronting Main Street. They may be permitted on the second floor or above fronting Main Street or on any floor along secondary streets.

F. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the historic character and value of buildings, and the general focal point the downtown serves for the community, the following specific design standards apply in the B-3 district.

1. All lots in the B-3 District shall meet the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance.

2. The City Council may grant a waiver to the application of any or all of the Combined Commercial Design Standards, after a recommendation by the Planning and Zoning Commission, if:
   a. The particular standard or standards are not applicable to the specific lot by reason of its context of the lot;
   b. Consideration of alternative methods of meeting the intent of the Combined Commercial Design Standards, and the Design Guidelines had been incorporated in the project design;
   c. An alternative design that equally or better meets the intent of the Commercial Design Standards is used; and
   d. Waiver of the standard or standards does not compromise existing or potential future development on adjacent lots or the ability of the zoning district as a whole to best meet the intent of the district.

SECTION 21. O - OFFICE DISTRICT

A. **Purposes.** These districts are composed of structures occupied by or suitable for such uses as offices and studios, usually located between residential areas and business areas. The district regulations are designed to protect and encourage the transitional character of the districts by permitting a limited group of uses of a commercial nature while protecting the abutting and surrounding residential areas by requiring minimum yard areas and setbacks comparable to those called for in the residential districts. *(Ord. No. 2008-25, §3, 8-12-2008)*

B. **Applicability.** The O district is applicable to any area where commercial zoning is contiguous to or in close proximity to residential zoning classification and the desirability of residential is impacted by traffic volume or surrounding commercial uses.

C. **Required Lot and Building Dimensions for Non-Residential Uses.**

MINIMUM LOT AREA	5,000 sqft.
MINIMUM LOT WIDTH	50 feet
MINIMUM FRONT YARD	A lot that adjoins a residential district that is not a reverse corner lot – same as that residential district *(Ord. No. 2012-38, §5,11-13-2012* A lot that adjoins a residential district that is a reverse corner lot – 0'-20' A lot that adjoins a commercial district – 0' – 20'
MINIMUM 1 SIDE / MINIMUM COMBINED FRONT AND REAR YARD*	No improvements shall be allowed within 10' on the residentially zoned side and No party wall or adjoining building are permitted between lots 5' feet if on the commercially zoned side
MINIMUM REAR / MINIMUM COMBINED FRONT AND REAR YARD	10' with appropriate shielding from any adjacent residentially zoned lot.
MAXIMUM BUILDING AREA	Limited to 3,500 sqft. for the office area of the structure *(Ord. No. 2015-36, §5, 11-10-2015)*
MAXIMUM BUILDING HEIGHT	2 story, up to 30 feet

D. **Permitted Uses.** The uses permitted in the O district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section. *(Ord. No. 2012-04, §5,4-24-2012)*

1. Mixed-use Dwelling Units must meet the following specific site and building design standards:

    a. Each unit, residential and commercial, shall have two clearly distinct areas.

    b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.

    c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.

d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

2. It is desirous that adaptive reuse of existing structures be the objective for use as an office/studio. If demolition is desired by the owner, the owner must submit a request to the City Manager for consideration of demolition. The City Manager will determine if demolition is an acceptable alternative to restoration.

3. If an Accessory Dwelling is located on the property, the property owner must occupy either the Accessory Dwelling or mixed use dwelling. The remaining dwelling unit may be a rental unit. There shall be no more than two dwelling units on the lot.

SECTION 22. RC - RIVER CORRIDOR DISTRICT

A. **Purposes.** The RC River Corridor district is designed to meet the special needs of a particularly sensitive area, the land adjacent and in proximity to Cibolo and Frederick Creeks along the Cibolo River Walk. The district regulations are designed to encourage a wide mixture of compatible interactive uses, including limited residential and service uses along with an emphasis on retail and recreational and entertainment facilities.

B. **Applicability.** The RC district is applicable to all land adjacent and in proximity to Cibolo and Frederick Creeks along the Cibolo River Walk.

C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	None
MINIMUM LOT WIDTH	None
MINIMUM FRONT YARD	The area between the typical flow line of Cibolo Creek and the floodway elevation as depicted on FEMA Flood Boundary and Floodway Map, Community Panel Number 480418-0002, dated 9-30-83.
MINIMUM SIDE YARD	None
MINIMUM REAR YARD	None
MAXIMUM BUILDING HEIGHT	38’

D. **Permitted Uses.** The uses permitted in the RC district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.** The following “Restricted” uses have the additional requirements specified in this section.

1. Home Occupations shall meet the restrictions in Article 3, Section 04.

2. Mixed-use Dwelling Units must meet the following specific site and building design standards: *(Ord. No. 2012-04, §5, 4-24-2012)*

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
   d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.** Due to the environmentally sensitive nature of this district and the desire to encourage integrated and coordinated site and building design and engineering that protects and preserves the ecological function of the River Corridor, the following additional standards shall be followed:

1. The front yard shall be used only for landscaping and walking paths.

2. A fire wall must be provided on both sides and at the rear of any building.

3. Buildings and structures are limited to a height of one story if the building or structure is built on the floodway boundary. For each 25-foot setback from the floodway boundary, the height may be increased by one story.

4. All On-site parking facilities shall be designed and built so they are not visible from the floodway boundary line.

G. **Prohibited Uses.** The following uses are specifically prohibited in the RC River Corridor district:

Single Family Dwellings, Garden Homes, Two-Family Dwellings, and Trailer Courts
Adult or Sexually Oriented Businesses
Barber or Beauty Shops
Commercial Communications Systems
Contractors
Convenience Stores
Extended Retail Stores or Shops
Funeral Homes or Mortuaries
Health Clinics
Hospitals
Laboratories
Laundries and Dry Cleaners
Long Term Care Facilities
Manufacturing
Video or Pinball Arcades
Wholesaling

SECTION 23. I - INDUSTRIAL DISTRICT

A. **Purposes.** These districts are areas suitable for warehousing, manufacturing and general industrial uses, where the operation of these uses would not adversely affect nearby residential and business uses. They are usually separated from residential districts by business districts or natural barriers. The district regulations are designed to allow a wide variety of industrial activities, subject to limitations designed for mutual protection of adjacent land uses.

B. **Applicability.** The I district is applicable to larger land areas that are capable of providing substantial buffers to adjacent sites, buildings, and land uses to minimize the potential for incompatible and negative impacts of uses in the district. This district is most appropriate with a special district transportation network in the Subdivision Regulations, and with access to major thoroughfares in order to accommodate more intense traffic and larger vehicles that serve land uses in this district.

C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	22,000 square feet
MINIMUM LOT WIDTH	None
MINIMUM FRONT YARD	25 feet
MINIMUM SIDE YARD	10 feet, unless a firewall is built on the lot line.
MINIMUM REAR YARD	Same as Side Yard
MAXIMUM BUILDING HEIGHT	38' - City Council may approve a height over 38' or three stories

D. **Permitted Uses.** The uses permitted in the I district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted". Any permitted use located in the Industrial district that allows exterior operations 24-hours a day requires City Council approval. *(Ord. No. 2013-23, §5, 7-23-2013)*

E. **Restrictions on Particular Uses.**

1. A kennel must conform to all of the requirements of the City's Animal Control Ordinance.
2. Any business that operates external activities 24-hours a day shall require City Council approval. *(Ord. No. 2013-23, §5, 7-23-2013)*
3. An adult or sexually oriented business, per the City of Boerne Sexually Oriented Businesses ordinance, must be located at least 1,500 feet from the following. *(Ord. No. 2013-23, §5, 7-23-2013)*
   (a) A church;
   (b) A public or private elementary or secondary school;
   (c) A boundary of a residential district;
   (d) A public park adjacent to any residential district;
   (e) The property line of a lot devoted primarily to residential use;
   (f) A continuous care retirement center or nursing care facility,
   (g) A family oriented recreation facility including but not limited to a roller skating rink, an ice skating rink or a public swimming pool;
   (h) A day nursery or licensed child care facility;
   (i) A public library.

4. Mobile Food Vendors must meet the following specific criteria: *(Ord. No. 2014-49, §5 12-16-14)*
   a. Shall be located on private property with the permission of the owner and shall not park in the right-of-way of any street or state highway.
   b. Shall remain only on a temporary basis and shall not remain overnight.

SECTION 24. PUD - PLANNED UNIT DEVELOPMENT DISTRICT

A. **Purposes.** The PUD planned unit development district is established for the following purposes:

1. To provide flexibility in the planning and construction of development projects by allowing a combination of land uses to be developed as an integrated whole in accordance with an approved plan that protects adjacent properties and better implement the broader public benefits, goals and policies of the Boerne Master Plan than can be achieved under conventional zoning district standards.

2. To provide an environment within the layout of a site that contributes to a sense of community and a coherent living style.

3. To encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape and size; and to provide for a greater amount of useable open space.

4. To provide for a more efficient arrangement of land uses, buildings, circulation systems and infrastructure.

5. To encourage in-fill development projects and the development of sites which are difficult to develop under conventional designs because of their shape, size, abutting development, poor accessibility, unique topography or other factors.

B. **Applicability.** A Planned Unit Development District is an overlay district, which may be applied to land less than 25 acres using any combination of underlying residential and non-residential districts.

The designation of a Planned Unit Development (PUD) requires the addition of the PUD overlay district to the parcel of land that is to be included in the PUD. This is considered a change in zoning and the procedure shall be the same as outlined in Article 6, Section 05 of the City of Boerne Zoning Ordinance for changes in zoning. The ordinance adopting the PUD Overlay zoning shall delineate the area in each underlying use zone within the Planned Unit Development. Each of the underlying use zones will be identified by prefix PUD followed by the designation for the underlying zoning district identified on the City of Boerne zoning map.

The PUD overlay district may contain a combination of underlying residential and non-residential use zones. No industrial shall be allowed in a PUD. All use restrictions applicable to a particular type of zoning district apply to the use zones of that type located within a PUD district unless otherwise modified by this Chapter, the ordinance adopting the PUD district, or the PUD plan approved by the City for that PUD district.

Sequence of events: The following procedures shall be completed and approved by City Council prior to any action of City Council on the approval of a Planned Unit Development Overlay Zone:

1. The Planned Unit Development Plan must first be approved by City Council.
2. All underlying zoning changes must first be approved by City Council.
3. Subsections (1) and (2) may be considered concurrently at the request of the developer.

C. **Residential Lot Dimension and Building Standards.**

1. The lot size and building standards for residential lots in a planned unit development shall be as specified in Table 5-2, except as modified in this Section.
2. *Residential Density Limitations.* The maximum number of dwelling units per net developable acre (total land area minus public improvements; i.e. right-of-ways) is limited as follows:

TYPE OF DWELLING	UNITS PER ACRE	AMOUNT OF REQUIRED OPEN SPACE*
ATTACHED	16	20%
DETACHED OR DUPLEX	6 or less	12.5%
	7	15%
	8	17.5%
	8 to 16	20%

* Required Open Space shall be based on Gross site area of the subdivision

D. **Lot Width and Street Frontage.** There is no minimum width and no minimum street frontage for a residential lot in a planned unit development**,** provided the lots and buildings are laid out in a matter that best accomplishes the purposes of the district.

E. **Building Setbacks Lines.** The front, side or rear yard setback requirements in Table 5-2 may be modified in a planned unit development, as follows:

1. Along the perimeter of a planned unit development, all lots shall meet the same minimum setback requirements as those required in a subdivision that is not a PUD, unless the City Council approves a lesser setback in the PUD plan.

2. On any corner lot, no wall, fence or other structure may be erected above a height of three feet, and no hedge, shrub, tree or other vegetation may be maintained above a height of three feet, within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points 25 feet from the point of intersection measured along such street line.

3. A minimum of 10 feet of open space must be provided on all sides of every building between the building and the lot line, except that residential dwelling units may be built with one side wall located on a lot line when a minimum 10 foot side yard setback is provided on the adjacent lot and such side yard setback on the adjacent lot is noted on the final plat.

4. Drainage easements and utility easements shall be provided as required by other provisions of this ordinance.

F. **Minimum Open Space Requirements.**

1. *Minimum Requirements.* Each planned unit development shall provide for a minimum amount of community open space as follows. For a residential PUD, the minimum requirement is 20 percent of the gross site area of the Planned Unit Development. For a non-residential PUD, the minimum requirement is 10 percent of the gross site area of the PUD. For a Planned Unit Development that includes both residential and non-residential development, the total community open space requirement is calculated as follows:

   a. Community open space shall be determined by multiplying 20 percent to the gross site area of the PUD devoted to residential use, and by multiplying 10 percent to the gross site area of the PUD devoted to non-residential use. These results shall be added together, and shall comprise the amount of the gross site area that is to be devoted to community open space.

2. *Reductions in Minimum Requirement.* Up to 25 percent of the minimum community open space requirement may be met by including one-half of the area of any public park, unimproved floodplain, cemetery or other beneficial open space area that is contiguous and accessible to the PUD, and, which in the judgment of the Planning and Zoning Commission, has a reasonable expectation of perpetuity. In its discretion, the Planning and Zoning Commission may also approve a decrease of up to 25 percent of the minimum community open space requirement when the PUD plan includes unique design features or amenities that achieve an especially attractive and desirable development, including, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features or cultural resources, or other unusual amenities which the Commission finds will benefit the community as a whole in addition to the occupants of the PUD. However, in no case may the total reduction in the minimum community open space requirement exceed 40 percent.

3. *Forms of Dedication.* The community open space required by this Section may either be dedicated to the City as public park land or be dedicated as common area for use by the residents/occupants of the PUD, to be owned and managed by a community association that is directly responsible to, and controlled by, the property owners in the PUD. In the case of community open space that is proposed to be dedicated as parkland, the City Manager shall conduct a site inspection and make a recommendation to the Planning and Zoning Commission at the time the Commission considers the PUD plan as to the desirability of accepting the proposed dedication, and the City's likely ability to fund the future operation and maintenance of the proposed dedication. In the case of proposed

dedication as a common area, the community association must meet the requirements of Section G below.

G. **Common Areas and Community Association.**

1. *Dedication of Common Areas and Facilities.* All common areas and facilities that are to be dedicated for collective use, or maintained and operated for common benefit by the residents/occupants of a PUD, including the community open space required by this ordinance, any fences, walls, parking areas, and other facilities that are to be maintained for the common benefit of the property owners, shall be owned and managed by a community association that is directly responsible to, and controlled by, the property owners in the Planned Unit Development. The community association shall be established by a legal instrument that constitutes a plan for the operation, use, repair and permanent maintenance of the common areas and facilities through a self-perpetuating, and adequately funded property owners association, which is funded through mandatory assessments against the individual property owners. The instrument establishing the association shall grant the City, other public agencies, political subdivisions, and public utilities written permission for access to the common areas and facilities at any time and without liability when on official business, and permission to remove any obstructions (if necessary), and to assess the cost of removal to the owner of the obstruction, or the community association, as appropriate. If any part of the required community open space is to be dedicated as common area rather than as public park land, the instrument shall also covenant that the association will levy and enforce against the property owners sufficient assessments to satisfy a charge by the City for correcting deficiencies in the upkeep, maintenance and repair of the community open space under a maintenance agreement for these areas, in addition to any other association assessments for common purposes. The instrument must be approved by the City Attorney prior to consideration by the Planning and Zoning Commission of the final subdivision plat and it shall be recorded at the same time as the final plat. Any amendments to this instrument by the developer, prior to the time the developer relinquishes majority voting control of the association to the property owners, must also be approved by the City Manager before being recorded and going into effect.

2. *Funding of Community Association.* Prior to approval of the instrument establishing a community association, the developer shall submit to the City Manager a multi-year budget for the association, which shall include a fund reserved for the repair and maintenance of the common areas and facilities. The budget shall be accompanied by justifications and calculations demonstrating that the projected property owner assessments will be sufficient to fully fund both the current operation and the continued future repair and maintenance of the common areas and facilities. Prior to approving the budget, the City Manager shall consult on the matter with a third-party Professional Community Association Manager or Association Management Specialist certified by the Community Associations Institute, or an equivalent expert in the management of community associations, who is independent of any contractual relationship with the developer at the time the developer submits the budget. An estimate of the community association consultant's fee for review of the budget shall be included in the fee established by City Council for review and processing of the PUD plan. At the same time that the instrument establishing the association is filed, the developer shall post a bond or other security, in a form acceptable to the City Manager and payable to the association, guaranteeing that the reserve fund for repair and maintenance will be fully funded at the level projected in the budget at the time the developer relinquishes majority voting control of the association to the property owners. This bond or other security shall be held by the City for the benefit of the association, and it shall be released only upon the developer's submission to the City Manager of proof, in a form acceptable to the City Manager, that the reserve fund has been funded at the level projected and that the developer has relinquished majority voting control of the association to the property owners.

3. *Maintenance of Community Open Space.* The legal instrument establishing the community association shall also be accompanied by a maintenance agreement between the City and the association for the upkeep, maintenance and repair of all the common areas and common area facilities that are to be dedicated as community open space. This agreement shall provide for periodic inspection of the facilities by the City, and for a procedure by which the City may give formal notice to the association of any deficiencies that are found in the upkeep, maintenance and repair of the facilities. Following notice and a reasonable time for the association to correct any deficiencies, the agreement shall authorize the City to undertake any work that may be necessary in the judgment of the City Manager to repair or maintain the facilities so that they meet the minimum acceptable standards provided in the maintenance agreement, and to charge the cost to

the association. The agreement shall bind the association to levy and enforce against the property owners such assessments as may be necessary to satisfy the charge, and to make prompt payment to the City. The agreement must be approved by the City Manager prior to the consideration by the Planning and Zoning Commission of a final subdivision plat. The agreement shall be recorded at the same time as the final plat, and a note indicating that such an agreement has been entered into shall be entered on the final plat.

H. **Transfer of Open Space Dedicated as Park Land.** If any part of the community open space is to be dedicated as parkland, the area to be so dedicated shall be indicated on the final subdivision plat as "Park Land Dedicated to the City of Boerne". The total acreage of the park shall be noted on the final plat, and the dedication of the park shall also be noted in the narrative portion of the final plat where the subdivider dedicates easements, rights-of-way and other improvements to the City of Boerne.

I. **Procedures for Approval of PUD Plan.**

1. *Preliminary Concept Plan.* Prior to submitting a PUD plan for approval, the developer must request a pre-application conference with the City Manager and designated city staff. At this conference the developer shall submit a preliminary concept plan for the planned unit development. The preliminary concept plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal.

   a. A map of the site, drawn to scale and showing north point, the boundaries of the proposed development, adjacent subdivisions, and the streets in the vicinity of the site.

   b. A map showing general topographic considerations affecting the site, floodplains and watercourses on the site and in the vicinity, and any other significant environmental features that may affect the site.

   c. The general layout proposed for the planned unit development, delineating the areas that are proposed for residential development, the forms and densities proposed in each such area, the areas proposed for non-residential development, and the general nature of the uses proposed in each such area, and the areas proposed as community open space, and the general character proposed for each such area.

   d. The total acreage of the site, the number of acres to be developed in each type of residential and non-residential development that is proposed, and the number of acres proposed to be dedicated as community open space.

   e. The total number of residential dwelling units of each type proposed, and the approximate gross square footage of each type of non-residential development proposed.

   At the pre-application conference, the City Manager and staff will offer initial comments on the merits of the proposal, suggestions for refinement, and other information and advice to aid the developer in the preparation of a formal PUD plan.

2. *Form and Content of PUD.* The PUD plan for a proposed planned unit development must be drawn on reproducible Mylar by a registered architect or registered engineer and must include the following:

   a. Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the PUD plan.

   b. The location of the City limit lines and the outer border of the City's extraterritorial jurisdiction if either traverses the Planned Unit Development or is contiguous to the PUD boundary.

   c. The location, right-of-way width, name and description of all existing or recorded streets and alleys within or adjacent to the PUD, as determined from existing records, and the location of all intersections adjacent to the PUD.

   d. The right-of-way and description of all proposed streets and alleys within the Planned Unit Development.

e. The location, right-of-way, and type or purpose of all existing easements within and adjacent to the PUD.

f. The centerline of existing watercourses, creeks and drainage structures within and adjacent to the PUD, and the limits of the 25-year and 100-year flood plains, if applicable.

g. The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features which are proposed to be developed.

h. The area and acreage in each distinct type of proposed land use.

i. The areas and acreages, which are to be dedicated as community, open space, including an indication whether the dedication is to be as a public park or as common area owned and managed by a community association.

j. The location, type and height of the fences, walls or other screening devices, which are proposed to buffer the PUD from adjacent developments and, within the PUD, to buffer one land use from another.

3. *Additional Requirements.* The information that is presented graphically in the PUD plan must be accompanied by the following information in narrative or tabular form:

a. The total number of dwelling units in each distinct type proposed, the total acreage in each distinct type of residential development or unit of development if the PUD shall be developed as separate units, and the resulting densities in dwelling units per net developable acre (total area minus dedicated rights of way).

b. The total acreage and gross square feet proposed in each distinct type of non-residential development.

c. Descriptions of the number, size and character of any active recreational facilities and community meeting spaces that are to be included in the community open space.

d. Calculations showing the minimum total area of community open space, which is required by this ordinance, and the actual areas, which are proposed to be dedicated as community, open space. A narrative justification must accompany any request for a reduction in the community open space requirement.

4. *Processing of PUD Plan.* The PUD plan must be submitted to the City Manager, accompanied by the appropriate fee established by City Council. Within 21 calendar days of the submission, the City Manager shall review the PUD plan for completeness and compliance with all of the requirements of this ordinance, and notify the developer in writing of any deficiencies in the plan as initially submitted. When the PUD plan is accepted as complete by the City Manager, the Planning and Zoning Commission shall hold a public hearing and shall act on the PUD plan at the next regularly scheduled meeting of the Commission which allows sufficient time for public notice and hearing. Notice of the public hearing must be given to all property owners within 400 feet of the boundaries of the proposed Planned Unit Development in the same manner as notice for a public hearing on a change of zoning.

J. **Evaluation.**

1. *Criteria.* In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods, and thereby enhance property values in the community, and in order to maximize the efficiency of the street and utility systems, increase the affordability of new housing, improve the safety and separation of vehicular and pedestrian traffic, and increase the amount of open space that is useable by the public, the Planning and Zoning Commission shall use the following criteria in reviewing and evaluating PUD plans. These criteria are not to be regarded as inflexible requirements, nor are they intended to discourage creativity and innovation.

a. Where it is practical, the landscape shall be preserved in its natural state by minimizing tree and soil removal. The natural features of the landscape shall be integrated into the PUD design as amenities enhancing the developed environment.

b. Proposed buildings shall be sited in harmony with the terrain and with other buildings in the vicinity that have a visual relationship to the proposed development.

c. Open spaces shall link residential areas with each other and with related nonresidential destinations, and provide amenities that enhance the residential environment. Where possible, these open spaces shall link directly to parks, other open spaces, schools, and other community institutions adjacent to the PUD.

d. Pedestrian paths, bicycle paths, driveways, parking areas and interior streets in the PUD shall be located and designed to take best advantage of the topography and natural features of the landscape, to integrate vehicular, bicycle and pedestrian traffic in a safe and compatible manner that minimizes conflicts through the use of "Complete Street" design principles and Context Sensitive Design Strategies. Transportation systems should to contribute to, rather than detract from, the design of proposed land uses and neighboring properties.

2. *Planning and Zoning Commission Action.* Following the public hearing on the PUD plan, the Planning and Zoning Commission shall recommend to City Council that Council either approve the plan as submitted, approve the plan with amendments or conditions, or disapprove the plan. In recommending amendments or conditions, the Commission shall be limited to recommending such amendments as are necessary in the Commission's judgment to protect the public health, safety, morals and general welfare or conditions related to the acceptance of the proposed dedication of community open space as parkland. The Commission shall file its report on the matter with City Council as soon as possible after it adopts its recommendation to Council, but in no event shall the Commission file its report later than the 21st day after it adopts its recommendation.

3. *Application for Action by City.* Following the action by the Planning and Zoning Commission, the developer may then file an application with the City Manager for action by City Council. The appropriate fee, as established by City Council, shall accompany such application. If the Planning and Zoning Commission has recommended amendments or conditions for approval of the PUD plan, the developer may incorporate these amendments or conditions in a revised plan to be presented to Council without further action by the Commission.

4. *Hearing and Action by City Council.* Following the receipt by City Council of the report of the Planning and Zoning Commission and of the developer's application to proceed, City Council shall hold a public hearing and take final action on the PUD plan at the next regularly scheduled Council meeting that allows sufficient time for public notice of the hearing. Notice of the hearing shall be published in the same manner as notice of a hearing before City Council on a proposed change of zoning.

5. *Approval When Protested.* If the Planning and Zoning Commission recommends disapproval of the PUD plan, or if the PUD plan is protested in writing by 20 percent or more of the owners of either the area of the lots or land included in such proposed change or use, or of the lots or land immediately adjoining the same and extending 200 feet there from, the PUD plan shall not become effective except by the favorable vote of three-fourths of all members of the City Council. Protesting a PUD plan shall be conducted in the same manner as that set forth for protesting a proposed change of zoning.

K. **Plan Changes.** Following approval of a PUD plan by City Council, alterations to the plan are classified as either substantial or non-substantial amendments. Non-substantial amendments must be approved by the City Manager. Substantial amendments must be considered by the Planning and Zoning Commission and approved by City Council following the same procedures as required for approval of an initial PUD plan, including payment of the appropriate fee. A substantial amendment is any of the following:

1. A change that would add a land use not previously approved as part of the PUD plan.

2. A change that would alter the land use in an area within 200 feet of a boundary of the PUD subdivision.

3. A change that would increase the overall density of the PUD by 10 percent or more. However, in no case may the overall density of a PUD located inside the City limits exceed that permitted by the PUD zoning district.

4. A change that would reduce the total area to be dedicated as community open space, or that would alter the location of that area by 10 percent or more.

5. Any other change, which in the judgment of the City Manager, would significantly alter the general character or overall design of the subdivision.

L. **Expiration of PUD.** An approved PUD plan shall lapse and be of no further force and effect if a final subdivision plat is not submitted for approval by the Planning and Zoning Commission within three years of the date of approval of the PUD plan by City Council. Upon application by the developer, the Planning and Zoning Commission may grant one extension of this time limit of up to two years if the Commission finds that the additional time is warranted. A developer's failure to initiate development by filing a final subdivision plat within the approved time period shall void the PUD plan, and no building permits shall be issued and no utility connections shall be made until a new or revised PUD plan has been resubmitted and approved, as provided by Section 18 of the Zoning Ordinance. In the case of a PUD subdivision which is divided into stages, each stage following the first stage to be developed must be initiated by the submission to the City Manager of a final subdivision plat for that stage, and approved by the Planning and Zoning Commission, within three years of the date of approval by the Commission of the final subdivision plat for the previous stage. Failure to initiate development of a second or later stage within this time period shall void the PUD plan with respect to the undeveloped stages, but development may continue in previously initiated stages.

SECTION 25. EC - ENTRANCE CORRIDOR OVERLAY DISTRICT

A. **Purpose.** The Entrance Corridors are the primary vehicular entrances to Boerne. The Entrance Corridor Overlay District establishes parameters for development of properties within the Entrance Corridor regarding site and architectural design, building materials, landscaping, lighting, and signage to promote the character of Boerne at vehicular entrances to the City. Except for the items specifically identified in this Section the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots located in the Entrance Corridor Overlay District.

B. **Applicability.** The allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying zoning district except for the required front setback as provided in Section D. The Entrance Corridor Overlay District is designated for commercial development only, extends either side of the roadway segment, and includes all property within three hundred and fifty feet (350') of either the State, City or County right-of-way line. Where the interstate highway is described, beginning measurement shall be from the adjacent property line of the paralleling access road as described and documented in the Kendall County Texas Department of Public Transportation (TXDOT) office records.

C. **Plan Review.** Building Plans shall be reviewed by the City Manager or City Manager's designee and approved prior to the issuance of a building permit for new construction (or remodeling) in an Entrance Corridor Overlay District to evaluate the compatibility of the plans with the guidelines mentioned in this article utilizing the factors mentioned in Section 2. Creative alternative options may be approved by the Planning and Zoning Commission if the intent of each section is met. Such application shall be accompanied by the appropriate fee established by City Council.

1. Application for review packages shall include the following:
   a. Letter requesting review.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
   c. Two copies and digital file.

2. Factors to be considered:
   a. The effect of the proposed structure upon the general historic, cultural and architectural character of the Entrance Corridor Overlay District or the City of Boerne.
   b. The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
   c. Harmony with adjacent buildings and structures in terms of scale, height and mass.
   d. If it is determined that the structures will not have a negative impact on adjoining properties and the structures are not visible from the right-of-way because of topography, they may be exempt from the Entrance Corridor building standards.

D. **Setbacks.** Setbacks contained herein should be measured from the Entrance Corridor and do not necessarily reflect the lot front setback. The setback shall be twenty-five feet (25') and shall be used only for the purpose of landscaping or screening and shall not be utilized for parking or internal circulation or drive purposes, except that a driveway may cut through for the purpose of reaching the area behind the setback. The driveway may cut through the setback no more than 30 feet (30') or paired driveways of no more than 20 feet (20') each if separated by a landscape median at least twelve feet (12') wide.

E. **Parking.**

In meeting the parking requirements of Article 3, Section 10, the following design and location standards shall apply to on-site parking:

1. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.

2. The location of the on-site parking surface areas shall be located to the side or rear of a building.

3. No more than 15% of the required parking spaces may be located between the principal building front building line and the front set back. Where a building footprint is 40,000 square feet or larger

and more than 15% of the parking is located between the building line and the roadway, additional landscaping required as described in Section 3.10.012. *(Ord. No. 2015-36, §5, 11-10-2015)*

4. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or private street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

F. **Landscaping.**

1. The required 25-foot (25') setback area from the designated roadway shall be landscaped and maintained with at least 80 percent (80%) live vegetative coverage excluding the area required for driveways, sidewalks, bicycle paths, and drainage features. The remainder may be impervious landscaping such as landscape rock, native rock walls, fountains, statuary, and signs in compliance with the City's Sign Ordinance currently in effect, and accent features compatible with the landscape theme and determined not to impact shade trees already growing on the site. No fencing is allowed within the 25-foot (25') landscaped buffer.

2. Ornamental trees or larger shall be provided (outside of any utility clear zone as identified in Table 3-7 of the Subdivision Ordinance) every 20 - 40 feet (depending on size of tree). All vigorous, existing 4-inch caliper or larger shade trees that stand within the 25-foot (25') setback area shall be retained and protected as a landscape buffer, save and except trees that lie within the area of driveways, sidewalks, and drainage features. Preservation of significant understory vegetation (such as clusters of Possumhaw, Yaupon Holly, and Texas Wild Plum) is encouraged.

3. Live screening shall be capable of providing a solid 36-inch screen (18-inch within easement areas) within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.

4. Lawn grass areas should be planted in drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sodded. Solid sod shall also be used in swales or other areas subject to erosion.

G. **Drainage and Detention Facilities.**

1. Drainage facilities may be allowed within 25 feet (25') of the designated street right-of-way, provided they are non-structural drainage facilities designed and engineered to include substantial natural features and serve as an amenity to the site and the corridor.

2. Detention ponds may be located in the 25-foot (25') landscaped buffer if they are designed with a curvilinear contoured shape, are designed not to require fencing, are able to utilize vegetative slope stabilization with a slope not exceeding 3:1, and no structural retaining walls are used.

H. **Fences.**

1. No fencing is allowed within the 25-foot (25') setback along a designated roadway.

2. Any fencing behind the 25-foot (25') area visible from the public right-of-way shall be masonry, a combination of wood, tubular steel and masonry, decorative wrought iron or tubular steel, or alternative similar products approved by the City Manager and/or his designee.

3. Any fencing behind the 25-foot (25') landscaped buffer in the remaining designated Entrance Corridors shall be buffered from the street view by planting 5-gallon evergreen shrubs and vines that will, at maturity, screen at least 30 percent (30%) of the view of the fence.

I. **Screening.**

1. *Parking Lot Screening.*

a. All parking must be screened from public rights-of-way using screening methods as described below.

b. All parking lot screening will be maintained at least 36 inches (36") in height, and be achieved through one of the following methods:
   (1) A berm
   (2) A planting screen (hedge)
   (3) A wall
   (4) A combination of any of the above along with trees

c. Live screening shall be capable of providing a solid 36-inch screen within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.

d. Screening shall be offset at least six feet every sixty linear feet (60').

J. **Nonconforming Structures.**

1. Structures that were existing at the time the Entrance Corridor Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.

2. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. All remodeling of the exterior or adding onto a preexisting or nonconforming structure of less than fifty percent (50%) of the value, as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

3. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure, the new structure and the preexisting structure shall be required to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. New structures less than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

4. The requirements in Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance, Screening, shall be followed on all preexisting or nonconforming lots when remodeling the exterior, adding onto, or adding a new structure.

5. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.

K. **Structures in the Industrial District.**

1. Properties located in the Industrial District shall apply all the standards of the Entrance Corridor with the exception of materials for facades as stated below.

2. Building materials for primary facades - shall be finished using two or more of the following materials:

   a. Metal
   b. Brick, cultured stone, cast stone, natural rock, marble, or granite
   b. Stucco or plaster
   c. Exterior Insulation and Finish Systems (EIFS) or equivalent product
   d. Glass with less than twenty percent (20%) reflectance; however, only fifty percent (50%) of the primary facade may be constructed in glass

3. Secondary façades attached to a primary façade (such as a side wall not facing a public street) shall wrap around the building by incorporating building materials and features of the primary façade for a minimum of 60% of the overall wall length measured from the primary façade.

4. All facades shall include architectural elements such as accent banding, base plates, cornices, soffits, sills, parapets, transoms, and windows aligned horizontally. The horizontal alignment should differentiate stories in a building and create a base and crown for the building.

SECTION 26. MHC – MANUFACTURED HOME COMMUNITY

A. **Purposes.**

A development of twenty or more HUD-Code manufactured home spaces for rent or lease, including common areas and facilities for management, recreation, laundry and utility services, storage and similar services for the convenience of residents of the manufactured home community.

B. **Required Lot Dimensions.**

Minimum Community Size: **6 Acres** **Maximum Community Size:** **25 Acres**	
Units per Acre	6
Minimum Front Yard	25 Feet
Minimum Rear Yard	10 Feet
Minimum Side Yard	5 Feet
Off Street Parking	2 Spaces
R-O-W Width/Access Drives:	
Two-Way, 28 Feet	
Skirting	Yes

C. **Site Plan Review.** A print of the site plan as outlined in Article 5, Section 02, Zoning District Use Regulations, shall be submitted for staff review with each M-H, Manufactured Home Community.

D. Restrictions on Particular Uses.

1. No manufactured home shall be admitted to any manufactured home community unless it meets the minimum standards and requirements of the "American Standards for Installation in Manufactured Homes of Electrical, Heating and Plumbing Systems".

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

E. **Fire Protection.** A manufactured home community exceeding six hundred (600) feet in depth shall be required to install a 6-inch fire main, looped if possible, located within the manufactured home community and installed at or near the edge of the paving in a dedicated easement or fire lane. Fire hydrants shall be located along the main so as to make fire protection available to all surface property in the manufactured home community.

F. **Soil and Ground Cover.** Exposed ground surfaces in all parts of every manufactured home community shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.

G. **Utilities and Roads/Streets.** All public utilities and streets, private or public, shall be installed to City of Boerne specifications as described in the most recent City of Boerne Subdivision Ordinance and Utility Policy Manual.

H. **Manufactured Home Communities.** shall conform to the drainage and flood hazard requirements of the City of Boerne Subdivision Ordinance in effect at the time of development.

Minimum Community Size:	6 Acres
Maximum Community Size:	25 net developable acres exclusive of any parks or land necessary to meet the requirements of Section H.

SECTION 27. RMA - SINGLE-FAMILY RESIDENTIAL MANOR DISTRICT

A. **Purposes.** These districts are composed of single family dwelling lots and tracts of 45,000 square feet or more of a rural nature. The regulations are designed to protect the essentially rural character of the districts and to provide more privacy and open space than is usually associated with more intensely developed urban areas of single family dwellings. The regulations prohibit the establishment of commercial, industrial or other incompatible uses.

B. **Applicability.** The RMA district is applicable to areas where sub-urban development patterns area desired, and specifically the Low-density Residential designation in the Boerne Master Plan. Typically this district should be used only in areas that are at least ½ mile, but no more than 1.5 miles from any existing or planned Neighborhood or Community Center. Large uninterrupted applications of this district, without transitions to either higher densities or more rural open spaces should be avoided so that significant populated areas that must rely solely on automobile travel are not created. The RMA district is most appropriate with an Organic Transportation Network and Rural Street Design Types indicated in the Subdivision Regulations. It is also appropriate in conjunction with a Rural Cluster Residential Overlay that can better and permanently preserve greater amounts of contiguous open space.

C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the RMA district:
1. Large Lot
2. Manor Lot

D. **Permitted Uses.** The uses permitted in the RMA district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Restrictions on Particular Uses.**

1. Accessory Dwellings shall meet the restrictions in Article 3, Section 06.

2. Home Occupations shall meet the restrictions in Article 3, Section 04.

3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

SECTION 28. NCO – NEIGHBORHOOD CHARACTER OVERLAY DISTRICT

A. **Purposes.** These districts are composed of neighborhoods with any residential zoning district as the base district (R-A through R-3), except for R-4. The regulations are designed to provide a framework under which further and more specific neighborhood planning can be conducted, and subsequently standards can be developed to preserve any identified character of specific neighborhood planning areas. These districts are intended for areas of the City that require special consideration based on well-established neighborhood characteristics that have broad public benefits in the context of the Master Plan.

B. **Applicability.** The NCO district is applicable to any defined and contiguous area that has a base zoning of one or more of the following zoning districts:

1. R-A
2. R-L
3. R-E
4. R-E1
5. R-1
6. R-N1
7. R-2
8. R-3

An application for the NCO district must be accompanied by a specific area plan or other comprehensive assessment of the proposed boundaries identifying key characteristics, as well as standards or guidelines which will supplement or replace the standards of the base zoning district.

C. **Size and Extent of District.** An NCO shall be at least 10 acres or two city blocks. The boundaries of the district shall be drawn so that all property sharing similar characteristics, or which are desired to develop and preserve similar characteristics, are included within the boundaries. A proposed NCO district may include sub-districts where different standards or guidelines are warranted based upon the specific area plan or comprehensive assessment. The City Council may approve NCO districts less than 10 acres where they are added to an existing NCO or where special circumstances exist where the proposed district shares no similar characteristics with surrounding property.

D. **Required Planning Process.** The specific area plan or comprehensive assessment of the boundaries of any proposed NCO district shall be prepared with opportunities for broad input by all property owners in the district. The process used for this input shall be specifically stated in the plan or assessment, and be verified by the signatures of all owners of record in the proposed district. Where the public process is not verified by all record owners in the proposed district, or where any record owner signed to verify the process but does not endorse the plan, assessment or proposed overlay standards, a petition for an NCO district shall only be applied upon a ¾ approval of the entire City Council.

Specifically the plan shall include:

1. Legal Description of the boundaries of the proposed district, and boundaries of any sub-districts included in the plan;

2. List and signatures of all record owners within the district;

3. Base zoning district of all property within the district;

4. Maps and graphic documentation of the characteristics of the neighborhood which are to be protected, including identified strategies or alternative means to protect the characteristics.

5. Proposed regulations, as permitted in this Section;

E. **Contents of Regulations.** The regulations may be set up to supplement or replace any standards of the base zoning district, provided they are designed to achieve the compatible characteristics identified in the specific area plan or comprehensive assessment of the area. They do not necessarily have to provide uniformity throughout the district, and may apply to a variety of lot and building types that may exist within any proposed NCO district or any sub-districts. In general, these regulations may address:

1. Distinctive building characteristics that are prominent in the district such as scale, mass, form, architectural details, building materials and composition, architectural style, or other similar characteristics.

2. Unique streetscape characteristics such as the orientation of front building lines, lot and driveway access, landscape design along the streetscape or lot frontages.

3. Important natural features such as location and extent of impervious surfaces, drainage courses, natural vegetation, topographical features (i.e. hilltops), view sheds, or other similar characteristics.

F. **City Approval.** An application for an NCO district may only be approved through the zoning map amendment procedures in these regulations, and shall be subject to the general review criteria of a zoning map amendment, plus the additional criteria provided in this section. Any approved NCO district standards and procedures shall be reviewed by the Planning Commission 5 years after the establishment of the district, and every 5 years thereafter. Failure to conduct such a review shall not invalidate the NCO district, or any standards under the district, but subsequent administration of any application under the district shall first require such review. Upon the review, the Planning Commission may recommend any modifications it deems appropriate according the Master Plan, the purpose and applicability of this district, and purpose and applicability of the base zoning districts.

SECTION 29. RR - RIVER ROAD COMMERCIAL DISTRICT

A. **Purposes.** This district is composed of retail, dining and entertainment type uses. This also allows for limited office and living space. The properties along River Road are encouraged to make use of the Cibolo Creek view by allowing patios and outdoor entertainment areas, while the properties abutting the residential district are required to have visual buffers, height limitations and screening. This ordinance shall serve to secure the view of the Cibolo Creek from obstruction by any oversized vehicle or mobile food vendor.

B. **Applicability.** The RR district is applicable to the River Road area where small scale retail and entertainment services are desired. The RR district requires a Grid Transportation Network.

C. **Required Lot and Building Dimensions for Non-residential uses.**

MINIMUM LOT AREA	5,000 square feet
MINIMUM LOT WIDTH	50 feet
MAXIMUM LOT WIDTH	150 feet, or ½ of a block width, whichever is less; With the exception stated in E.5.
MINIMUM FRONT YARD	5' to 25' (see 3.09.002) 25' with front patio
MINIMUM SIDE YARD*	0 feet, if party wall; 5 feet, if no party wall; 10 feet street side (corner lot)
MINIMUM REAR YARD	0 feet if lot is alley loaded (see Restriction E.2); 10' if lot is not alley loaded
MAXIMUM BUILDING HEIGHT	30' – two stories (see Restriction E.1) 38' – three stories if approved by the Planning and Zoning Commission (see Restriction E.2)

** All permitted residential uses shall have the Lot Dimensions and Standards in Table 5-2.

D. **Permitted Uses.** The uses permitted in the RR district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. **Restrictions on Particular Uses.** The following "Restricted" uses have the additional requirements specified in this section:

1. Structures that include restaurants, boutique hotels, bars, nightclubs and living units may make a request to the Planning and Zoning Commission for approval of a three-story building.

2. Second and third story buildings shall incorporate the guidelines identified in Section 3.09.002 (5 and 6).

3. *Multi-dwelling Structures.* Attached dwelling units and multi-dwelling structures shall be located on secondary or support streets of the District, and shall not be permitted on River Road.

4. *Boutique Hotels*. Larger lot widths identified in this Section may be approved by the Planning and Zoning Commission.

5. *Mobile Food Vendors* shall be located on private property with the permission of the owner and shall not park in the right-of-way of any street or state highway within the River Road District.

6. Mixed-use Dwelling Units must meet the following specific site and building design standards:

   a. Each unit, residential and commercial, shall have two clearly distinct areas.
   b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
   c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.

d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

7. Bars in the River Road District shall be no more than 2,500 sf and shall not serve alcohol past midnight.

8. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. **Specific Site and Building Design Standards.**

1. Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots in the RR District.

SECTION 30. R-D - DUPLEX RESIDENTIAL DISTRICT

(Ord. No. 2012-38, §5, 11-13-2012

A. **Purposes.** These districts are composed of areas similar to the R-2 districts, except that greater intensity of land development is permitted through the duplex building types. These developments can be compatibly integrated with detached dwelling building types by spatial and architectural design, limits on the overall intensity of development, and minimum yard and lot area requirements.

B. **Applicability.** The R-D district is applicable to areas where a more compact neighborhood development pattern is desired, and specifically the Neighborhood Residential designation in the Boerne Master Plan. The R-D district is most appropriate with a Modified Grid Transportation Network using the Neighborhood or Parkway Street Design Types indicated in the Subdivision Regulations.

.C. **Eligible Lot Types.** The following lot types and dimensions specified in Table 5-2 are permitted in the R-D district:

1. Small Lot
2. Neighborhood Lot
3. Standard Lot
4. Duplex Lot*
5. Attached Lot*

* Duplex Lots and Attached Lots are only permitted in the R-D district provided:

a. the entire block face on the same side of the street is platted with a duplex or attached lots

D. **Permitted Uses.** The uses permitted in the R-D district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted”.

E. **Specific Site and Building Design Standards.** Due to the more compact development pattern and the close relationship of the smaller lots to the public streetscape, the Neighborhood Design Standards in Article 3, Section 07 of the Zoning Ordinance shall apply in the R-D district.

SECTION 31. CHD – COTTAGE HOUSING DEVELOPMENT OVERLAY DISTRICT *(Ord. No. 2015-36, §5, 11-10-2015)*

A. **Purpose**

The purpose of the cottage housing development is to address the need for smaller, more diverse housing alternative to the typical detached, single-family house. Cottage housing units fit well into small neighborhoods within existing neighborhoods on vacant or underutilized land that can be used for infill and revitalization. The intent of cottage housing is to have minimal environmental impact by following low impact development standards to create a smaller carbon footprint and to promote more green space and open space with the preservation of trees. Cottages should be designed to minimize light and noise impacts both within developments and to adjacent properties. Cottage lots differ from multi-family because of the limited number of units, much smaller size and the community concept with shared open space, a community garden, and a recreational clubhouse. Residences are not attached and typically are not for rent.

Clusters of cottage housing developments are intended to create a small community of cottages oriented around open space that is pedestrian-oriented and minimizes the visibility of off-street parking. Each cottage development must be on at least a half-acre with no more than 10 units in a cluster. Multiple clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.

B. **Applicability.**

The Cottage Housing Development is applicable to areas where infill and revitalization are desired, and specifically in Neighborhood Residential along neighborhood streets.

C. **Eligible Lot Types.**

a. Site specific use by city council approval.

D. **CHD Plan and Overlay District Approval.**

The CHD Plan and Overlay District approval shall follow the procedures set forth in this section. Creative alternatives to the CHD Plan may be approved by City Council if the plan and structures meet the intent of the ordinance and are determined to contribute to the development and surrounding neighborhood as a whole.

1. A letter of request shall be submitted with the appropriate fee.
2. A CHD Plan as described in this section shall be considered in a public hearing before the Planning and Zoning Commission and City Council. The Plan shall be approved prior to consideration of the Overlay District.
3. The CHD Overlay District shall be considered in a public hearing before the Planning and Zoning Commission and City Council.
4. Both the Plan and the Overlay District may be considered concurrently at the request of the developer.

E. **Procedures for Approval of CHD Plan and the Overlay District.**

1. *Preliminary Concept Plan.* Prior to submitting a CHD plan for approval, the developer must request a pre-application conference with the City Manager and designated city staff. At this conference the developer shall submit a preliminary concept plan for the cottage housing development. The preliminary concept plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal.

   a. Site plan showing clear delineation of the areas which are to be reserved for lots, open space, community open space, easements, off-street parking, driveway, easements and fire lanes.

b. Provide sample floor plans and building elevations with a list of proposed building materials and a landscape and screening plan.
c. The location, type and height of all proposed fences, screening walls, and other screening devices intended to buffer the development from the street and neighboring properties.
d. The location and character of all improvements to be made in community open space areas, including a general landscape plan for each area.

At the pre-application conference, the City Manager and staff will offer initial comments on the merits of the proposal, suggestions for refinement, and other information and advice to aid the developer in the preparation of a formal CHD plan.

2. *Formal Concept Plan*. The CHD plan for a proposed cottage housing development that is presented for approval must be drawn by a registered architect or registered engineer and must include the following:

a. All the items included in the preliminary plan submittal

b. The site plan shall include the following form and content:

i. Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the CHD plan.

ii. The location, name and description of all existing or recorded streets and alleys adjacent to the CHD, as determined from existing records, and the location of all intersections adjacent to the CHD.

iii. The location and type or purpose of all proposed and existing easements and/or fire lane within the CHD.

iv. The centerline of existing watercourses, creeks and drainage structures within and adjacent to the CHD, and the limits of the 25-year and 100-year flood plains, if applicable.

v. The acreage for the whole development and each lot individually.

vi. The areas and acreages which are to be dedicated as community, open space or as common area owned and managed by a community association.

3. *Processing of CHD Plan and Request for Overlay District.* The CHD plan and the request for Overlay District request must be submitted to the City Manager a minimum of 21 calendar days prior to the Planning and Zoning Commission's scheduled meeting. The City Manager shall review the submittal for completeness and compliance with all of the requirements of this ordinance, and notify the developer in writing of any deficiencies. When the CHD plan is accepted as complete by the City Manager, the Planning and Zoning Commission shall hold a public hearing and shall act on the CHD plan at the next regularly scheduled meeting of the Commission which allows sufficient time for public notice and hearing. Notice of the public hearing must be given to all property owners within 200 feet of the boundaries of the proposed Cottage housing development in the same manner as notice for a public hearing on a change of zoning.

4. Evaluation and factors to be considered:

a. The effect of the proposed development in the area and to the surrounding neighborhood.

b. The appropriateness of the exterior architectural features and layout of the development.

c. Creative alternatives may be applied to the development if the plan and structures meet the intent of the ordinance and are determined to contribute to the development and surrounding neighborhood as a whole.

F. **Plan Changes.**

Following approval of a CHD plan by City Council, alterations to the plan are classified as either substantial or non-substantial amendments. Non-substantial amendments must be approved by the City

Manager. Substantial amendments must be considered by the Planning and Zoning Commission and approved by City Council following the same procedures as required for approval of an initial CHD plan, including payment of the appropriate fee. A substantial amendment is any of the following:

1. A change that would add a land use not previously approved as part of the CHD plan.

2. A change that would reduce the total area to be dedicated as open space, or that would alter the location of that area by 10 percent or more.

3. Any other change, which in the judgment of the City Manager, would significantly alter the general character, overall design or impact of the development.

G. **Expiration of CHD.**
An approved CHD plan shall lapse and be of no further force and effect if a final subdivision plat is not submitted for approval by the Planning and Zoning Commission within two years of the date of approval of the CHD plan by City Council. Upon application by the developer, the Planning and Zoning Commission may grant one extension of this time limit of up to one year if the Commission finds that the additional time is warranted. A developer's failure to initiate development by filing a final subdivision plat within the approved time period shall void the CHD plan.

H. **Required Lot and Building Dimensions.**

MINIMUM CLUSTER AREA	One-half acre (1/2) and four cottages
MINIMUM LOT AREA	2,500 sq. ft.
MINIMUM COMMON OUTDOOR SPACE (SHARED)	Minimum 20% gross area of the development (this is in addition to the private area provided on each cottage lot, with the front yard setback exception listed below)
MINIMUM FRONT SETBACK	10' – if there is no front yard fence per the HOA documents, up to 50% of the front yard setback may be counted toward the common open space percentage and may provide location for easements and/or fire lane
MINIMUM REAR	10' from any structure
MINIMUM SIDE/ **ARTICULATION MAY OCCUR AS PROVIDED IN SECTION 3.07.005 – THE BUILDING ENVELOPE SHALL NOT INCREASE)**	10' total between structures
MAX. BUILDING HEIGHT (PRINCIPAL)	1 story with loft – 25 feet
MAXIMUM LIVABLE GROSS FLOOR AREA	1000 sq. ft.
COVERED PORCH	A minimum 60 sf, minimum 6 ft. deep front porch
COVERED PARKING	Covered parking not to exceed 440 sf may be provided on each cottage lot
MAXIMUM FENCE HEIGHT	4 ft. decorative fence for each cottage (optional) 6 ft. fence for the perimeter of the cottage development that abuts a residential property
PARKING SPACES PER COTTAGE	Minimum: 1.5 Maximum: 2.0

I. **Homeowners' association (HOA).** All maintenance of the shared grounds to include the perimeter fence, shared parking area and any community structures is the responsibility of the development's homeowners' association, or similar mechanism. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation and all other irrigated space including lawns on individual lots and the services to the Cottages are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance. Documentation shall be provided at preliminary plat submittal.

J. **Open Space Design for Cottages.**

Common Open Space for Cottages: All cottage units in a development shall be within 60 feet walking distance measured from the nearest entrance of the cottage along the shortest safe walking route to the nearest point of the common open space. Each cottage lot shall abut a common open space, making the common open space the focal point.

- Parking areas, yard setbacks (except as noted), alleys, and driveways do not qualify as common open space, but may be counted toward the perimeter buffer distance.
- Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association, or a similar mechanism, and shall not be dedicated to the municipality.
- There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
- A minimum 20% of the property should be dedicated as open space.

K. **Site Screening.** Screening items such as dumpsters and the parking area shall be screened out of street view and shall not be permitted in the common open space.

L. **Low impact development.** An extra cottage in each cluster may be permitted if low impact storm water development techniques that are approved by the City Manager are used in the development. Such techniques may be directing roof drains and parking lot runoff to landscape beds, green or living roofs, and rain barrels. If the LID is approved then open space for the development as a whole may not be diminished by more than 5%.

M. **Parking Requirements.**

a. On a site specific basis, alternative parking shall be attractively landscaped to screen parking from adjacent properties, direct street view and be located outside of common open space. Clustered parking is preferable and shall meet applicable parking lot landscape standards.
b. Parking shall provide a minimum of 1.5 and maximum of 2.0 car parking spots per cottage unit.
c. Parking shall be setback at least 10 feet from street frontage.
d. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.

Cottage housing developments are subject to design approval by City Council. The materials used for the cottages must contribute to the hill country setting (e.g. brick, stone, masonry, stucco, cedar-look hardiplank).The planning department will review any deed restrictions and designs prior to City Council's review.

DEFINITIONS

a. **Cottage Cluster:** A group of four to ten cottages, arranged around a common open space (See common open space for cottages).
b. **Clustered parking:** Parking for each cottage unit that is clustered together to create more open space. No more than five continuous parking spaces in a cottage development.
c. **Common open space for Cottages:** An area improved for passive recreational use or gardening. Common open spaces are required to be owned and maintained through a homeowners' association. Parking areas and driveways do not qualify as common open space.
d. **Cottage:** A detached, small single-family dwelling unit containing 1000 square feet or less of gross floor area.
e. **Cottage Lot:** A lot within a Cottage Housing Development that has access within 60 feet to pedestrian walkways, walkable distance to driveways, vehicular parking and open green space. It does not have to front a public street but must have public access to a utility easement or fire lane access.
f. **Cottage Housing Development (CHD):** A group of separate, small, detached dwelling units that are intended to create a small community oriented through around open space that is pedestrian-oriented and minimizes the visibility of off-street parking. One or more clusters of cottages developed under a single land development plan, or as part of another land development plan. A cottage housing development must be on at least half an acre and does not have to have street frontage, but must have public access to a utility easement or fire lane access.

g. Lot: 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, which is designated as a distinct and separate tract; and/or which is identified by a tract, lot number or symbol in a duly approved subdivision plat which has been properly filed on record.

SECTION 32. SBD – SOUTH BOERNE (SoBo) OVERLAY DISTRICT

A. **Purpose.** The SoBo Overlay District encompasses a primary entrance into Boerne and contains unique street frontages, ecological features and economic opportunity. The SoBo Overlay District establishes parameters for development of properties including: site and architectural design, building materials, landscaping and lighting to promote the character of Boerne in this unique area of the City. *(Ord. No. 2017-03, §1, 1-24-2017)*

B. **Applicability**. Except where explicitly noted the allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying B-2 zoning district. The SoBo Overlay District is designated for commercial, mixed use and residential development and includes all property as indicated on the Zoning Map and the regulating Plan (Attachment A). The existing Entrance Corridor Overlay District shall also apply.

C. **Plan Review**. Building Plans shall be reviewed by the City Manager or designee and approved prior to the issuance of a building permit for new construction (or remodeling) in the SoBo Overlay District to evaluate the compatibility of the plans with the factors mentioned in this Section. Creative alternative design options may be approved by the Planning and Zoning Commission. Such application shall be accompanied by the appropriate fee established by City Council.

1. Application for review packages shall include the following:
   a. Letter requesting review.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan. (If a proposed development is being master planned a floor plan and building elevation on all four sides is not required for future phases)
   c. Two copies and digital file.

2. Factors to be considered:
   a. The effect of the proposed structure upon the general historic, cultural and architectural character of the SoBo Overlay District or the City of Boerne.
   b. The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
   c. Harmony with adjacent buildings and structures in terms of scale, height and mass.

3. Development Review Process:
   a. The uses and buildings on all properties within the SoBo Overlay District shall conform exclusively to this section unless specifically referenced as otherwise in this section:
   b. Where in conflict, numerical metrics shall take precedence over graphic metrics.
   c. The City Manager or designee may approve administrative modifications to standards in this section per the criteria set in Table 1 below. A Plot plan shall be required for administrative review of proposed modifications.

Table 1: Administrative Modifications Table		
Code Standard	**Extent of Administrative Modification Permitted**	**Criteria**
a. Building Form and Development Standards		
1. Setbacks	No more than a 20% change in the maximum or minimum setback applicable or 5 feet whichever is greater.	Changes to the build-to-zones and setbacks may only occur when they are caused by one or more of the following: i. Need to accommodate existing buildings and structures on the lot that meet the overall intent and vision for redevelopment in the Overlay Area; or ii. Need to accommodate other required modes of transportation (transit, bike, pedestrian), storm water drainage, water quality, or low impact development (LID) elements on the site; or iii. Need to accommodate overhead or underground utilities and/or easements; or iv. Need to preserve existing trees on the property, per Article 4. This modification is not mandatory for tree preservation, but for the allowance for preservation; or v. Need to provide public amenities along the sidewalk (outdoor dining/seating, street furniture, larger sidewalk, or other similar public amenities).
2. Required Parking Spaces	Reduction in the number of required parking spaces	Reduction in the number of parking spaces shall be based on one or more of the following: i. Need to accommodate existing buildings and structures on the lot that meet the overall intent and vision for redevelopment in the Overlay Area; or ii. A parking study for the uses proposed on the site; or iii. A combination of the above
3. Character Zone/ Circulation	Change in size of Character Zone	The Character Zones as shown on the Regulating Plan (Attachment A) are suggested character allocations based on planning analysis but an alternate Character Zone may be applied to as long as general adherence to circulation is maintained as indicated on the Regulating Plan.

Table 1: Administrative Modifications Table (Continued)		
Code Standard	**Extent of Administrative Modification Permitted**	**Criteria**
b. Other		
1. Any other numerical standard in this section	A modification up to 10% (increase or decrease)	i. A modification of a numerical standard is needed to accommodate existing conditions. ii. The proposed development still meets the intent of the section.
2. Phased Developments	Deferment of building frontage standards	i. Phased developments may defer building frontage requirements as long as they meet the building setback and parking setback requirements

D. **Components of this Overlay**

1. Regulating Plan: The SoBo Overlay District Regulating Plan, herein known as the Regulating Plan, (Attachment A) is hereby adopted as the recommended character map for the overlay area. It establishes the following character standards for all properties within the overlay area:

   a. Establishment of Character Zones. The overlay area is distinguished into different "Character Zones". Each Character Zone is intended to create a distinct building form based on the illustrative vision for the SoBo area. Each Character Zone establishes recommended use and required building form standards including standards for building height, width, location, functional design, and parking. The Regulating Plan classifies all lots within the overlay area into one of the following three (3) Character Zones:

      i. Hybrid Commercial Character Zone (HC-CZ): The Hybrid Commercial Character Zone provides for a range of primarily commercial uses with auto-oriented development that can take advantage of the highway frontage in a quality manner that retains some walkable elements, supporting multimodal traffic, linking regional destinations and promoting economic development. Development standards will emphasize shared parking, cross-access driveways, creek interface, landscaping and appropriate transitions.

      ii. Mixed Use Character Zone (MU-CZ): The Mixed Use Character Zone provides for small to mid-scale commercial (retail, restaurant, office) uses, mid-scale mixed use buildings and Multi Dwelling Structures that leverages Main Street and Herff Road as commercial streets that connect to internal Complete Streets supporting multimodal users, and promoting economic development. Development standards will emphasize shared parking, cross-access driveways, creek interface, landscaping and appropriate transitions.

      iii. Neighborhood Character Zone (N-CZ): The Neighborhood Character Zone provides for a range of mid to small scale residential (Detached Dwelling, Duplex Dwelling, Attached Dwelling, Multi-Dwelling Structure, Accessory Dwelling, Garden Homes, Cottage Housing Development, and Multi Unit Homes) to develop a low intensity of residential to support diversity of uses and residential types. Development standards will emphasize compatibility and appropriate transitions.

   b. Establishment of Circulation. The Regulating Plan will indicate Primary and Secondary circulation routes and intersections that will provide a flexible configuration for circulation, intersections and block sizes in the overlay area. The circulation alignment as shown on the Regulating Plan are flexible and can be shifted in response to topography, natural features, and tree stands, while maintaining the required intersections and made be adjusted by administrative approval. The number and general location of intersections shall not change and the general location and connectivity of the circulation shall not change. A plot plan shall indicate adherence to minimum circulation requirements. Trail connectivity as depicted on the Regulating Plan shall be generally adhered to and built to typical city standards for a multiuse trail. Primary and Secondary streets also indicate location of Primary and Secondary frontages in the Building Frontage and Orientation section of the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance if in a Hybrid Commercial Character Zone and conform to the Commercial Center Design

standards in Article 3, Section 08 of the Zoning Ordinance if in a Mixed Use or Neighborhood Character Zone will apply to lots. Streets and intersections can be added beyond the minimum circulation depicted on the Regulating Plan in accordance to existing regulations.

2. Development Standards: The SoBo Overlay District text portion of this section enumerates the development standards with text and graphics for character zones, frontage, building form, landscape and building design.

E. **Definitions.** Many terms used in this section are defined in Article 1 Section 6 of the Boerne Zoning Ordinance. Definitions are only included in this section if not defined in the Boerne Zoning Ordinance or if the definition for this Document differs from the Boerne Zoning Ordinance. In case of a conflict between the definitions under this Section and Article 1 Section 6 of the Boerne Zoning Ordinance, the definitions in this section shall supersede.

Administrative modification shall mean a requested modification to SoBo Overlay District standards that complies with the administrative modifications provisions of Section (c) (3) - Administration. The City Manager or designee shall have the authority to administratively approve a request for an administrative modification in conformance with subsection (c).

Character zone shall mean an area within the SoBo Overlay that is intended to preserve and/or create a building form that is distinct from other areas within the overlay area. Character zones are identified in the Regulating Plan.

Complete street shall mean a street that not only accommodates various modes of transportation such as automobiles, bikes, and pedestrians, but also establishes a design context that is conducive for redevelopment along the street.

Multi-unit home shall mean a multi-unit residential building (2 to 4 units) that is designed to appear as a large single-family home from the exterior, but functions as a multi-unit building on the interior. Multi-unit homes have one main front door for the building, but may also have side and rear entries. Parking is accessed from an alley or a driveway leading to the rear of the lot.

Numerical standard shall mean any standard that has a numerical limit (minimums and maximums) or value as established within both the text and graphic standards of the SoBo Overlay District.

Residential use building shall mean a building that is built to accommodate only residential uses on all floors of the building such as a detached single-family home, attached single-family home (i.e. townhome), two- or three-family home (i.e. duplex, triplex), multiple family (4 or more), apartment building (under single ownership or under multiple owners within a condominium regime).

F. **Uses**

1. The uses as shown in Section 3 Permitted Uses in the Boerne Zoning Ordinance shall be allowed. In addition, the following uses are permitted in the Neighborhood Character Zone: Duplex Dwelling, Attached Dwelling, Multi-Dwelling Structure, Accessory Dwelling, Garden Homes, Cottage Housing Development, Live-work unit, and Multi Unit Home.

G. **Nonconforming Structures**

1. Structures that were existing at the time the SoBo Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.

2. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required to conform to the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance if in a Hybrid Commercial Character zone and conform to the Commercial Center Design standards in Article 3, Section 08 of the Zoning Ordinance if in a Mixed Use Character Zone or Neighborhood Character Zone. All remodeling of the exterior or adding onto a preexisting or nonconforming structure of less than fifty percent (50%) of the value, as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

3. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure, the new structure and the preexisting structure shall be required to conform to the Combined Commercial Design Standards in Article 3, Section

09 of the Zoning Ordinance if in a Hybrid Commercial Character Zone and conform to the Commercial Center Design standards in Article 3, Section 08 of the Zoning Ordinance if in a Mixed Use Character Zone or Neighborhood Character Zone. New structures less than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

4. The requirements in Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance if in a Hybrid Commercial Character Zone and the Commercial Center Design standards in Article 3, Section 08 of the Zoning Ordinance if in a Mixed Use Character Zone or Neighborhood Character Zone. Screening shall be followed on all preexisting or nonconforming lots when remodeling the exterior, adding onto, or adding a new structure.

5. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.

H. **Building Form and Site Development Standards**

1. Hybrid Commercial Character Zone (HC-CZ):
   a. Base Zoning of B-2 Highway Commercial shall apply.

   b. Design Standards are subject to the requirements in Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance.

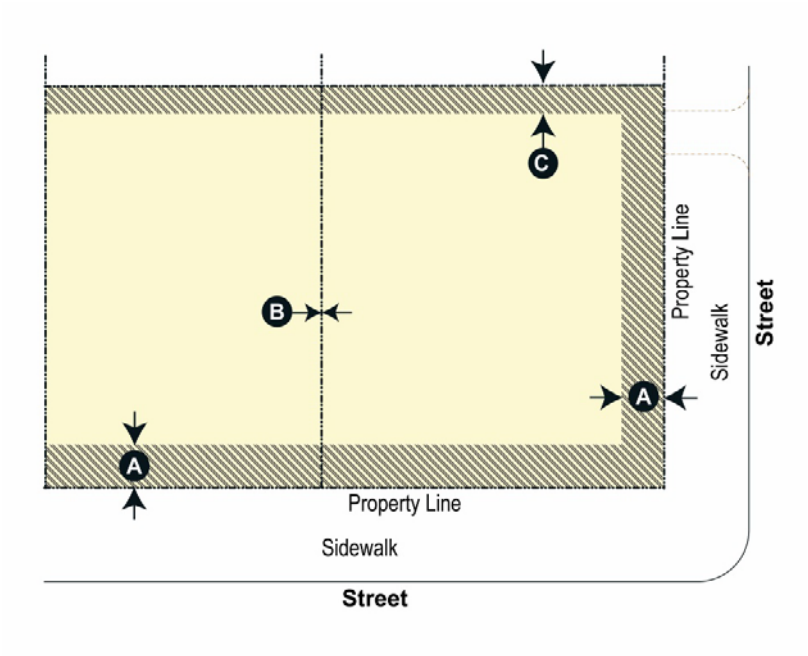
2. Mixed Use Character Zone (MU-CZ):
   a. Base Zoning of B-2 Highway Commercial shall apply with the following exceptions:
      i. Minimum Lot Area: 1,200 square feet
      ii. Minimum Lot Width: 20 feet
      iii. Minimum Front Yard: 0- 15 feet
      iv. Maximum Building Height: 50 feet

   b. Design Standards are subject to the requirements in Commercial Center Design standards in Article 3, Section 08 and Article 3, Section 3.09.008 (where applicable) of the Zoning Ordinance.

3. Neighborhood Character Zone (N-CZ):
   a. Base Zoning of B-2 Highway Commercial shall apply with the following exceptions:
      Minimum Lot Area: 1,200 square feet
      Minimum Lot Width: 20 feet
      Minimum Front Yard: 0- 15 feet

   b. Design Standards are subject to the standards for residential (c and d below). Building design will adhere to Section 3.07.003 B (faced design) and C (garage treatment).

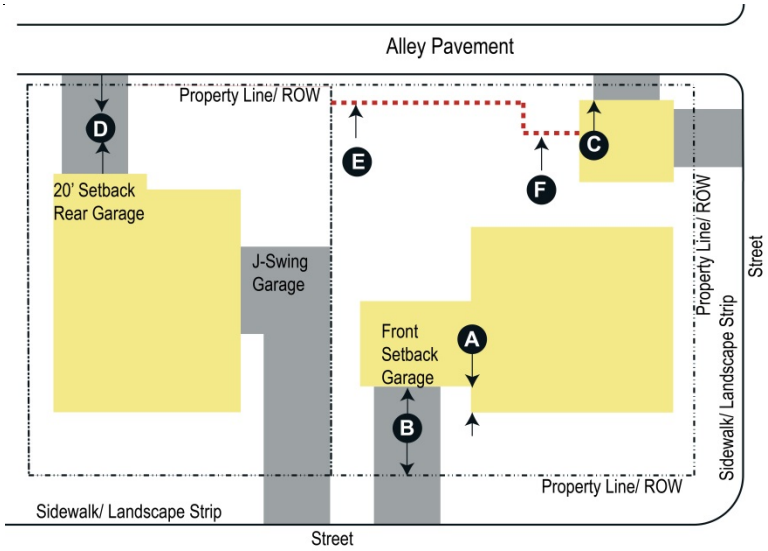
c. Building Placement



1.	Minimum Yard Areas		
i.	Front	0'-15' min.	**A**
ii.	Side	0' min. Adjacent to Attached Dwelling 3' min. Adjacent to Detached Dwelling 5' min. to all other uses	**B**
iii.	Rear	5' min. Adjacent to residential use 10' in. to all other uses	**C**

d. Parking & Service Access

1. Residential Parking Setbacks



i. Front	▪ Shall be located behind the principal building along that street frontage; or ▪ Min. 3 feet behind the building façade line along that frontage	**A** **B**
ii. Side / Rear	▪ 5 foot min; no parking permitted on driveway, or ▪ 20 foot min; parking permitted on driveway	**C** **D**
iii. Fences along Alley	▪ 5 foot min from edge of typical pavement or ▪ 8 foot min from property line or edge of typical paving where above ground franchise equipment exists	**E** **F**

4. Design of Automobile Related Building and Site Elements

a. Where permitted drive-through lanes, auto service bays, and gas station canopies for commercial uses shall not be located fronting Main Street, Herff Road, Old San Antonio Road and Christus Parkway. Drive-through lanes may be permitted along all other streets, service drives or alleys. Drive-through lanes, auto service bays, and gas station canopies shall be hidden behind a 3' to 5' high Street Screen along all streets.

b. No more than 60% of a lot's frontage along a street may be dedicated to drive through lanes, canopies, service bays, and other auto-related site elements. There shall be no such limitation along service drives or alleys.

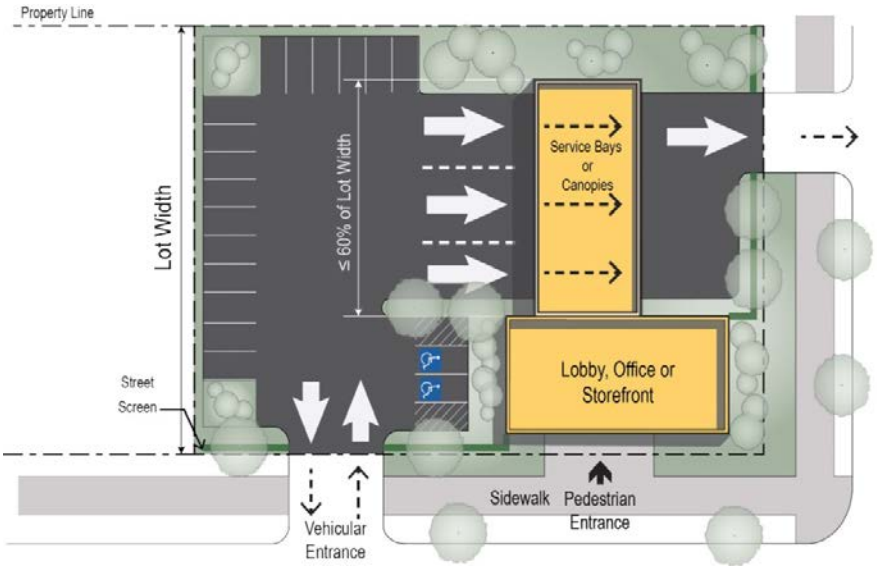


Image illustrating the appropriate design of auto-related site elements along streets other than Main Street, Herff Road, Old San Antonio Road and Christus Parkway

c. Any automobile related retail sales or service use of a site or property shall have a primary building entrance along its frontage.

d. Drive through access may be from a street only if the lot has no access to any service drive or Alley frontage.

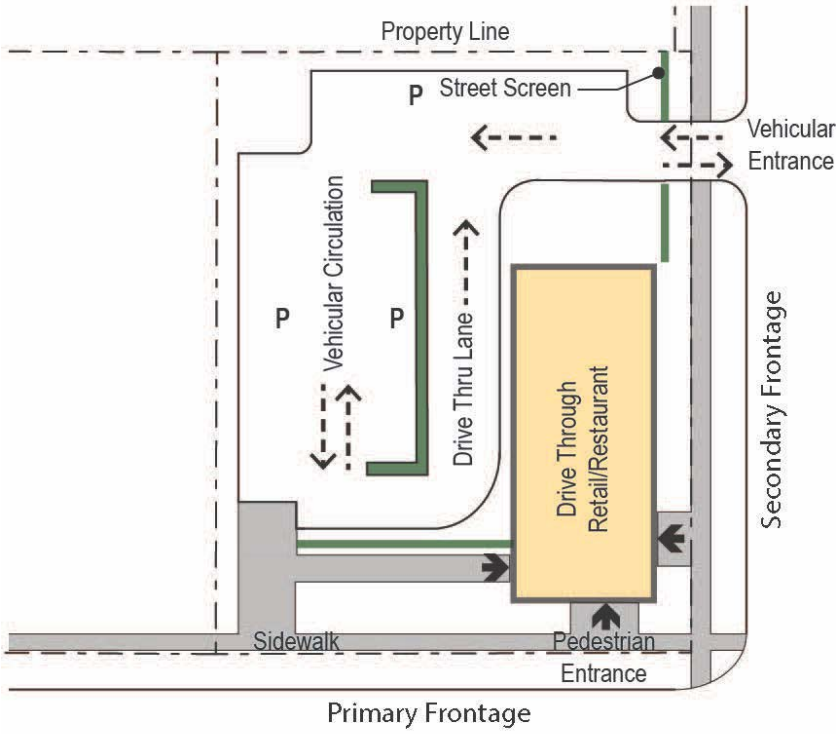


Image illustrating the appropriate design of retail/restaurant drive-throughs (Corner Lot)

e. All off-street loading, unloading, or trash pick-up areas shall be screened using a Street Screen that is at least as tall as the trash containers and/or service equipment. The Street Screen shall be made up of (i) a living screen or (iii) a combination living screen and primary building material screen.

5. Design of Parking Structures

a. To the extent possible, the amount of street frontage devoted to a parking structure shall be minimized by placing the shortest dimension(s) of the parking structure along the street edge(s) (see illustrations below).

b. Where above ground structured parking is located at the perimeter of a building with street frontage, it shall be screened in such a way that cars on all parking levels are appropriately screened from view (see illustrations below). Architectural screens shall be used to articulate the façade, hide parked vehicles, and shield lighting. Parking garage ramps shall not be visible from any primary street.

Illustrative Examples of Parking Garage Screening

c. Ground floor façade treatment (building materials, windows, and architectural detailing) shall be continued to the second floor of a parking structure along all streets (see illustrations below).

Images showing required façade treatment of parking garages along Streets

d. When parking structures are located at street intersections, corner emphasizing elements (such as towers, pedestrian entrances, signage, glazing, etc.) shall be incorporated.

e. Parking structures and adjacent sidewalks shall be designed so pedestrians and bicyclists are clearly visible (through sight distance clearance, signage, and other warning signs) to entering and exiting automobiles

Images showing appropriate design of Parking Structures

I. **Street Design**

1. New Streets in the SoBo Overlay Area shall be built according to the Streetscapes Design Guidelines in the Commercial Center Design Standards Section 3.08.009 (Streetscapes):

Streetscapes. Streets should not only be designed to get people someplace but also be designed to be "someplace," balancing the needs of multiple users of the public rights-of-way. The streetscape is the "destination" in the neighborhood center.

a. Minimize the width and number of travel lanes so that vehicle design speeds are compatible with pedestrian travel.
b. Maximize the use of on-street parking on all streets. On-street parking calms traffic, buffers pedestrians from moving vehicles, gives retail uses many "priority" front-door parking spaces, and allows for more efficient development of building sites.
c. Use expanded landscape and pedestrian amenity areas to transition from the on-street parking to the pedestrian areas. Amenities such as landscape beds, tree wells, benches or other street furniture should be regularly spaced in a 4 to 6 foot wide area immediately adjacent to the street edge.
d. Maintain significant pedestrian areas – typically at least 6 to 10 feet in addition the landscape and pedestrian amenity areas.

e. On wide sidewalks where significant areas for through pedestrian traffic remain, areas may be used for street activities related to uses in the buildings, such as sidewalk sales, outside dining or seating areas, and kiosks.
f. Street trees should be densely located to provide shade for pedestrians, yet achieve canopy heights and crown heights that maintain visibility of adjacent buildings and the street level uses. Alternatively, arcades may extend over the entire sidewalk areas
g. Frequent connections to adjacent neighborhoods should provide multiple alternative routes between the neighborhood and the center.
h. Curb-cuts should be limited in width, frequency, and location. Vehicular access to sites should not occur on any primary street, but be located on secondary streets or alleys. Access points should be combined and shared within blocks. Curb-cuts should always be designed to emphasize the priority of pedestrian movements along the streetscape, maintaining the grade and surface material of the sidewalk across all alley or driveway access points to the interior of the block.
i. Intersections should appropriately balance vehicle turning movements and pedestrian movements. Techniques to slow turning movements and decrease pedestrian crossing distances, such as bump-outs or curb-projections, smaller curb radii, and pedestrian refuge items should be incorporated into the streetscape.

J. **Parking**

1. Parking requirement shall adhere to city standards except in the Mixed Use character zone, all non-residential uses are required a minimum of one space per 300 square feet.
2. On-street parking within 300 feet of a building shall be counted towards the parking requirement.

K. **Stream Setback**

1. Any development near a Stream shall conform to the Stream Setback requirements as defined in Section 6 of the Boerne Zoning Ordinance

L. **Tree Preservation**

1. Any modification of trees shall conform to the requirements in Section 4 Tree Preservation of the Boerne Zoning Ordinance.

SECTION 33. N H – NH – NORTH HERFF ROAD OVERLAY DISTRICT

A. **Purpose.** The North Herff Road Overlay District establishes parameters for development of properties in this unique area of Boerne with regard to site and architectural design, building materials, landscaping, lighting, and signage to promote the character of Boerne. Except for the items specifically identified in this Section the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots located in the North Herff Road Overlay District.

B. **Applicability.** The allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying zoning district except for the required front setback as provided in Section D. The North Herff Road Overlay District is designated for development of all property on either side of Herff Road from Old San Antonio Road/Frey Street to River Road/Hwy 46 East.

C. **Plan Review.** Building Plans shall be reviewed by the City Manager or City Manager's designee and approved prior to the issuance of a building permit for new construction to evaluate the compatibility of the plans with the guidelines mentioned in this section utilizing the factors mentioned in Section 2. Creative alternative options may be approved by the Planning and Zoning Commission if the intent of each section is met. Such application shall be accompanied by the appropriate fee established by City Council.

1. Application for review packages shall include the following:
   a. Letter requesting review.
   b. Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
   c. Two copies and digital file.

2. Factors to be considered:
   a. The effect of the proposed structure upon the general historic, cultural and architectural character of the North Herff Road Overlay District or the City of Boerne.
   b. The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
   c. Harmony with adjacent buildings and structures in terms of scale, height and mass.
   d. If it is determined that the structures will not have a negative impact on adjoining properties and the structures are not visible from the right-of-way because of topography, they may be exempt from the Entrance Corridor building standards.

D. **Setbacks.** Typical lot setbacks are determined by the zoning designation. The North Herff Road Overlay District also provides a landscape setback. The landscape setbacks contained herein should be measured from Herff Road and do not necessarily reflect the lot front setback. A landscape setback shall be ten feet (10') measured from the right-of-way and outside of any easement. It shall be used only for the purpose of landscaping or screening and shall not be utilized for parking or internal circulation or drive purposes, except that a driveway may cut through for the purpose of reaching the area behind the setback.

G. **Maximum Building Heights.** The North Herff Road Overlay District heights of structures shall not exceed two-stories, 30 feet. The Planning and Zoning Commission may grant a waiver to height restrictions based on the surrounding environment and appropriate location.

F. **Parking.**

In meeting the parking requirements of Article 3, Section 10, the following design and location standards shall apply to on-site parking:

1. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.

2. The location of the on-site parking surface areas shall be located to the side or rear of a building.

3. No more than 15% of the required parking spaces may be located between the principal building front building line and the front set back.

4. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or private street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

G. **Landscaping.**

1. The required 10-foot (10') setback area from Herff Road shall be landscaped and maintained with at least 80 percent (80%) live vegetative coverage excluding the area required for driveways, sidewalks, bicycle paths, and drainage features. The remainder may be impervious landscaping such as native plants, landscape rock, native rock walls, fountains, statuary, and signs in compliance with the City's Sign Ordinance currently in effect, and accent features compatible with the landscape theme and determined not to impact shade trees already growing on the site. No fencing is allowed within the 25-foot (25') landscaped buffer.

2. Ornamental trees or larger shall be provided (outside of any utility clear zone as identified in Table 3-7 of the Subdivision Ordinance) every 20 - 40 feet (depending on size of tree). All vigorous, existing 4-inch caliper or larger shade trees that stand within the 10-foot (10') setback area shall be retained and protected as a landscape buffer, save and except trees that lie within the area of driveways, sidewalks, and drainage features. Preservation of significant understory vegetation (such as clusters of Possumhaw, Yaupon Holly, and Texas Wild Plum) is encouraged.

3. Live screening shall be planted providing a solid 36-inch screen as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.

4. Lawn grass areas should be planted in drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sodded. Solid sod shall also be used in swales or other areas subject to erosion.

H. **Drainage and Detention Facilities.**

1. Drainage facilities may be allowed within 10 feet (10') of Herff Road, provided they are non-structural drainage facilities designed and engineered to include substantial natural features and serve as an amenity to the site and the Overlay District.

2. Detention ponds may be located in the 10 foot (10') landscaped buffer if they are designed with a curvilinear contoured shape, are designed not to require fencing, are able to utilize vegetative slope stabilization with a slope not exceeding 3:1, and no structural retaining walls are used.

I. **Fences.**

1. Any screening fence within the 10 foot (10') landscape area shall be masonry, a combination of wood, tubular steel and masonry, decorative wrought iron or tubular steel, or alternative similar products as approved by the City Manager and/or the City Manager's designee.

2. Residential development shall screen the perimeter of the residential area along Herff Road with a six foot (6') fence constructed of solid masonry or other material approved by the Planning and Zoning Commission and provide landscape screening in front of the fence.

J. **Nonconforming Structures.**

1. Structures that were existing at the time the North Herff Road Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.

2. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required

to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. All remodeling of the exterior or adding onto a preexisting or nonconforming structure of less than fifty percent (50%) of the value, as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

3. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure, the new structure and the preexisting structure shall be required to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. New structures less than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.

4. The requirements in Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance, Screening, shall be followed on all preexisting or nonconforming lots when remodeling the exterior, adding onto, or adding a new structure.

5. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.

ARTICLE 6. PLANNING AND ZONING COMMISSION

SECTION 01. ESTABLISHMENT OF THE COMMISSION
SECTION 02. POWERS AND DUTIES OF THE COMMISSION
SECTION 03. RULES AND PROCEDURES OF THE COMMISSION
SECTION 04. ZONING CHANGES AND ZONING ORDINANCE AMENDMENTS
SECTION 05. PROCEDURES FOR ZONING ORDINANCE AMENDMENTS
SECTION 06. PROCEDURES FOR MASTER PLAN AMENDMENTS

SECTION 01. ESTABLISHMENT OF THE COMMISSION

6.01.001. Establishment; Appointment and Removal of Members.

Pursuant to Texas Local Government Code, Sec. 211.007 et. seq. there is hereby established a Planning and Zoning Commission which shall consist of nine (9) members appointed by the City Council for overlapping two-year terms. The Commission members may be removed by the City Council for cause after a public hearing before the City Council and with reasonable notice of the charges. Vacancies in the Commission membership shall be filled by City Council appointment for the unexpired term of the vacancy.

6.01.002. Term of Office.

The term of office of Commission members shall be three (3) years. Each term shall begin on June 1 following the appointment and expire May 31. Eligible members must reside within the City limits or within the extraterritorial jurisdiction of the City of Boerne. Members are subject to the City of Boerne's Ethics Ordinance. Each of the nine positions on the Commission shall be assigned a numbered place. *(Ord. No. 2010-01, §6, 1-26-2010)*

A. The members of the Planning and Zoning Commission shall be identified by place numbers one through nine.

B. Upon adoption of this ordinance, places one, four and five existing appointments shall run through 6/30/2010, places two, six and eight existing appointments shall run through 6/30/2011, and places three, seven and nine existing appointments shall run through 6/30/2012. After these initial terms expire, all terms shall be for three years. *(Ord. No. 2010-10, §3, 5-25-2010)*

SECTION 02. POWERS AND DUTIES OF THE COMMISSION

The Commission shall exercise all powers vested in such bodies by Texas Local Government Code, Chapter 211. In addition, in order to effectuate and carry out the purposes of this ordinance, the Planning and Zoning Commission is also vested with the following powers and/or duties:

A. To prepare and recommend to City Council for adoption a comprehensive plan for the City.

B. To prepare and recommend to City Council for adoption subdivision regulations and to approve or disapprove subdivision plats.

C. To prepare and recommend to City Council for adoption zoning regulations and to recommend zoning district boundaries, including the power to hold public hearings, enforce the regulations, and recommend changes in the regulations and district boundaries.

D. To prepare and recommend adoption of urban conservation, rehabilitation and redevelopment programs allowed by state law.

E. To report on planning and zoning problems that are referred to it for review by the City Manager or the City Council.

F. To prepare such surveys, reports and studies as are required for the above and other authorized purposes.

SECTION 03. RULES AND PROCEDURES OF THE COMMISSION

6.03.001. Selection of Officers.

The officers of the Planning and Zoning Commission shall be a Chair, a Vice Chair, and a Secretary. The Chair shall be designated by the City Council. The Vice Chair and the Secretary shall be elected by the Commission members and begin serving during the Commission's regular meeting in June of each year, and they shall serve until the next election of officers.

6.03.002. Presiding Officer and Secretary.

The Chair shall preside over all meetings of the Commission. The Vice Chair shall preside in the absence of the Chair, and the Secretary shall preside in the absence of both the Chair and the Vice Chair. In the absence of the Secretary, a Secretary pro tem shall be appointed by the Chair or Vice Chair as appropriate.

6.03.003. Quorum.

A quorum shall consist of four members of the Commission not including the presiding officer. In no case shall less than three votes in favor of a motion constitute a majority.

6.03.004. Commission Meetings.

Regular meetings shall be held in the Municipal Court Complex, except as otherwise provided herein, when called by the Chair; provided, however, that the Commission shall have at least one meeting each quarter. Special meetings may be called by the Chair, Vice Chair or the City Manager (if the Chair or Vice Chair is not available) provided that written notice thereof is provided to each member 72 hours prior to the time of the meeting. No approval, disposal or final action shall be taken on any zoning application unless all notice requirements mandated by state statute, this ordinance or any other ordinance pertaining to the application or notice requirements have been met. Regular and consistent attendance at monthly Planning and Zoning meetings, the **first Monday of each month at 6:00 PM,** and any special meetings that may be called. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal. *(Ord. No. 2015-36, §6, 11- 10-2015)*

6.03.005. Motions and Discussion.

Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be had for a reasonable time. Discussion by members or by opponents or proponents of a question before the Commission shall terminate whenever the Chair shall so rule.

6.03.006. Questions of Procedure or Qualification.

Whenever any question of procedure or qualification is raised at a Commission meeting, the Chair shall rule thereon.

6.03.007. Voting on Motions.

Voting on zoning applications shall be by roll-call vote. Voting on all other questions may be by voice, provided that a roll-call vote shall be taken upon demand of any member.

6.03.008. Conflict of Interest.

The Planning and Zoning Commission shall follow the same conflict of interest statement as outlined in the City Charter.

6.03.009. Staff Reports Required.

The Commission shall take no final action on any matter before it without first obtaining reports from the City departments concerned.

6.03.010. Public Statements by the Commission.

Releases and statements to the public and press in the name of the Commission shall be made only by the Chair

or the Chair's designated representative.

6.03.011. Use of Robert's Rules.

Any question of order or procedure not covered by this ordinance shall be decided according to the latest edition of Robert's Rules of Order, where it may be applicable.

6.03.012. Commission Records.

Minutes and records shall be kept of all proceedings of the Commission as a matter of public record.

SECTION 04. ZONING CHANGES AND ZONING ORDINANCE AMENDMENTS

The regulations, restrictions and boundaries established by this ordinance may from time to time be amended, supplemented, changed, modified, or repealed. The Planning and Zoning Commission shall make a preliminary report on all such proposed amendments, supplements, changes, modifications or repeals, hold a public hearing thereon, and thereafter submit a final report and recommendation on the matter to the City Council. In the case of a proposal which is initiated and referred to the Planning and Zoning Commission by the City Council, the Commission may dispense with a preliminary report, and it shall hold the required public hearing and submit the required final report and recommendation to the Council within 60 days, or within such other time limit as the Council may require for a particular proposal. In no case, however, shall the Commission recommend to the Council, nor shall the Council approve, a change of zoning use district classification which would constitute spot zoning.

SECTION 05. PROCEDURE FOR ZONING ORDINANCE AMENDMENTS

6.05.001. Before the Planning and Zoning Commission.

A. ***Filing of Application.*** All petitions, applications, recommendations or proposals for changes in the zoning district classification of property, for changes in the textual provisions of this ordinance, and for approval by the City Council of uses permitted in certain districts, where such approval is indicated in a Table of Permitted uses contained in this ordinance, shall be filed with the Planning and Zoning Commission. The petition, application or proposal for change shall be accompanied by the appropriate filing fee established by City Council. No notice of any petition, application, or proposal shall be issued and no hearing shall be held before the Commission or the City Council until the prescribed fees are paid. The City Manager shall keep an itemized record of all fees received.

B. ***Repeat Applications Prohibited.*** No application for the re-zoning of any lot, lots or tract of land situated in the city, or for approval of any use requiring approval by the City Council, shall be received or filed with the Commission and no hearing had thereon, if, within six months prior thereto, a similar application was received or filed and withdrawn before a full, fair and complete and final hearing was had thereon before the Commission, or a full, fair, complete and final hearing was had thereon. However, if new, relevant and substantial evidence, which could not have been secured at the time set for the original hearing, shall be produced by the applicant, under a sworn affidavit to that effect, then in that event, the Commission shall have the right to waive the said six months limitation and to proceed to hear and consider such application. It is further provided that no application for the re-zoning of any lot, lots or tract of land situated in the city, or for approval of any use requiring approval by the City Council, shall be received or filed with the Commission and no hearing had thereon, if, within one year prior thereto, the City Council, after consideration and hearing, has denied an application for re-zoning of the same property or for approval of the use on the property.

C. ***Notice and Public Hearing Required.*** No amendment, supplement, change, modification or repeal of any provision of this ordinance, re-zoning of any lot or tract of land in the city, or approval of any use requiring approval by the City Council shall become effective until after a public hearing in relation thereto before the Commission, at which hearing parties in interest and citizens shall have an opportunity to be heard. At least 15 day notice of the time and place of such hearing shall be published in an official newspaper or a newspaper of general circulation in the city. In addition, written notice of all public hearings before the Commission on proposed changes in zoning district classifications and on applications for approval of a use requiring approval by the City Council shall be sent by the City

Manager to the owners of all real property which lies within 200 feet of the subject property, not less than 10 days before the date set for the hearing. The owners to be so notified shall be determined according to the last approved tax roll. Such notice may be served by depositing same, properly addressed and postage paid, in the city post office. Where property which lies within 200 feet of the property which is the subject of the hearing is located in territory which was annexed to the city after the date of approval of the last approved city tax roll, the owners to be notified shall be determined according to the last approved county tax roll. A zoning change sign provided by the City of Boerne must be placed upon the premises to which it refers 15 days prior to the first public hearing and removed three (3) days after the final reading of the ordinance or after denial by the Planning and Zoning Commission. One such sign must be displayed per street fronting the lot or tract. The area of a zoning change sign is six square feet.

6.05.002. <u>Before the City Council.</u>

A. ***Report by Planning and Zoning Commission***. Following the public hearing on the petition, application or proposal before the Planning and Zoning Commission, the Commission shall file its report on the matter with City Council as soon as possible. The applicant shall file an application with the City Manager if the applicant does not want the petition application to be considered by City Council.

B. ***Notice and Public Hearing Required.*** Following the receipt by City Council of the report of the Planning and Zoning Commission, City Council shall hold a public hearing on the matter at which parties in interest and citizens shall have an opportunity to be heard. The public hearing shall be scheduled for the first regular Council meeting which allows sufficient time to comply with statutory notice requirements. The time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city at least 15 days in advance.

C. ***Joint Hearings before Commission and Council.*** In filing an initial application for consideration by the Planning and Zoning Commission, an applicant may request expedited action by filing an application to proceed before City Council at the same time. Such request shall be accompanied by the appropriate filing fees for both actions. The Commission and the Council may then hold their public hearings on the matter jointly, provided that the published notice of the hearings and the notice to property owners within 200 feet of the subject property both indicate that the hearings will be conducted by both the Commission and the Council. Following the conclusion of this joint public hearing, City Council may act on the matter without the necessity of a written report from the Planning and Zoning Commission.

D. ***Passage When Protested***. If the Planning and Zoning Commission recommends denial of a change in zoning or of a use requiring approval by the City Council, or if such change in zoning or such use requiring Council approval is protested in writing by the owners of 20 percent or more, either of the area of the lots or land included in such proposed change or use, or of the lots or land immediately adjoining the same and extending 200 feet there from, the change in zoning or approval of the use shall not become effective except by the favorable vote of three-fourths of all members of the City Council. Deadline for submitting a petition protesting a rezoning or a use requiring approval by the City Council is prior to the conclusion of the Public Hearing held by the City Council.

E. ***Time Limitation.*** All applications for re-zoning or for approval of a use requiring approval by the City Council which have been recommended favorably by the Planning and Zoning Commission shall be presented by the applicant to the City Council within eight months from the date of the Commission's recommendation. In the event the applicant fails to proceed by filing an application for approval by the City Council of the re-zoning or use within eight months, the City Council shall not act on said application until it has been resubmitted to the Planning and Zoning Commission for action. The application shall then be treated as an original application for re-zoning or approval of the use, requiring public notice and a new public hearing before the Commission, and all fees required by this ordinance shall be paid by the applicant.

SECTION 06. PROCEDURES FOR MASTER PLAN AMENDMENTS

6.06.001. Review and Amendments to the Master Plan.

The Master Plan should be reviewed and reassessed regularly in order to evaluate its effectiveness and adequacy in guiding the growth of the City and to determine whether or not the plan continues to meet the long-term planning needs of the City. Because this review need not necessarily result in the complete revision of the plan, several levels of review are contemplated in this Section.

A. ***Complete Plan Revision (10-year intervals).*** The City Manager shall initiate a full review and complete revision of the Master Plan at least once every ten (10) years, the City Manager shall provide the Planning Commission with an overall assessment of the adequacy and effectiveness of the existing plan, including identification of new issues not adequately addressed, issues which require further study and investigation, and suggested improvements. The Planning Commission shall consider the staff assessment and shall recommend amendments or issues that the Commission feels should be pursued or investigated. Any amendments shall follow the procedures of subsection 6.06.002.

B. ***Targeted Plan Review (3-year intervals).*** The City Manager shall initiate a targeted review of the plan at least once every three (3) years, or at the time of an area-wide rezoning, in order to make it consistent with economic and demographic trends, recent and proposed land use decisions, and adopted studies and plans. Any amendments shall follow the procedures of subsection 6.06.002.

C. ***Other Master Plan Revisions.*** In addition to the regularly scheduled reviews described above, the City Manager may propose a plan amendment at any time to reflect changing circumstances.

6.06.002. Before the Planning and Zoning Commission.

A. ***Review.*** All amendments to the Master Plan shall be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall make recommendation to City Council.

B. ***Notice and Public Hearing Required.*** No amendment, supplement, change, modification or repeal of any provision of the Master Plan shall become effective until after a public hearing in relation thereto before the Commission, at which hearing parties in interest and citizens shall have an opportunity to be heard. At least 15 days of notice of the time and place of such hearing shall be published in an official newspaper or a newspaper of general circulation in the city. *(Ord. No. 2010-10, §6, 5-25-2010)*

6.06.003. Before the City Council.

A. ***Report by Planning and Zoning Commission***. Following the public hearing to amend the Master Plan before the Planning and Zoning Commission, the Commission shall file its report on the matter with City Council as soon as possible.

B. ***Notice and Public Hearing Required.*** Following the receipt by City Council of the report of the Planning and Zoning Commission, City Council shall hold a public hearing on the matter at which parties in interest and citizens shall have an opportunity to be heard. The public hearing and Council action shall be scheduled for the first regular Council meeting which allows sufficient time to comply with statutory notice requirements. The time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city at least 15 days in advance.

C. ***Joint Hearings before Commission and Council.*** The City Manager may request expedited action by a request to proceed before the Planning and Zoning Commission and City Council at the same time. Following the conclusion of this joint public hearing, City Council may act on the matter without the necessity of a written report from the Planning and Zoning Commission.

D. ***Time Limitation.*** All amendments to the Master Plan which have been recommended favorably by the Planning and Zoning Commission shall be presented to the City Council within three months from the date of the Commission's recommendation.

ARTICLE 7. BOARD OF ADJUSTMENTS

SECTION 01. ESTABLISHMENT OF THE BOARD
SECTION 02. TERMS AND REMOVAL OF MEMBERS
SECTION 03. VACANCIES
SECTION 04. APPOINTMENT AND POWERS OF CHAIR
SECTION 05. MINIMUM OF FOUR MEMBERS
SECTION 06. BOARD MEETINGS
SECTION 07. MINUTES AND RECORDS
SECTION 08. CONFLICTS OF INTEREST
SECTION 09. POWERS OF THE BOARD
SECTION 10. VOTE REQUIRED TO ACT
SECTION 11. FINDINGS OF FACT REQUIRED
SECTION 12. REQUIREMENTS FOR VARIANCES
SECTION 13. POWERS STRICTLY CONSTRUED
SECTION 14. TIME LIMITATIONS FOR VARIANCES
SECTION 15. PROCEDURES FOR APPEAL
SECTION 16. EFFECT OF APPEAL
SECTION 17. HEARING AND NOTICE REQUIREMENTS
SECTION 18. APPEAL TO A COURT OF RECORD
SECTION 19. REPEAT VARIANCE APPLICATIONS

SECTION 01. ESTABLISHMENT OF THE BOARD

There is hereby established a Zoning Board of Adjustment consisting of five members and four alternate members to be appointed by the City Council. The Board shall be controlled by and have all powers vested by Texas Local Government Code, Sec. 211.008 et. seq.

SECTION 02. TERMS AND REMOVAL OF MEMBERS

All members of the Board, both regular and alternate, shall be appointed by the Mayor and serve for a term of two (2) years. The term of office begins at the first meeting in June following the appointment. They shall be removable for cause by the City Council upon written charges and after a public hearing before the City Council following reasonable notice of the charges. Eligible members must reside within the City limits. Members are subject to the City of Boerne's Ethics Ordinance. *(Ord. No. 2010-01, §7, 1-26-2010)*

SECTION 03. VACANCIES

Vacancies in the regular or alternate memberships of the Board shall be filled by Mayoral for the unexpired term of the vacancy.

SECTION 04. APPOINTMENT AND POWERS OF CHAIR

The Mayor shall appoint from among the members of the Board a Chair and an Acting Chair, who shall serve in the absence of the Chair. The Chair, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses.

SECTION 05. MINIMUM OF FOUR MEMBERS

One or more of the alternate members of the Board shall serve in the absence of one or more regular members when requested to do so by the Mayor or the Mayor's duly authorized representative, so that all cases heard by the Board will always be heard by a minimum of four members.

SECTION 06. BOARD MEETINGS

The Board may meet monthly or at the call of the Chair, or in the Chair's absence the Acting Chair, or at such other times as the Board may determine. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal. All Board meetings shall be open to the public. *(Ord. No. 2010-01, §7, 1-26-2010)*

SECTION 07. MINUTES AND RECORDS

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Manager and shall be a public record.

SECTION 08. CONFLICT OF INTEREST

A member shall not vote or participate in any matter before the Board if the member has any personal interest in the matter, whether such interest is direct or indirect and financial or otherwise. In any case, where the question of a member's interest is raised, the Chair shall rule on whether the member should be disqualified.

SECTION 09. POWERS OF THE BOARD

The Board shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance.

B. To hear and decide special exceptions to the terms of this ordinance in those specific instances, if any, where allowed by this ordinance.

C. To authorize upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising these powers the Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end the Board shall have all the powers of the officer from whom the appeal is taken.

SECTION 10. VOTE REQUIRED TO ACT

The concurring vote of 75 percent of the members or alternate members of the Board present and voting, at a meeting for which a quorum has been established, shall be necessary to reverse any order, requirement, decision or determination of an administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass under this ordinance, or to effect any variation in this ordinance.

SECTION 11. FINDINGS OF FACT REQUIRED

Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of the Board's proceedings. The enumerated conditions required to exist on any matter upon which the Board is required to pass under this Article or to effect any exception or variance to this ordinance shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific facts shall not be deemed findings of fact and shall not be deemed to constitute compliance with this Article. The findings of fact and associated decisions of the Board shall be reported within 30 days to the City Council and the Planning and Zoning Commission.

SECTION 12. REQUIREMENTS FOR VARIANCES

Variances to the terms of this ordinance may be granted by the Board where a preponderance of the following conditions are met:

A. A literal enforcement of the provisions of this ordinance will result in unnecessary hardship.

B Such variance will not authorize the operation of a use other than one which is specifically authorized for the district in which the subject property is located.

C. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located.

D. The variance will not substantially weaken the general purposes of this ordinance or the regulations herein, nor alter the essential character of the specific district.

E The variance will not adversely affect the public health, safety, or welfare.

SECTION 13. POWERS STRICTLY CONSTRUED

Nothing herein contained shall be construed to empower the Board to change the terms of this ordinance, to effect changes in the official zoning map, or to add to the specific uses permitted in any district. The powers of the Board shall be so construed that this ordinance and the official map are strictly enforced.

SECTION 14. TIME LIMITATIONS FOR VARIANCES

Where a variance is granted by the Board and no action is taken pursuant to such variance within one year after the date of the hearing thereon, said variance becomes null and void and of no force or effect.

SECTION 15. PROCEDURES FOR APPEALS

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any order, requirement, determination or decision of an administrative officer. Such appeal shall be taken by filing with the City Manager a notice of appeal specifying the grounds thereof, along with the appropriate filing fee established by City Council. An appeal shall be filed within 30 days of the action which is appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

SECTION 16. EFFECT OF APPEAL

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

SECTION 17. HEARING AND NOTICE REQUIREMENTS

Before granting any appeal, special exception or variance, the Board shall first hold a public hearing on the matter, at which any person may appear either in person or by agent or attorney. Notice of the hearing, stating its time, place and subject matter, shall be published one time in a newspaper of general circulation in the city at least ten days before the date of the hearing. In addition, similar notice shall be mailed to the petitioner, to the owners of all property which lies within 200 feet of any point on the lot or tract of land which is the subject of the action, and to any other

person whom the Board deems to be affected by the matter. Owners and other persons to be notified by mail shall be determined according to the current city tax roll.

SECTION 18. APPEAL TO A COURT OF RECORD

As provided by Texas Local Government Code, Sec. 211.011, any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the City Manager.

SECTION 19. REPEAT VARIANCE APPLICATIONS

No application for a variance shall be received or filed, if six months prior thereto, the same request for a variance has been denied.

ARTICLE 8. HISTORIC LANDMARK / HISTORIC DISTRICT PRESERVATION

SECTION 01. IN GENERAL
SECTION 02. HISTORIC LANDMARK COMMISSION
SECTION 03. INVESTIGATION AND REPORTS
SECTION 04. PROCEDURE FOR HISTORIC LANDMARK DESIGNATION
SECTION 05. PROCEDURE FOR REMOVAL OF LANDMARK DESIGNATION
SECTION 06. HISTORIC DISTRICT
SECTION 07. PROCEDURE FOR HISTORIC DISTRICT DESIGNATION
SECTION 08. EVALUATION OF PROPOSED BUILDING PROJECTS
SECTION 09. PROCEDURE FOR APPROVAL OF BUILDING PERMITS
SECTION 10. PROCEDURE FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS
SECTION 11. APPEAL PROCEDURES
SECTION 12. HISTORIC PRESERVATION AND TAX EXEMPTION
SECTION 13. DEMOLITION BY NEGLECT
SECTION 14. DEMOLITION OF HAZARDOUS STRUCTURES
SECTION 15. LANDMARK COMMISSION ASSISTANCE TO OWNERS
SECTION 16. SUBMITTAL REQUIREMENTS FOR HISTORIC LANDMARK COMMISSION REVIEW

SECTION 01. IN GENERAL

8.01.001. Declaration of Policy.

The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic areas, places, buildings and structures is a desirable public goal and is needed in the interest of the culture, prosperity, education and general welfare of the people. The purposes of the Article are:

A. To protect, enhance and perpetuate selected historic areas, places, buildings and structures which represent or reflect distinctive and important elements of the city's and state's architectural, archeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places.

B. To safeguard the city's historic and cultural heritage, as embodied and reflected in such historic areas, places, buildings and structures, by appropriate regulations.

C. To stabilize and improve property values in such locations.

D. To foster civic pride in the beauty and accomplishments of the past.

E. To protect and enhance the city's attractions to tourists and visitors and provide incidental support and stimulus to business.

F. To strengthen the economy of the city.

G. To promote the use of historic areas, places, buildings and structures for the culture, prosperity, education and general welfare of the people of the city and visitors to the city.

H. To insure the identification and evaluation of buildings, structures, places, and areas of historical, architectural, and cultural importance or value; and to provide efficient procedures for that process, and any necessary adjustments or variances from unduly harsh application of the provisions of this ordinance.

I. To balance the rights of the public which justify preservation of our history and culture, with those of private property owners who own and control property, and are entitled to the reasonable use and return from their assets, consistent with the police power of the City of Boerne as established and recognized in Texas jurisprudence.

J. To insure that the mapping and designation of historic districts and historic landmarks effectively includes and protects all historically significant structures, without the degree of certainty and precision which would require actual surveys of the parcels. The City Council determines that the cost of actual surveys exceeds any relative benefit to the owners or the community.

8.01.002. Destruction of Historic Resources Prohibited.

It shall be unlawful to alter, demolish, or remove any exterior feature of any designated historic landmark or any included structure within an historic district, or to change materially by additions, reconstruction, alteration or maintenance the exterior of any designated historic landmark or any included structure in a designated historic district in violation of this ordinance.

SECTION 02. HISTORIC LANDMARK COMMISSION

8.02.001. Establishment of the Commission.

There is hereby established a Commission to be known as the "Historic Landmark Commission" of the City of Boerne, Texas, hereinafter referred to in this Article as the "Landmark Commission".

8.02.002. Qualifications of Commission Members.

To the extent possible, the City Council shall appoint members to the Landmark Commission who have a background in architecture, urban design, history, or similar professions, or have an interest in historic preservation.

8.02.003. Terms of Office.

The term of office shall be for four (4) years**.** The Commission consists of nine (9) members appointed by the Mayor. The Mayor shall appoint the Chairman and Vice Chairman. The term of office begins at the first meeting in June following the appointment**.** Eligible members must live within the City limits. Commission members are subject to the City of Boerne's Ethics Ordinance. Any vacancy occurring shall be filled by appointment only for the unexpired portion of the term. Any member may be removed by the City Council for cause after a public hearing before the City Council and with reasonable notice of the charges. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal. *(Ord. No. 2010-01, §8, 1-26-2010)*

8.02.004. Commission Meetings.

The Historic Landmark Commission shall meet on a monthly basis, the first Tuesday of each month at 5:30 PM, as necessary and at any special meetings as called.

A. ***Regular Meetings.*** Regular meetings shall be held at the call of the Chair or at the request of any five Landmark Commission members. All Landmark Commission members shall have seven working days prior notice of the meeting.

B. ***Special Meetings.*** The Chair shall call a special meeting within five working days of receiving notice from the City Manager to consider the issuance of a certificate of appropriateness.

8.02.005. Voting and Quorum.

Five members present shall constitute a quorum. All issues shall be decided by a majority vote of those members present and voting, except that in those instances where only a quorum of five members is present at a meeting, all issues shall be decided by at least four affirmative votes.

8.02.006. Conduct of Business.

The Landmark Commission shall adopt rules for the conduct of its business and election of officers other than the Chair and Vice-Chair. Minutes shall be kept of all meetings and shall be available for public inspection.

8.02.007. Hearing and Notice Requirements.

The Landmark Commission shall not act upon any request for historic landmark designation or upon any application for a building permit or certificate of appropriateness without having first given the applicant for the designation, permit or certificate adequate notice of the Commission meeting and his/her right to be present and to be heard if so desired. All meetings, regular or special, shall be open to the public. Notice of meetings shall be posted on the

appropriate bulletin board in City Hall prior to the meeting date in compliance with current State Laws. Notice shall be sufficient if either: (a) the party to be affected receives actual notice by any means; (b) notice is sent to the address shown on any application or permit filed by the applicant, by United States Mail, certified, return receipt requested; or (c) in the absence of any address provided by an applicant, notice is sent to the address for the registered owner as shown by the tax rolls of the Kendall County Appraisal District.

SECTION 03. INVESTIGATION AND REPORTS

The Landmark Commission may make such investigations and studies of matters relating to the protection, enhancement, perpetuation or use of historic landmarks, historic districts and included structures, and to the restoration of historic landmarks as the Commission may from time to time deem necessary or appropriate to effect the purposes of this ordinance. The Landmark Commission may submit reports and recommendations as to such matters to the Mayor and other agencies of the City. In making such investigations and studies, the Landmark Commission may hold such public hearings as it may deem necessary or appropriate.

SECTION 04. PROCEDURE FOR HISTORIC LANDMARK DESIGNATION

8.04.001. Application.

Any person or entity may request an historic landmark designation for property owned by such person or entity by submitting an application to the City Manager. The application shall state the following:

A. The name, telephone number and mailing address of the applicant.

B. The location and address of the property to be designated.

C. The reasons for requesting the designation. This section of the application need not be extensive, but it should include, if available, the approximate date of construction, and information on the past and present usage of the property.

8.04.002. Review of Application.

Upon receipt of an application for historic landmark designation, the City Manager shall submit a copy of the application to the Chair of the Landmark Commission, who shall initiate a review of the application within 30 days. The Landmark Commission shall hold a regular meeting to consider the application. If the application is approved by the Landmark Commission, the application shall be presented to the Planning and Zoning Commission for their review, comment and recommendation to the City Council. If the application is rejected by either the Landmark Commission or the Planning and Zoning Commission, the applicant shall be so notified, and the applicant may, within 60 days after receipt of the notice, appeal the decision to the City Council.

8.04.003. Action by City Council.

All decisions of the Landmark Commission and the Planning and Zoning Commission, either to approve or to disapprove an application for historic landmark designation, shall be reported to the City Council. Upon receipt of the two Commission reports, the City Council may designate the subject property as an historic landmark if, in the Council's discretion, the property is deemed to have historical, cultural, archeological or educational value which reflects the heritage of the city.

SECTION 05. PROCEDURE FOR REMOVAL OF LANDMARK DESIGNATION

8.05.001. Application.

The original applicant for an historic landmark designation or the original applicant's successors in interest may request the removal of the designation of the property as an historic landmark by filing with the City Manager an application for removal of the designation. The application for removal of the designation shall be supported by evidence:

A. That the applicant cannot realize a reasonable rate of return on the value of the property and will suffer unreasonable economic hardship if the designation as an historic landmark is not removed; or

B. That other unusual and compelling circumstances justify the removal of the designation.

The application shall also contain information pertaining to the future use and disposition of the designated historic landmark. An application for removal of an historic landmark designation shall be considered by the Landmark Commission within 30 days after receipt of the application by the City Manager.

8.05.002. <u>Economic Hardship.</u>

In determining whether the applicant is unable to realize a reasonable rate of return and will suffer unreasonable economic hardship, the Landmark Commission shall make findings as to the need to remove the designation. In making such findings, the Landmark Commission shall consider the following, if the information is provided by the applicant:

A. The assessed value of the land and improvements according to the most recent City tax roll;

B. The total ad valorem taxes on the property for the last two years;

C. Annual debt service, if any, for the previous two years;

D. Appraisals obtained by the owner or applicant within the previous two years in connection with the purchase, financing or ownership of the property;

E. Any listing of the property for sale or rent, the price asked and offers received, if any;

F. Any consideration by the owner as to profitable adaptive reuses for the property; and

G. The current fair market value of the property, as determined by at least two independent appraisals made by appraisers with competent credentials.

If the property is income producing, the Landmark Commission shall also consider:

H. The annual gross income from the property for the previous two years;

I. Itemized operating and maintenance expenses for the previous two years, including evidence that adequate and competent management procedures have been followed;

J. Annual cash flow, if any, for the previous two years; and

K. Evidence that the owner has made a serious effort to obtain a reasonable return on investment based on the property's previous service.

In addition to the information contained in the application, the Landmark Commission may require the applicant to furnish such additional information as it considers relevant or necessary to its determination of unreasonable economic hardship. If any of the required information is not reasonably available to the applicant or cannot be obtained by the applicant, the applicant may file an affidavit stating that the information cannot be obtained and the reasons why it cannot be obtained. If the Landmark Commission, in its discretion, determines that the applicant is unable to provide all of the required information because of the applicant's low income or for other valid reasons, the Commission may waive some or all of the required information or it may accept such substitute information as a low income applicant is able to provide without incurring excessive cost. If the Landmark Commission cannot make a determination based on the information submitted and an appraisal of the property has not been provided, then the Commission may request that the City Manager obtain an appraisal of the property at City expense.

If the Landmark Commission determines by a preponderance of the evidence that the applicant is unable to obtain a reasonable return on the property and that continuation of the historic landmark designation would cause the applicant unreasonable economic hardship, the Commission shall recommend to the City Council either (1) that the designation of the property as an historic landmark be removed immediately or (2) that action to remove the designation be delayed for a period of up to 180 days while the Commission searches for an economically viable alternative to removal of the designation. If the Landmark Commission determines otherwise, it shall recommend to the City Council that the designation not be removed. If the Landmark Commission recommends removal of the

designation and the City Council takes no action within 180 days of the Commission's recommendation, the designation of the property as an historic landmark is automatically removed.

8.05.003. Unusual and Compelling Circumstances.

In determining whether other unusual and compelling circumstances justify removal of the historic landmark designation, the Landmark Commission shall consider:

A. The importance of the building, structure, site or object to the integrity and character of the surrounding area, to a cluster of historic landmarks, or to the historic district in which the historic landmark is located;

B. The historic or architectural significance of the historic landmark relative to other historic landmarks in the city;

C. The difficulty or impossibility of reproducing such a building, structure, site or object because of its design, texture, material, detail or unique location;

D. Whether the building, structure, site or object is one of the last remaining examples of its kind in the neighborhood, the city, county, region, state or nation;

E. Whether there are definite plans for reuse of the property if the historic landmark designation is removed, the applicant's financial ability to carry out such plans, and the effect such plans would have on the architectural, cultural, historical, archeological, social, esthetic or environmental character of the surrounding area, as well as the economic impact of the proposed redevelopment on the surrounding area and the City as a whole;

F. Whether reasonable measures can be taken to save the building, structure, site, object, or cluster from further deterioration, collapse, arson, vandalism or neglect; and

G. Whether reasonable measures can be taken to relocate the building, structure or object to a new site.

In making its recommendation to City Council, the Landmark Commission shall balance the historic, architectural, cultural and/or archeological value of the existing historic landmark against the merits of the proposed replacement project. The Landmark Commission may recommend either (1) that the designation of the property as an historic landmark be removed immediately, (2) that Council action to consider removing the designation be delayed for a period of up to 180 days while the Commission develops a plan to preserve the landmark's historic value, or (3) that the designation not be removed.

8.05.004. Alternatives to Removal of the Designation.

In any case in which the Landmark Commission recommends to the City Council that action to remove an historic landmark designation be delayed, the Commission shall use the period of the delay to attempt to develop an alternative plan to preserve the landmark's historic value. This plan may involve the transfer to a new owner of the land and improvements which are the subject of the designation, either by gift, purchase or other means, or the acquisition of the building, structure or object and its relocation for preservation at another site, or any other measure which in the Landmark Commission's judgment will effectively relieve an unreasonable economic hardship or respond to the unusual and compelling circumstances and at the same time will allow the public benefits of the designation to be continued. The City Council shall not act to consider removing the designation within the period of the delay until it receives a report from the Landmark Commission, either recommending such a plan or stating that the Commission has been unable to develop such a plan.

SECTION 06. HISTORIC DISTRICTS

8.06.001. Designation.

The City Council may, from time to time, designate certain areas in the city as historic districts, define or alter the boundaries of such districts, and remove the designation of such districts. For the purpose of clarity in the zoning designation of property, the zoning maps shall reflect property in historic districts by the inclusion of the letter "H" as a

suffix on the map designation. All persons owning, leasing, or otherwise transacting business concerning any building, structure or land located in whole or in part in such districts have constructive legal notice of the character and limitations upon such property, and of the provisions of this ordinance. In accordance with Texas law, no city official acting independently of the Landmark Commission, the Planning and Zoning Commission or the City Council in official session shall have any authority to determine, waive, or modify any provision of this ordinance or its application to any building, structure or land.

8.06.002. Relation to Zoning Use Districts.

Nothing contained in this Article or in the designation of property as being an historic landmark or in an historic district shall affect the use of the property. Use of all property which may be designated as an historic landmark or included in an historic district shall be governed by the zoning use districts established by Article V of this ordinance.

SECTION 07. PROCEDURE FOR HISTORIC DESIGNATION

8.07.001. Before the Landmark Commission.

Any proposal to designate an area of the city as an historic district shall be reviewed by the Landmark Commission. Before considering such designation, the Landmark Commission shall hold a public hearing on the matter. Notice of the hearing shall be mailed at least 10 days before the hearing date to the owners of all real property in the area proposed to be included in the district according to the most recent city tax roll. Following the hearing, the Landmark Commission shall recommend to the Planning and Zoning Commission those areas, if any, which it determines should be included in an historic district. In making this recommendation, the Landmark Commission shall consider the following criteria:

A. Character, interest or value as part of the development, heritage or cultural characteristics of the city.

B. Location as the site of an historical event.

C. Embodiment of distinguishing characteristics of an architectural type or specimen.

D. Relationship to other distinctive buildings, sites, districts or structures which are historically significant and preserved, or which are eligible for preservation.

E. Unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, a community, or the city.

F. Value as an aspect of community sentiment or public pride.

G. Identification with a person or persons who significantly contributed to the development or culture of the city.

The Landmark Commission's report to the Planning and Zoning Commission shall include the following information:

A. A list of specific buildings, structures, areas or lands of importance or value within the proposed district boundaries and a description of how the particular building, structure, site, area or land meets the aforementioned criteria.

B. A map showing the boundaries of the proposed historic district or districts.

8.07.002. Before the Planning and Zoning Commission.

The Planning and Zoning Commission shall consider the recommendation of the Landmark Commission and make its own recommendation to the City Council. Before adopting a recommendation, the Planning and Zoning Commission shall give published and mailed notice to property owners in the area of the proposed historic district and shall hold a public hearing on the proposal in the same manner as required for the consideration of a change of zoning use district boundaries. The Planning and Zoning Commission shall include in its report to the City Council any information requested to be included by the Landmark Commission.

8.07.003. Before City Council.

The City Council shall act on the recommendation from the Planning and Zoning Commission, following the same procedures, including notice and public hearing, as required for a change of zoning use district.

8.07.004. Modification of District Boundaries.

Any proposal to modify the boundaries of a designated historic district, either adding area to the district or removing area from the district, shall be treated in the same manner as an original proposal to designate the area proposed to be added and/or removed as an historic district.

SECTION 08. EVALUATION OF PROPOSED BUILDING PROJECTS

8.08.001. Application Required.

The owner of any building, structure or land which is a designated historic landmark or of any land or included structure within a designated historic district who proposes to make any exterior change to a building or structure on the site shall apply for approval of the exterior change as follows. If the exterior change involves any new construction on the site or the reconstruction, structural alteration, restoration, relocation, demolition, or razing of an historic landmark or included structure, the owner shall apply for a building permit. If the exterior change does not involve any such action, the owner shall apply for a certificate of appropriateness. Ordinary repair or maintenance which does not involve any change in architectural or historical value, style, general design, arrangement, features, materials, texture, color or appearance, as determined by the City Manager, is exempt from any requirement for approval by the Landmark Commission.

8.08.002. Review by City Manager.

The City Manager shall review the application to determine whether the proposed exterior change requires a building permit or a certificate of appropriateness, or is exempt from approval by the Landmark Commission. The City Manager shall notify the applicant of his/her findings with regard to the application within seven working days of receiving the application and associated plans.

8.08.003. Elements Necessary for Review.

The City Manager shall adopt reasonable rules and regulations requiring that any application and plans be complete prior to acceptance for review under this ordinance. Any such rules or regulations shall be maintained in written form, available to all applicants, and shall be accompanied by a check list of the elements necessary for acceptance of any such application.

8.08.004. Factors to be considered by the Landmark Commission.

In acting upon any application for a building permit or a certificate of appropriateness for any project within a designated historic district or affecting a designated historic landmark, the Landmark Commission shall consider the following factors:

A. The effect of the proposed change upon the general historic, cultural, and architectural character of the historic district or historic landmark;

B. The appropriateness of the exterior architectural features which can be seen from a public street, alley, trail or walkway;

C. The general design, arrangement, materials, textures and colors of the building or structure, and the relation of such factors to similar features of buildings and structures on the landmark site or in the historic district;

D. The extent to which any building, structure or feature situated only partially within an historic district requires special provisions or considerations;

E. Harmony with adjacent buildings and structures in terms of scale, height and mass; and

F. The value of the historic district or historic landmark as an area or site of unique interest and character which should not be impaired.

The criterion used by the Landmark Commission shall not be the aesthetic appeal of the proposed remodeling or new building or structure, but rather its conformity to the general character of the landmark site and the historic district.

8.08.005. Time Limit for Commission Action.

The Landmark Commission shall act on any application for a building permit or certificate of appropriateness within 45 days after the application is received by the Chair of the Commission. If the Landmark Commission fails to act within 45 days, the application shall be deemed approved and the City Manager shall immediately so advise the applicant in writing.

8.08.006. Prohibition of Repeat Applications.

If the Landmark Commission disapproves an application for a building permit or certificate of appropriateness, a re-submittal of the application shall not be accepted within six months from the date of the Commission's action unless the applicant revises the application to incorporate all of the changes lawfully required by the Commission to protect the distinctive character of the historic landmark or historic district.

SECTION 09. PROCEDURE FOR APPROVAL OF BUILDING PERMITS

8.09.001. Landmark Commission Meeting.

When the City Manager has determined that a building permit is required because the application calls for construction, reconstruction, alteration, restoration, relocation, demolition, or razing of an included structure in a designated historic district or affecting a designated historic landmark, the City Manager shall notify the Chair of the Landmark Commission of this determination at the same time as he/she notifies the applicant. The Chair shall schedule a meeting of the Landmark Commission within 30 days of notification to consider the recommendation which the Commission will give to the City Manager concerning the application. Notice shall be given pursuant to Subsection 8.02.007 of this Article, of the time and place of the meeting, and the applicant shall be invited to appear to explain the application.

8.09.002. Procedure if Approved.

Upon review of the application, if the Landmark Commission finds that the proposed work is of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark or included structure in a designated historic district, and that it is appropriate and consistent with the spirit and purposes of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing. The City Manager is then authorized to issue the building permit. The applicant shall make no change in any exterior building plans after the application has been approved by the Landmark Commission without the applicant submitting a revised application to the Commission for approval in the same manner as an original application.

8.09.003. Procedure if Disapproved.

If the Landmark Commission finds that the proposed work will destroy or adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district or that it is inappropriate or inconsistent with the spirit and purposes of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing. The decision of the Landmark Commission shall also describe the changes that would be necessary before the permit application can be approved.
The City Manager shall forward a copy of this decision to the applicant as soon as received. If the applicant is willing to comply with the changes described by the Landmark Commission, the applicant may make any required changes in the plans and the application and resubmit them to the Commission in the same manner as previously described. If the applicant is unwilling to comply with the changes described by the Landmark Commission, the building permit shall not be approved or issued.

SECTION 10. PROCEDURE FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS

8.10.001. Landmark Commission Meeting.

When the City Manager has determined that a building permit is not required but a certificate of appropriateness is required, he/she shall notify the Chair of the Landmark Commission of this determination at the same time as he/she notifies the applicant. The Chair shall schedule a meeting of the Landmark Commission within 30 days of notification to consider the recommendation which the Commission will give to the City Manager concerning the application. Notice shall be given pursuant to Subsection 8.02.007 of this Article, of the time and place of the meeting, and the applicant shall be invited to appear to explain the application.

8.10.002. Procedure if Approved.

Upon review of the application, if the Landmark Commission finds that the proposed work is of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district, and that it is appropriate and consistent with the spirit and purpose of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing. The Landmark Commission shall forward a certificate of appropriateness to the applicant within 30 days after the application has been received by the Chair of the Landmark Commission. The applicant shall make no change in any exterior building plans after the application has been approved by the Landmark Commission without the applicant submitting a revised application to the Commission for approval in the same manner as an original application.

8.10.003. Procedure if Disapproved.

If the Landmark Commission finds that the proposed work will destroy or adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district, or that it is inappropriate or inconsistent with the spirit and purposes of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing. The decision of the Landmark Commission shall also describe the changes that would be necessary before the certificate of appropriateness can be approved. The City Manager shall forward a copy of this decision to the applicant as soon as received. If the applicant is willing to comply with the changes described by the Landmark Commission, the applicant may make any required changes in the plans and the application and resubmit them to the Commission in the same manner as previously described. If the applicant is unwilling to comply with the changes described by the Landmark Commission , the certificate of appropriateness shall not be approved or issued.

SECTION 11. APPEAL PROCEDURES

Any applicant aggrieved by a decision of the Landmark Commission may, within 60 days of the date of notice of the Commission's decision, appeal the decision to the City Council. A complaint by any person concerning the sufficiency of notice, economic impact, reasonableness or public necessity as to any rule or regulation, and any complaint concerning substantive or procedural due process, equal protection and equal application of the provisions of this ordinance, or correct interpretation of this ordinance, shall be presented to the Landmark Commission in the first instance, and shall be presented to the City Council by way of an appeal. Any such complaint shall be specified in writing and filed with the appropriate official before or during the meeting where the agenda item is heard. No decision of the Landmark Commission or the Council is final for purposes of judicial review until such notice of a complaint shall have been given, and the Landmark Commission, the Planning and Zoning Commission, or the City Council shall have had a reasonable opportunity to evaluate, reconsider, and apply the provisions of this ordinance. This provision is intended to insure that due process is fully extended to the property owner and to the community.

SECTION 12. HISTORIC PRESERVATION TAX EXEMPTION

8.12.001. Authorization of Partial Exemption.

In accordance with Section 11.24 of the Texas Tax Code, the owner of a building or structure (1) which is a designated historic landmark or which is located within an historic district, (2) which the City Council has designated as a historically significant site in need of tax relief to encourage its preservation, and (3) which has been substantially rehabilitated and/or restored as approved by the Landmark Commission, may apply to City Council for a tax exemption yearly. Upon approval by City Council, the assessed value of the property for ad valorem taxation shall be equal to the assessed value prior to the substantial rehabilitation or restoration, for a period not to exceed 10 consecutive years. This exemption shall begin on the first day of the first tax year after the completion of the rehabilitation or restoration. The deed, grant, sale, bequest, devise or other transfer of ownership of the property shall not cause the exemption provided herein to terminate.

8.12.002. Application for Exemption.

An application for a historic preservation tax exemption shall be filed with the Landmark Commission. If approved by the Landmark Commission, the Commission shall forward the application to the City Council. Each application shall be signed and sworn to by the owner of the property and shall:

A. State the legal description of the property proposed for exemption;

B. Include an affidavit by the owner describing the historic significance of the historic landmark in need of tax relief;

C. Include a final complete set of plans for the historic landmark's restoration or rehabilitation;

D. Include a statement of costs for the restoration or rehabilitation;

E. Include a projection of the estimated construction time and predicted completion date of the restoration or rehabilitation;

F. Authorize the members of the Landmark Commission, the City Tax Assessor/Collector, and other City officials to visit and inspect the property as necessary to certify that the property in question is in substantial need of restoration or rehabilitation;

G. Include a detailed statement of the proposed use for the property; and

H. Provide any additional information to the Landmark Commission which the owner deems relevant or useful, such as the history of the structure or proposed access to the structure by the public.

8.12.003. Removal of Exemption.

The Landmark Commission shall review annually all those properties which have been granted tax exemptions. If, in the opinion of the Landmark Commission, a property which has been granted an exemption is no longer being maintained in an acceptable state of repair, the Commission shall contact the owners of the property and discuss the Commission's concerns with them. Following such discussion, the Landmark Commission shall make a report to the City Council either recommending that the tax exemption be terminated on the last day of the tax year for that property or outlining the steps the owner must take to bring the property up to acceptable standards. City Council, upon receipt of the report of the Landmark Commission, and after such notice as may be required by law, may remove the tax exemption if it deems such action appropriate.

SECTION 13. DEMOLITION OF HISTORIC STRUCTURES

8.13.001 Building Permits for Demolition

A. **Purpose.** Approval of a building permit confirms that the application conforms to all requirements of the Building Code pertaining to the construction of the proposed structure.

B. **General Applicability.** A building permit is required prior to the construction, demolition, alteration or placement of a structure on a lot, tract or parcel.

1. Applicability related to Building Permits. An application for a building permit is required within the city limits.

2. Applicability related to Certificates of Occupancy. A certificate of occupancy must be obtained prior to habitation, occupation, or use of any commercial structure, within the city limits.

3. Applicability to Building Permits for Demolition (aka demolition permit) for Historic Age Structures. All applications for demolition of a building shall be subject to review in accordance with Building Code and Article 8, Section 13 ("this section") of the Zoning Ordinance before the application may be approved and a permit issued.

8.13.002. Demolition Review for Historic Structures

A. Purpose, Applicability and Exceptions

1. **Purpose.** The purpose of this process is to provide criteria to prevent or minimize unnecessary damage to the quality and character of the city's historic resources by requiring the review of any request for demolition of a building meeting the criteria in this section to enable a determination of its historic significance, and to provide the public, other interested preservation-based organizations, and city staff an opportunity to work with the property owner on alternative solutions to demolition where possible.

2. **90-Day Review Period for Certain Buildings.** A demolition permit shall not be issued until 90 days after the date of a complete application for the demolition of any historic structure or until the Historic Landmark Commission makes a determination that the structure is not a Contributing Structure, whichever is sooner. No building or any part of the building subject to this section may be demolished or removed unless a permit authorizing such demolition or removal has been issued by the City. An initial staff review shall include review of the following:

   i. The application for demolition is complete.

   ii. Historic structure is located inside the city limits.

   iii. The structure is listed on the National Register of Historic Places (NRHP), or a Recorded Texas Historic Landmark (RTHL).

3. **Exceptions.** This section does not apply to the demolition of a building, part thereof or addition thereto, the condition of which is determined by the Chief Building Official or the Fire Marshal to be an imminent threat to public safety.

B. Application Requirements

An application to demolish a building, part thereof or addition thereto, subject to this section shall conform to the requirements for a building permit and shall be submitted in accordance with the procedures in this section. A complete application shall include the following:

1. A Building Permit for demolition (commercial or residential) and all requirement of the permit submittal; and

2. Site plan; and

3. Photos of existing structure; and

4. Full description of demolition work to be done; and

5. If applicable, a full description of any addition to be constructed; and

6. Proof of age of structure (may be appraisal district, Sanborn map, deed records, etc.); and

7. The application shall be accompanied by such additional information as the responsible official may reasonably require in order to evaluate the proposal and formulate a recommendation to the Historic Landmark Commission.

C. Procedures

1. Responsible Official Action

   a. The responsible official, as determined by the City Manager, shall complete the review of the application, and determine if the application concerns a building subject to this Section.

   b. If the responsible official determines that the application concerns a building subject to this Section, the responsible official shall schedule a public hearing before the

Historic Landmark Commission for an initial determination of eligibility for consideration.

i. Prior to consideration of the Historic Landmark Commission, the responsible official shall send notices of a public hearing with a description of the request for demolition within 10 days of the complete application to property owners within 200 feet of the subject property.

ii. If the responsible official determines that the application does not concern a building subject to this Section, the responsible official shall issue the building permit for demolition, subject to and in accordance with applicable ordinances.

8.13.003 Notice and Public Hearing Required.

Following the determination of the responsible official that the structure is a historic structure the Historic Landmark Commission shall hold a public hearing on the matter at which interested parties and citizens shall have an opportunity to be heard. The public hearing shall be scheduled for the first regular Historic Landmark Commission meeting which allows sufficient time to comply with notice requirements. The time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city at least 15 days in advance.

8.13.004 Action by Historic Landmark Commission.

The Historic Landmark Commission shall hold a public hearing on the application to determine if the historic structure is determined to be a Contributing structure.

1. If the building is determined to be a Contributing Structure, the Historic Landmark Commission shall make a report to City Council containing the Commission's recommendation. The Commission may upon a ¾ vote recommend denial of the demolition permit or approval with conditions. Historic Landmark Commission may recommend such conditions, limitation or safeguards as are necessary in the Commission's judgment to preserve or demolish part of the historic structure or specific features.

2. If the building is determined not to be a Contributing Structure, approval for the demolition permit shall be issued, subject to the requirements of other applicable ordinances.

8.13.005 Action by City Council.

After receiving the report and recommendations of the Historic Landmark Commission, City Council shall consider and act on the application. If the City Council determines that the Contributing Structure shall be a Historic Landmark, then they shall, upon a ¾ vote, deny demolition or allow demolition with conditions, and a demolition permit shall be issued within three business days after City Council's determination. If the City Council does not designate the building as a Historic Landmark, the demolition permit may be issued within three business days after the City Council's determination, subject to the requirements of other applicable ordinances.

SECTION 14. DEMOLITION BY NEGLECT

8.14.001. Structural Maintenance and Repairs Required.

The owner of any historic landmark, or of any included structure in an historic district, shall preserve such landmark or structure against deterioration and decay and shall promptly repair the landmark or structure if it is found to have any of the following defects:

A. A deteriorated or inadequate foundation, or defective or deteriorated flooring or floor supports, or flooring or floor supports of insufficient size or strength to carry loads imposed with safety;

B. Members of walls, partitions or other vertical supports which split, lean, list or buckle due to defective material or deterioration, or which are of insufficient size or strength to carry loads imposed with safety;

C. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective materials or deterioration, or which are of insufficient size or strength to carry loads imposed

with safety;

D. Fireplaces or chimneys which list, buckle or settle due to defective materials or deterioration, or which are of insufficient size or strength to carry loads imposed with safety;

E. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors, or defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering, or any other fault or defect in a structure which renders it structurally unsafe or not properly watertight.

8.14.002. Exterior Site Maintenance Required.

The owner of any historic landmark, or of any included structure in an historic district, shall keep the property, including vacant property, clear of weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse as required by all applicable City ordinances.

8.14.003. Preventive Action by Landmark Commission.

The Landmark Commission, on its own initiative, may file a complaint with the City Manager requesting that the City proceed under all applicable ordinances to require correction of defects or repairs to any historic landmark or any included structure in an historic district so that the landmark or included structure will be preserved and protected in accordance with the purposes of this Article.

8.14.004. Limitation on Permit Applications.

If any historic landmark or any included structure in an historic district must be demolished as a hazard to public health and safety after the owner thereof has received two or more notices from the City Manager of neglect in violation of this or other ordinances, no application for a permit for any project on the property may be considered for a period of three years from the date of the demolition.

SECTION 14. DEMOLITION OF HAZARDOUS STRUCTURES

Nothing in this ordinance shall apply to or in any way prevent the demolition of any building or structure which is an imminent danger to public health and safety and which cannot be made reasonably safe according to the opinion of the City Manager.

SECTION 15. LANDMARK COMMISSION ASSISTANCE TO OWNERS

The Landmark Commission shall provide information and counseling upon request to the owners of designated historic landmarks, of properties which may be eligible for designation as historic landmarks, and of included structures within historic districts, so that the historic heritage of the city may be preserved and the purposes of this Article achieved.

SECTION 16. SUBMITTAL REQUIREMENTS FOR HISTORIC LANDMARK COMMISSION REVIEW

8.16.001. Procedures for Submission.

In submitting a request to build, remodel or create an addition for consideration by the Historic Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least 10 calendar days prior to the date the plat is to be considered by the Commission:

A. 12 copies of the proposed north, south, east and west elevations (scaled drawings should be prepared)

B. 12 copies of the proposed site plan that depicts as-built and proposed building locations.

C. At the meeting provide a representative sample of the exterior materials (brick, stone, roofing materials, etc.), if the exterior material is the same as the existing structure material, a photograph of the existing structure will suffice.

D. A photograph of the original structure as viewed from the street

In submitting a request for paint color change for consideration by the Historic Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least 10 calendar days prior to the date the request is to be considered by the Commission:

A. 12 paint chips for each requested color provided by the paint company or the PMS (Pantone Matching System) numbers for each

B. At the meeting provide a 3' x 3' sample to be painted with the paint color applied to the sample. If there is more than one color to be approved, the colors that are proportionately smaller than the main color to be applied may be demonstrated on 1' x 1' samples. The requestor may be asked to paint a large section of the structure for review by the Commission.

C. A photograph of the structure as viewed from the street

D. Upon completion of approved paint color change, applicants should notify the City Manager within ten (10) calendar days following completion for possible review by the Commission's subcommittee.

In submitting a request for a new or revised sign for consideration by the Historic Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least ten (10) calendar days prior to the date the request is to be considered by the Commission:

A. 12 copies of the sign design and colors (12 paint chips for each color provided by the paint company or the PMS numbers for each)

B. 12 photographs or front and/or side elevations of the structure with the sign located on the structure

C. A photograph of the structure as viewed from the street(s)

All signs submitted for approval must meet requirements set forth by the Sign Ordinance. Once a sign is approved by the Historic Landmark Commission, the owner or their representative must request a Sign Permit from Code Enforcement.

A representative must be in attendance to present the request to the Historic Landmark Commission.

READ AND APPROVED on first reading the_____day of_____.

READ, APPROVED, and ADOPTED on the_____day of_____.

APPROVED:

_____
Mayor

ATTEST:

_____
City Secretary