

**Kermit, TX**

**Chapter 156: Zoning Code**

**156.01 GENERAL PROVISIONS**

**156.01.01 Title**

This ordinance and all subsequent amendments thereto shall be known, as may be cited and referred to as the 'Zoning Code' of the City of Kermit.

**156.01.02 Authority**

This Zoning Code is adopted pursuant to the authority granted by the U.S. Constitution, the Texas Constitution, and the laws of the State of Texas, specifically including Chapter 211 (municipal zoning authority) of the Texas Local Government Code, as may be amended.

**156.01.03 Purpose**

Implementation of the Comprehensive Plan

The zoning regulations and districts established in the Zoning Code have been made in accordance with the Comprehensive Plan for promoting the health, safety, and general welfare of the city. The zoning regulations and districts have been designed to achieve the following purposes:

1. Lessen congestion in the streets;
2. Secure safety from fire, panic, and other dangers;
3. Promote health and the general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population; and
7. Facilitate the adequate provision of transportation, water, wastewater, schools, parks, and other public requirements.

Zoning Code Considerations

The zoning regulations and districts have been made with reasonable consideration for, among other things, the character of the districts, a district's peculiar suitability for the particular uses specified, conserving the value of buildings, and encouraging the most appropriate use of land throughout the city consistent with the Comprehensive Plan.

#### 156.01.04 **Applicability**

No land shall be used or developed except in accordance with this Zoning Code and the Kermit Code of Ordinances, where applicable. This Zoning Code shall also be in accordance with the following special situations:

**A. Publicly-Owned Property.** Those portions of this Zoning Code that govern the location of allowed and specific uses shall not apply to the governments of the United States of America or the State of Texas and their agencies and political subdivisions, and the City in the performance of their government functions. All other provisions of this Zoning Code apply.

**B. Relationship to Covenants, Conditions, and Restrictions; Private Agreements.** This Zoning Code is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, condition, restriction, or other private agreement or legal relationship; provided, however, that where the regulations of this Zoning Code are more restrictive or impose higher standards or requirements, then the regulations of this Zoning Code shall govern. The City will not search for private restrictions on property or interpret, apply, or enforce private restrictions unless it is a party to them.

**C. Specific Exceptions.** Specific exceptions to the requirements of this Zoning Code may be set out in individual portions throughout the Code.

**D. Prohibited Uses.** No use of any building, structure, or land; no building or structure; and no lot of record, now or hereafter existing, shall be established, altered, moved, divided, or maintained after the effective date of this chapter except as authorized by the provisions of this Zoning Code.

#### 156.01.05 **Interpretation of Standards**

The provisions of this Zoning Code shall be held to be minimum requirements. Where this Zoning Code imposes a greater restriction than is imposed or required by other provisions of law, or by other rules or regulations or ordinances, the provisions of this Zoning Code shall control. Where for specific land, the requirements of any other ordinances of the City are more stringent or restrictive than the requirements set forth in this Chapter, nothing herein shall be construed to waive compliance with the provisions of such other ordinance.

#### 156.01.06 **Conformance Required**

Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Zoning Code for the district in which the building or land is located.

#### 156.01.07 **Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, conditional permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

#### 156.01.08 **Severability of Provision**

If any chapter, section, clause, or phrase of this Zoning Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Zoning Code.

**156.01.09 Publication**

This Zoning Code shall be posted in a publicly accessible digital format as well as published in book form and shall, together with the maps being a part hereof, be filed in City Hall of the City of Kermit, Texas.

**156.01.10 Effective Date**

The effective date is the adopted date or most recent amended date of this Zoning Code by the City of Kermit City Council.

## **156.02 DEFINITIONS**

### **156.02.01 Purpose**

The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Code. The meaning and construction of words as set forth shall apply throughout the Zoning Code unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

### **156.02.02 Construction of Language**

**A. Headings.** Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of this Zoning Code.

**B. Illustrations.** In the case of any real or apparent conflict between the text of this Zoning Code and any illustration explaining the text, the text shall apply.

**C. Conjunctions.** Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

- i. "And" indicates that all connected items or provisions apply.
- ii. "Or" indicates that the connected items or provisions may apply singly or in any combination.
- iii. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.
- iv. "Shall" indicates a mandatory requirement.
- v. "May" indicates a permissive or selective requirement.
- vi. "Tenses and numbers" indicate the following: words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular unless the context clearly indicates the contrary. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

**D. Referenced Agencies.** Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Kermit.

**E. Undefined Terms.** Where terms are not specifically defined, their ordinary accepted meaning or meaning implied by their context shall apply.

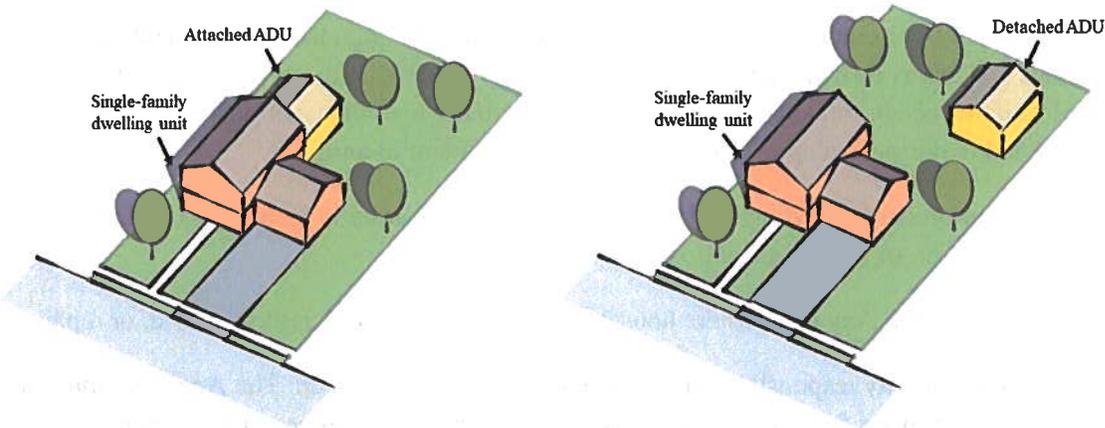
### **156.02.03 Definition of Terms.**

**A.**

**Abandonment:** To cease or discontinue a use or activity but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

**Abutting:** Having lot lines or district boundaries in common. The term is used interchangeably with “adjacent.”

**Accessory Dwelling Unit:** A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and bathroom facilities, which is an attached or detached unit on the same lot as an existing single-family structure. A mobile home is not an accessory dwelling unit.



**Accessory Structure:** A structure that is incidental to and customarily associated with a specific principal use or building on the same site.

**Accessory Use:** A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

**Adjacent:** See “Abutting.”

**Administrator:** the local official responsible for administration and enforcement of this zoning ordinance.

**Adult Day Care Services:** A facility that provides services under an Adult Day Care Program, on a daily or regular basis but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility. Adult Day Services Centers (also referred to as Adult Day Care Centers) must be licensed by the Texas Department of Human Services or its successor).

**Agricultural:** Land where the production, keeping, or maintenance for sale, lease, or personal use of plants and animals useful to man, including forages and sod crops, grains and seed crops, dairy animals, poultry and livestock, including but not limited to ostriches, emus, buffalos, beef cattle, sheep, goats, mules, horses, and ponies.

**Alcoholic Beverage Sales:** The establishments or places of business engaged primarily in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer, or wine for off-site consumption.

**Alley:** A public right-of-way not intended to provide primary means of access to abutting lots, used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

**Alteration:** Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.

**Animal Shelter:** An indoor or outdoor facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**Annexation:** The act or process of adding land to a governmental unit, usually an incorporated place, by an ordinance, a court order, or other legal action.

**Appliance Repair and Rental:** Any store where household appliances are sold, rented, leased, or repaired.

**Applicant:** The person or entity responsible for the submission of an application. The Applicant must be the actual owner of the property for which an application is submitted or shall be a duly authorized representative of the property owner.

**Art Gallery or Museum:** An institution for the collection, display, or distribution of objects of art, and that is sponsored by a public or quasi-public agency, open to the public.

**Assisted Living/Nursing Home:** A facility operated by a business or non-profit organization where ill or elderly people are provided with lodging and meals, with or without nursing care.

**Automobile and Equipment Repair Services:** Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire service, and sales.

**Automobile Parts Store:** Use of any building or portion thereof for the sale of new or used automobile parts, tires, and accessories.

**Automobile Rental/Sales:** Use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new or used motor vehicles. Any warranty repair work and other repair service is conducted as an accessory use within an enclosed building.

## B.

**Bank or Financial Institution:** A building or portion thereof, with or without a drive-up window, for the custody, loan, or exchange of money; for extension of credit; and for facilitating the transmission of funds.

**Bar:** An establishment, not a restaurant, the principal activity of which is the sale and consumption on the premises of liquor, wine, beer, or any other alcoholic beverages, whether served with or without food and other refreshment.

**Billboard:** An off-premise sign on which the message or copy can be changed periodically through manual means.

**Billboard, Electronic:** An off-premise sign on which the message or copy can be electronically changed by remote or automatic means.

**Board:** Means the Board of Adjustment.

**Boarding Home:** A building, other than a hotel or motel, where lodging or rooms, or both, are provided for compensation, whether directly or indirectly with regular meals prepared and served in a central location.

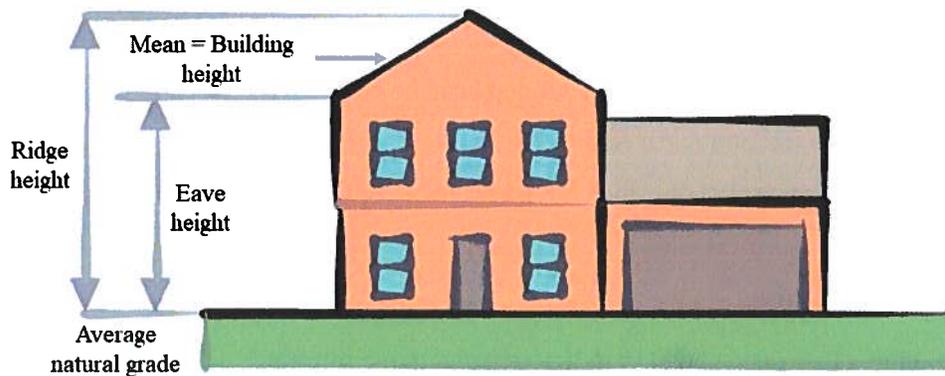
**Brewery:** A use that brews ales, beers, meads, and/or similar beverages on site. Regular breweries are classified as a use that manufactures less than 15,000 gallons of beverages annually (all beverages combined).

**Broadcasting Center:** An establishment containing one or more broadcasting studios for over-the-air, cable, or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures. This term does not include a transmission tower.

**Building:** A structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.

**Building Coverage:** The ratio of the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps to the total lot area. All dimensions shall be measured between the exterior faces of walls.

**Building Height:** The vertical distance from the average, natural grade at the building line, to the highest point of the coping of flat roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.



**Building, Principal:** A non-accessory building in which a principal use of the lot on which it is located is conducted.

**Building Wall:** The wall of the principal building forming a part of the main structure. The foundation walls of unenclosed porches or piazzas, steps, walks, and retaining wall or similar structure shall not be considered as building walls under the provisions of this Zoning Code.

C.

**Campground:** Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than seven (7) consecutive days during any one-month period.

**Carpentry Shop:** A shop involving woodworking and the assembly of wood products.

**Carport:** Space for the housing or storage of motor vehicles enclosed on not more than three sides by walls and either attached to the principal building or freestanding.

**Car Wash:** Mechanical facilities for the washing or waxing of private automobiles, light trucks and vans, but not commercial fleets, as an accessory use to an automobile service station.

**Caterer:** A service providing meals or refreshment preparation for public or private entertainment for a fee.

**Cemetery:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Child Care Facility:** Per Section 42.002 of the State of Texas Human Resource Code, as may be amended, "child-care facility" means a facility licensed, certified, or registered by the Department of Family and

Protective Services (or its successor) to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Cigar Lounge: A business that sells a variety of cigars. It may also sell other tobacco accessories such as lighters, cigar boxes and containers, as well as cigar cutters and punches. In addition, this business may contain a lounge where persons can go to smoke cigars.

City: The City of Kermit, Texas, together with all its governing and operating bodies.

Clinic: A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

Commission: The Planning and Zoning Commission of the City of Kermit.

Community Center: A facility maintained by a public agency or by a not-for-profit community or neighborhood association primarily for social, recreational, cultural, or educational needs of the community or neighborhood.

Community Garden: A private or public lot under one acre for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Comprehensive Plan: The duly adopted Comprehensive Plan for the City of Kermit which indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, utilities, parks other public and private developments and improvements and population projections. The plan may consist of but is not limited to the following plan elements: Future Land Use Plan, Mobility, Housing, Livability, and Infrastructure.

Consignment Center: A store that receives merchandise on consignment from individuals and places for resale.

Construction Sales/Services: Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware. This use type excludes those uses classified under automotive and equipment services and heavy retail. Typical uses include building materials sales or tool and equipment rental or sales.

Construction Yard: A building, part of a building, or land area for the construction or outdoor or indoor storage of materials, tools, products, and vehicle fleets.

Convalescent Home: A home licensed by the state for the aged or chronically or incurably ill persons in which five or more such person not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or other institutions devoted primarily to the diagnosis and treatment of the sick or injured.

D.

Day Care Center: Per Section 42.002 of the State of Texas Human Resource Code, as may be amended, "day-care center" means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Distillery: An industrial use that manufactures liquor and sells distilled spirits for consumption off the premises.

Drive-Through: A building or facility where customers can be served without leaving a vehicle.

Driveway: A private accessway, primarily for vehicles, leading from a street to a dwelling unit, parking lot, parking garage, or loading area.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, Duplex: A building designed for occupancy for two families living independently of each other on one lot.

Dwelling, Multi-Family: Any building, or portion thereof, that is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments, or that is occupied as a home or place of residence by three or more families living in independent and separate housekeeping units.

Dwelling, Single-Family (attached): The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each single-family (attached) dwelling unit must have at least two exposed exterior walls.

Dwelling, Single-Family (detached): A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract and occupied by one family.

## E.

Easement: A grant by a property owner of the use of land by the public, a corporation, entity, or persons for specific purposes.

Education: A public, private, or parochial school offering instruction at the elementary, junior high, or high school level in the branches of learning and study required to be taught in schools within the State of Texas.

Electrical Substation: A part of the electrical distribution system with the primary function to transform electrical voltage, including transformer stations and switching stations.

**Encroachment:** Means the advancement of a structure or improvements beyond established limits, lot lines, easements, or service areas.

**Extraction:** The business enterprise of excavation and removal of stone, sand, gravel, soil, or similar earthen materials from a site, whether the intent is to increase the utility and values of the site or to use the materials for landfilling on another site.

**Extraterritorial Jurisdiction (ETJ):** A two-mile boundary around the city limits in which the City has limited governing power as stipulated in Chapter 42 of the Texas Local Government Code in which the City may apply its Subdivision Regulations and other ordinances and regulations specifically provided by State law to be applied within the ETJ.

**F.**

**Family:** A person living alone, any number of people related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship, or no more than five unrelated people living as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities.

**Farmers Market:** An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

**Fast Food:** See "Restaurant, Drive Through."

**Food Services:** Establishments or places of business primarily engaged in the retail sale of food and household products for home consumption. Food sales establishments may include the sale of non-food items. However, the sales of non-food items may account for no more than the lesser of 25% of the sales area or 10,000 square feet of the food sales establishment. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

**Frontage:** All the property on one side of a street between two intersecting streets measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

**Frontage, Primary:** For applying the on-premise sign regulations, the frontage toward which the use faces or is oriented. One such primary frontage shall be allowed on a zoning lot.

**Funeral Service:** Establishments engaged in undertaking services such as crematoriums, preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

**G.**

**Garage, Private:** An attached or detached accessory building not over one story or twenty feet in height used for parking or storage of vehicles as may be required in connection with the permitted use of the principal building. However, the storage of one commercial vehicle not exceeding three-fourths ton may be permitted.

**Garage, Storage:** A building or portion thereof, other than a private garage, used exclusively for parking or storage of self-propelled vehicles, but with no other services provided, except facilities for washing.

**Gas Station:** A building or portion of a building used chiefly in connection with tanks, pumps, and other appliances, for supplying motor vehicles with gasoline, oil, compressed air, water, electrical charging, and other fuel supplies, but not for making repairs.

**Gas or Oil Well Operation:** Places primarily devoted to subsurface mining of gas or oil. Typical uses are gas and oil drilling operations. Regulations for Gas or Oil Well Operation can be found in Title XI, Chapter 118 of the Kermit Municipal Code.

**Grade:** The average level of the finished surface of the ground adjacent to the exterior walls of the building:

1. For buildings having walls adjoining one street only, the elevation of the regularly established sidewalks grade at the center of the wall adjoining the street.
2. For buildings having walls adjoining more than one street, the average of the elevation of the regularly established sidewalk grades at the center of all walls adjoining the street.
3. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the buildings.

**Grocery Store:** See "Food Services."

**Gross Floor Area:** The sum of the horizontal areas of the habitable stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Excludes basements, attics, unenclosed porches, balconies, and decks. Enclosed porches shall be included in the calculation of gross floor area.

**Group Home:** Per Section 42.002 of the State of Texas Human Resource Code, as may be amended, "group day-care home" means a child-care facility that provides care at the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

**Gym:** A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

H.

**Home Occupation:** A use incidental and secondary to a property's primary residential use.

**Hospital:** An institution, licensed by the State of Texas Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**Hotel:** A building in which lodging and/or boarding are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

I.

**Improvement:** Any man-made fixed item that becomes part of or placed upon real property.

**Impervious Surface:** Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

**Impervious Surface Ratio:** A measure of the intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross site area.

**Indoor Recreation:** Uses that provide recreation opportunities indoors for the public (open to the community) or residents of a subdivision or development. This phrase includes:

1. Community recreation centers
2. Health and fitness clubs
3. Bowling alleys
4. Movie theaters
5. Dance halls
6. Arcades
7. Indoor skating
8. Indoor swimming pools
9. Other indoor athletic facilities
10. Other functionally similar uses

**Industry, Light:** Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Examples include, but are not limited to:

1. Commercial bakeries

2. Dressed beef processing plants
3. Soft drink bottling
4. Apparel assembly from fabrics
5. Jewelry manufacturing or assembly
6. Manufacturing
7. Print shops and publishing houses
8. Lumber yards
9. Machine shops
10. Monument sales yards
11. Plumbing and heating shops

Industry, General: Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products. Examples include, but are not limited to:

1. Industrial truck, tractor, trailer, and stacker machinery manufacturing
2. Laundry, commercial
3. Leather product and saddle manufacturing
4. Motor freight company
5. Motor vehicle parts manufacturing
6. Tinsmith/Sheet Metal Shop

Industry, Heavy: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials. Outdoor storage is permitted with proper screening. Examples include, but are not limited to:

1. Coke oven batteries
2. Carbon black plants (furnace process)
3. Petroleum refineries
4. Petroleum storage and transfer units (except retail gasoline stations) and bulk fuel dealers
5. Facilities used in the primary or secondary production of metals (e.g., primary zinc, copper, or lead smelters; primary aluminum ore reduction plants; iron and steel mills; sintering plants; secondary metal production plants; and blacksmith shops)
6. Portland cement plants (not temporary batch plants)
7. Sawmills and pulp mills
8. Mineral plants

9. Fossil fuel combustion (boilers or electricity generation) totaling more than 250 million BTUs per hour of heat input
10. Fabrication of vehicles, manufacturing equipment, durable goods, or pre-fabricated homes or home components
11. Drycleaner processing plants
12. Glass and plastic product manufacturing
13. Hot mix asphalt plants
14. Fossil fuel or other waste-to-energy power plants
15. Heavy manufacturing of highly flammable, toxic matter or explosive materials needed for the manufacturing process

J.

**Junk Yard:** Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, automobile, tractor, or machinery wrecking and used parts yards, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded, or salvaged materials as part of the manufacturing operation.

K.

**Kennel:** Any building or lot on which five (5) or more domesticated animals more than six (6) months of age are housed, bred, boarded, trained, or sold. Also known as animal boarding.

L.

**Landfill:** A tract of land used for the burial of farm, residential, institutional, industrial, or commercial waste that is not hazardous, medical, or radioactive.

**Landscaped Area:** The area within the boundaries of a given lot, site, or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials including drought tolerant plant materials, or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

**Livestock Sales:** Use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

**Live/Work Unit:** Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

**Lot, Area:** The area of a horizontal plane bordered by the front, side, and rear lot lines.

Lot, Corner: A lot abutting upon two or more public or private streets at their intersection, not including alleys.

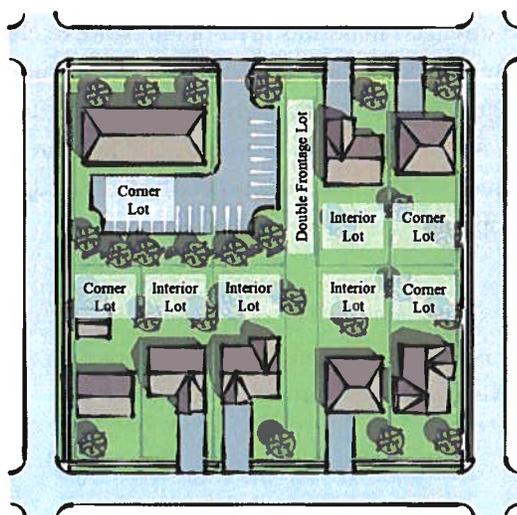
Lot, Depth: The mean horizontal distance between the front and rear lot lines.

Lot, Double frontage: A lot of record having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner lot.

Lot, Lines: The lines bounding a lot of record.

Lot, Width: The width of a lot of record measured at the building line and at right angles to its depth.



Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land, the deed of which was recorded in the office of the County Recorder prior to the original adoption of this Code. Known as “lot” in this Zoning Code.

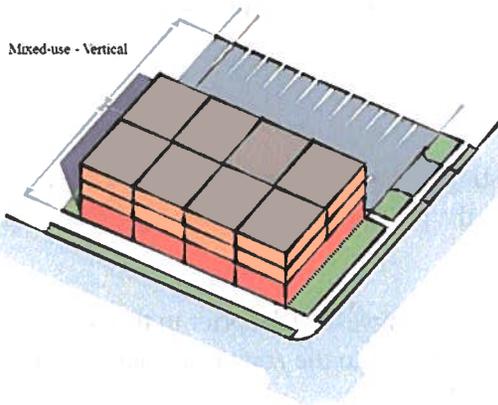
Lounge or Nightclub: An establishment, other than a restaurant, where liquor, wine, beer, and/or other alcoholic beverage is served, dispensed or sold, whether served with or without food or other refreshment, and where facilities are offered for dancing, or dancing is permitted or invited, by the general public, or where live entertainment is provided.

M.

Manufactured Home: a factory built single-family dwelling structure which is to be used as a place for human habitation, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and which is not constructed or

equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles and is placed on a permanent foundation. A mobile home constructed to the National Manufactured Home Construction and Safety Standards promulgated by the U.S. Department of Housing and Urban Development is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling as is provided in the Code of Iowa Section 435.26 and is placed on a permanent foundation. For any of these regulations, manufactured homes are considered the same as single-family detached dwellings.

**Mixed Use:** The development of a tract of land or building or structure with two or more different uses, such as, but not limited to residential, office, retail, public, entertainment, and recreational.



**Movie Theater:** A specialized theater for showing movies or motion pictures.

**Mobile Food Vendor:** Any motorized vehicle designed to be portable and not permanently attached to the ground from which food is peddled, vended, sold for sale, or given away.

**Mobile Home:** Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Texas. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

**Mobile Home Park:** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

**Mobile Home Subdivision:** A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, and

other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for display, inspection, sale, or storage.

**Modular Home:** A factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles. Modular homes shall be subject to the same regulations as site-built homes.

**Motel:** An establishment offering to the transient public the use of guest rooms or sleeping accommodations for compensation. Such an establishment consists of a group of attached or detached guest rooms or sleeping accommodations the majority of which have private and direct access from parking areas not through common entrance and lobby.

## N.

**Nonconforming Building:** A building or portion thereof, existing at the effective date of this Zoning Code, or amendments thereto, and which does not conform to the provisions of this Zoning Code or to the use regulations of the district in which it is located.

**Nonconforming Lot:** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Zoning Code which no longer conforms to the zoning standards because of said revision or amendment.

**Nonconforming Use:** A use which lawfully occupied a building or land at the time this Zoning Code, or amendment thereto, became effective, and which does not conform to the use regulations of the district in which it is located.

## O.

**Office:** A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

**Open Porch:** A roofed structure attached to the principal building open on two or more sides, projecting not more than eight feet within the front yard, not more than three feet within a side yard, and not more than eight feet within a rear yard.

**Open Space:** An area or portion of land, either landscaped or essentially unimproved and which is used to meet recreational or spatial needs, or to protect water, air, or plant areas.

**Outdoor Commercial Recreation:** Uses that provide commercial amusement outdoors that have higher traffic demands, space requirements, and external effects, including, but not limited to:

### 1. Fairgrounds

2. Amusement parks
3. Mini golf
4. Golf driving ranges
5. Golf courses

**Outdoor Display:** The temporary outside display of finished goods. Finished goods are specifically intended for immediate retail sales and are not intended nor used as an area for the continuous keeping or storage (i.e., Outside Storage) of such finished goods. Examples of outside display include the display of grills, deer feeders, patio furniture, lawn mowers, flowers, pumpkins, Christmas trees, and clothing.

**Outdoor Storage:** The outdoor storage or display of materials on private property, parts, or products that are related to the primary use of a site for a period exceeding forty-eight (48) hours.

**Owner:** Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others:

1. Has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
2. Has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the recorder of deeds of the county to be the owner of a property shall be presumed to be the person in control of that property.

P.

**Parcel:** One or more lots which are designated by the owner or applicant as land to be used or developed as a unit, or which has been developed as a unit.

**Park:** Any public or private land available for recreational, educational, cultural, or aesthetic use.

**Parking Lot:** An area of land, a yard, or other open space off the street on a lot used for or designed for use by standing motor vehicles together with a driveway connecting the parking lot with a public place.

**Parking Space:** A surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of the driveway or access drives, for the parking of a motor vehicle, and connected with a street or alley by a surfaced driveway which provides satisfactory ingress for automobiles.

**Parking Structure:** A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

**Pawn Shop:** An establishment that lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness, or, that deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

**Permitted Use:** A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Code.

**Personnel Services:** Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; television or electronics repair; or dry-cleaning stations serving individuals and households. Personal services include establishments providing for the administration of massage or massage therapy.

**Pet Services:** Any place or establishment, public or private, where animals are bathed, clipped, or combed to enhancing their aesthetic value or health and for which a fee is charged.

**Pharmacy:** A shop or a store wherein prescription medicines may be obtained during all operating hours wherein primarily medicine and medical supplies are offered for sale.

**Places of Assembly:** An indoor place where people gather for civic or cultural purposes. The phrase "place of assembly" includes place of worship, meeting hall, lecture hall, fraternal organization, community center, or private club. The phrase "place of assembly" does not include the phrase "indoor recreation."

**Portable Storage Unit:** A container that may be used to transport goods but may then also be stationary on a single site for any period of time before or after transport. The term includes, but is not limited to, truck containers, portable moving container (POD), and shipping containers.

**Postal Facilities:** Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

**Prohibited Use:** A use not permitted in a zoning district.

Q.

R.

**Recreational Vehicle:** Means all those small mobile units principally designed for recreation pastime such as motor homes, camper trailers, pickup campers, pop-up tent trailers, and similar camping-type vehicles or trailers.

**Recreational Vehicle Park:** Any tract of land under single ownership and where accommodation is provided for transient trailer use for a maximum of seven days.

**Refreshment Kiosk:** A temporary freestanding structure used to sell to and serve to drive through and walk-up customers prepackaged foods and beverages from a drive through window for off-premises consumption and that provides no indoor or outdoor seating.

**Restaurant, Drive-Through:** An establishment, with drive-through window or curbside service, where food and/or drink are prepared for consumption on the premises or off site. Includes donut and coffee shops with drive-through windows.

**Restaurant, General:** A use engaged in the preparation and retail sale of food and beverages for consumption on-site or off-site, including the sale of alcoholic beverages on-site when conducted as a secondary feature of the use, producing less than fifty percent (50%) of the establishment's gross income.

**Retail Services:** Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

1. Household cleaning and maintenance products;
2. Drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items;
3. Flowers, plants, hobby materials, toys, and handcrafted items;
4. Apparel jewelry, fabrics and like items;
5. Cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering;
6. Interior decorating services;
7. Office supplies;
8. Mail order or catalog sales;
9. Bicycles; and
10. Automotive parts and accessories (excluding service and installation).

**Retail Services, Small:** Establishments providing retail services, occupying facilities less than 20,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general-purpose retailing oriented to Kermit and its surrounding vicinity.

**Retail Services, Large:** Establishments providing retail services, occupying facilities over 20,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general retailing oriented to Kermit and its surrounding vicinity.

**Rezoning:** The action or process of assigning land or property to a different category of restrictions on use and development.

**Right-of-Way:** A parcel of land upon which facilities such as highways, railroads, or utilities are constructed. It is the legal right of a person, vehicle, or utility to use this parcel of land, as granted, to pass over property owned by another party.

**Roof:** A structural covering over any portion of a building or structure including projections beyond the walls or supports of the building or structure.

**Routine Maintenance:** Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

1. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
2. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work;
3. Basement sealing;
4. Repairing or replacing damaged or broken window panes;
5. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.

S.

**Safety Services:** Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

**Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape and screening provisions of this Zoning Code.

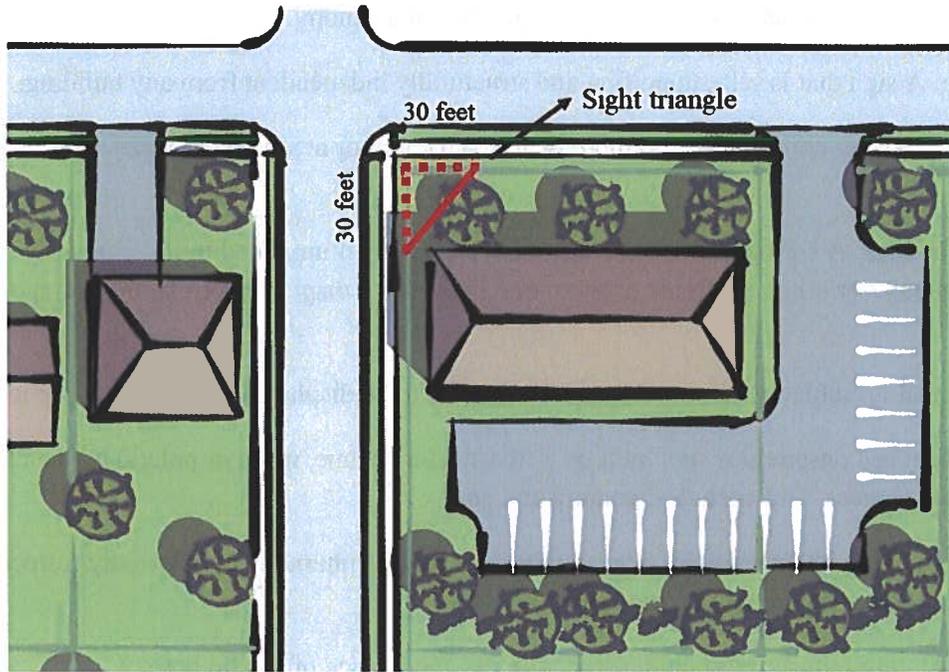
**Self-Storage Facility:** A building or group of buildings containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customer's goods or wares, excluding junk, explosive or flammable materials, and other noxious or dangerous materials. No business activities other than rental or storage units shall be conducted on the premises. Self-storage is also known as mini storage, convenience storage, or mini warehousing.

**Setback Line:** A line within a lot or other parcel of land parallel to a public road, street, or highway right-of-way line defining that minimum distance between the building or other area, structure, or feature and property line as may be required in this Zoning Code.

**Short Term Rental:** Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than thirty (30) consecutive days.

**Sight Triangle:** A triangular area on a corner lot, two of the sides of such triangle being formed by extending two imaginary lines from the corner of the lot adjacent to the street intersection at least thirty

(30) feet back to two points along the sides of the lot parallel to the two intersecting streets, the third side then being formed by the connection of such points.



**Sign:** Any device (including but not limited to letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right-of-way or other properties. The term “sign” shall not include any governmental unit, nor shall it include any item of merchandise normally displayed within a show window of a business.

**Sign, A-Frame:** A portable, and self-supporting sign used for advertising purposes, constructed in such a manner as to form an “A” or a tent-like shape, hinged or not hinged at the top. Also known as a Sandwich Board Sign.

**Sign, Abandoned:** A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.

**Sign Area:** The area of the surface of a sign, bounded by the top, bottom and sides.

**Sign, Attached:** A sign that is structurally connected to a building or depends upon that building for support.

**Sign, Awning:** A sign printed on such a temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework.

**Sign, Banner:** Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.

**Sign, Canopy:** A sign that is attached or made an integral part of a canopy.

**Sign, Freestanding:** A sign that is self-supporting and structurally independent from any building.

**Sign, Double-Faced:** A sign consisting of no more than two parallel or near parallel faces supported by a single structure.

**Sign, Electronic Message:** A sign which uses an array of electrically illuminated lights, generally controlled by a computer or other electronic programming device, to display information or supporting graphics.

**Sign, Flag:** A sign that is emblazoned on a flag and is intended to be displayed in a free-flowing manner.

**Sign, Ground:** A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than three (3) feet. This includes monument signs.

**Sign, Illuminated:** A sign with an artificial light source incorporated internally or externally (directly or indirectly) for the purpose of illuminating the sign.

**Sign, Monument:** An on-premise freestanding sign with the appearance of a solid base.

**Sign, Moving:** A sign that conveys its message through rotating, changing, or animated elements.

**Sign, Nonconforming:** A sign that was legally erected prior to the adoption of this Zoning Code but which violates the regulations of this Zoning Code.

**Sign, Off-Premise:** A sign which advertises or directs attention to a business, product, service, or activity which is not usually available on the premises where the sign is located.

**Sign, Pole:** An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than three (3) feet.

**Sign, Portable:** A sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place, and constructed of paper, cloth, canvas, light fabric, cardboard, plywood, light plastic or other similar materials.

**Sign, Projecting:** A sign other than a wall sign that is attached to and projects more than two (2) foot from a building face.

**Sign, Residential:** A small detached or attached sign located on a residential premise, conveying a message communicated by the owner or resident of the property.

**Sign, Roof:** A sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.

**Sign, Temporary:** A sign designed or fabricated of materials that advertise or communicate messages that change frequently or that become outdated, are made of materials of relatively low durability, or are intended to be removed or replaced within a period of six (6) months or less. Also known as a portable sign.

**Sign, Vertical Banner:** A portable sign typically constructed of cloth, bunting, plastic, paper, or similar non-rigid material, and attached to a vertically mounted pole that is securely fastened to the ground.

**Sign, Wall:** A sign attached to and parallel with the side of a building that does not project more than two (2) feet from the building wall.

**Sign, Wall Banner:** A portable sign constructed of cloth, bunting, plastic, paper, or similar non-rigid material, and securely attached to the wall or support structure for which it is advertising. Flags are not considered wall banners.

**Sign, Window:** A sign painted on or installed inside a window for the purpose of viewing from outside the premises.

**Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land; and any other information that is required by this Chapter.

**Solar Energy System:** Any solar collector solar device, or structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy. Typical uses include attached solar panels, freestanding solar panels, solar energy devices integrated as part of the primary or accessory structure, and passive energy systems that include building elements without any mechanical or electrical systems.

**Small Wind Energy System:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility-supplied electricity.

**Specific Use:** A use with operating and/or physical characteristics different from uses permitted by right in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Specific uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Board of Adjustment.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and the ceiling or roof next above it.

**Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and the wall face not more than four feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.

**Street:** A right-of-way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in State of Texas Law.

**Street, Arterial:** A street that serves, or is designed to serve, as a connection between uses which generate heavy traffic volumes or between other arterial streets, as defined by the Texas Department of Transportation.

**Street, Collector:** A street that serves or is designed to serve as the connection from local streets to arterial streets, such as the main entrance street of a residential development, as defined by the Texas Department of Transportation. Collector streets may also serve as a secondary connection between arterial streets.

**Street, Cul-de-sac:** A local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.

**Street, Local:** A street designed to provide vehicular access to abutting property and to discourage through traffic, as defined by the Texas Department of Transportation.

**Street, Private:** Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground, but not including fences or poles and appurtenances thereto used for the provisions of public utilities.

**Structure Alterations:** Any replacement or change in the type of construction or in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance, as may be required for the safety of the building.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
2. Any alteration will not preclude the structure’s continued designation as a “historic structure.”

T.

**Telecommunication Tower:** A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structure.

**Truck Sales, Heavy:** The display, storage, sale, leasing, or rental of new or used panel trucks, vans, trailers, recreational vehicles, or buses in operable condition.

**Truck Stop:** A facility intended to provide services to the trucking industry, including but not limited to the following activities as part of the facility: dispensing of fuel, repair shops, automated washes, restaurants, overnight parking, and shower facilities.

**Truck Terminal:** A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

## U.

**Urban Farming:** A lot over one acre not in an agricultural district, used to grow and harvest food crops and/or non-food crops for personal or commercial use. An orchard or tree farm that is a principal use is considered an urban farm. An urban farm may be divided into plots for cultivation by one or more individuals and/or groups or may be cultivated by individuals and/or groups collectively. The products of an urban farm may or may not be for commercial purposes.

**Use:** The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

**Utilities:** Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatment, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals or other services which are precedent to development and use of land.

## V.

**Vehicle Storage Facilities:** Long-term storage of operating or non-operating vehicles for a period exceeding twenty-one (21) days. Typical uses include storage of private parking tow-away or impound yards but exclude dismantling or salvage.

**Veterinary Clinic:** An establishment where animals and pets are admitted for examination and medical treatment. Short term kenneling as an accessory use to the veterinary clinic are permitted.

**Violation:** A failure of a structure or other development to be fully compliant with the regulations in this Zoning Code. In the floodplain district, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Zoning Code is presumed to be in violation until such time as that documentation is provided.

## W.

**Warehousing, Enclosed:** Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

Warehousing, Open: Uses including open-air storage, distribution, and handling of goods and materials. Typical uses include grain elevators and open storage yards.

Winery: An establishment where wine is made.

X.

Y.

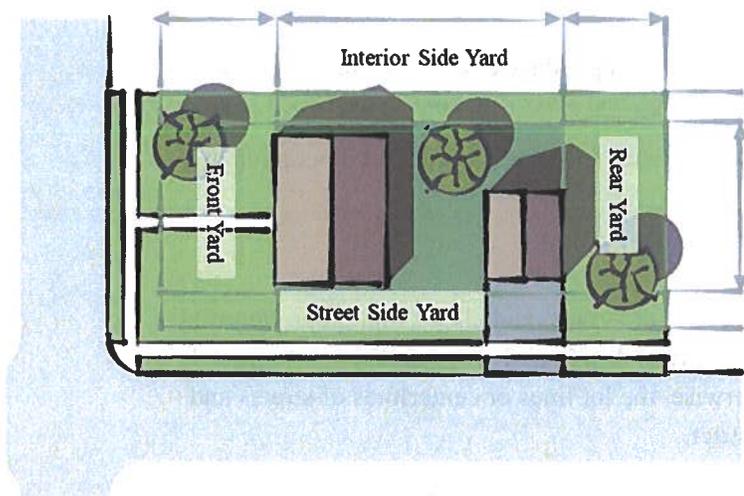
Yard: An open space on the same lot with a building, unoccupied and unobstructed by any portion of the structure from the ground upward, excepting as otherwise provided herein. In measuring a lot for the purpose of determining the depth of a front yard, or the depth of a rear yard, the least distance between the lot line and the main building shall be used, as define by “setback line” above.

Yard, Front: A yard measured across the full width of the lot and measured between the front lot line and the building or any projections thereof, other than the projections of the usual steps or unenclosed porches. On corner lots, the front yard shall be construed as the lot line where the front door faces.

Yard, Interior Side: A side yard located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the principal building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. The rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

Yard, Side Street: The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building, other than the projections of the usual steps or unenclosed porches, which is parallel to, or most nearly parallel to, the side street lot line.



Z.

Zero Lot Line: Allows the building setback to be the same as the property line.

Zoning Map: The official zoning map adopted through ordinance and subsequent amendments thereto by the City Council of the City of Kermit.

### 156.03 ZONING DISTRICTS AND USES

#### 156.03.01 Purpose

Zoning districts are established in the Zoning Code to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

#### 156.03.02 Application

A base district designation shall apply to each lot or site within the City and its planning jurisdiction. A site must be in one base district.

#### 156.03.03 Official Map

A. **Boundaries.** The boundaries of these districts are indicated upon the zoning map of the City, which map is made a part of this Chapter by references. The zoning map and all the notations, references, and other matters shown thereon, shall be as much a part of this Chapter as if the notations, references, and other matters set forth by the map were all fully described herein; the original of which is properly attested, and is on file with the City Clerk.

**B. File.** The official zoning map which is on file and in a publicly accessible digital format with the City Clerk shall be entitled “Official Zoning Map” and bear the date of adoption and shall bear certification of its authenticity by the Mayor and be attested to by the signature of the City Clerk, together with the date of their signing.

**C. Authority.** The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

**D. Conflicts.** In the event of conflict between the official map and an approved legal description of a property, the legal description will control.

#### 156.03.04 Interpretation of District Boundaries

The district boundaries are either lot lines, or the centerlines of streets, and alleys, and other identifiable rights-of-way, unless otherwise shown, and where the districts designated are bounded approximately by street, alley, or lot lines, and are not dimensioned otherwise, the lot lines or centerlines of streets and alleys shall be construed to be the boundary of the district.

156.03.05 **Annexations.** All territory which may hereafter be annexed to the City shall be considered as being in the AG Agriculture District until changed by ordinance, but a final zoning designation shall be adopted within six months of the annexation following the procedures of this Zoning Code.

156.03.06 **Vacation of Streets and Alleys.** Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

#### 156.03.07 Districts Established

In order to classify, regulate, and restrict the location of trade, industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City is divided into districts. The use, height, and area regulations are uniform in each class of district, and the districts shall be known as:

##### A. District Table

District Abbreviation	District Name	District Purpose
AG	Agriculture	This district is intended to provide for development of single-family detached dwelling units within a rural setting on lots of not less than two acres and to provide a location for agricultural uses.
R-1	Single-Family (Low-Density)	This district is intended to provide for development of single-family detached units.

District Abbreviation	District Name	District Purpose
R-2	Moderate Density	This district is intended to provide for a mix of lower intensity housing options including single-family detached, single-family attached, townhome, and duplex units.
R-3	Multiple-Family (High-Density)	This district is intended to provide for development of higher density residential units, such as apartments and attached residential units, in a more urban environment.
MH	Manufactured Housing Park	This district is intended to provide for the development of areas for manufactured housing and long-term use of vacation travel trailers.
C-1	Community Commercial/Mixed Use	This district is intended to provide locations for various types of local retail, office, and businesses primarily serving the surrounding neighborhoods.
C-2	Regional Commercial	This district is intended to provide locations for various types of retail and business that have a larger regional reach.
CBD	Central Business	This district is intended for development of downtown Kermit as the regional business center for retail, restaurant, office, and housing. The district is designed to promote a vibrant downtown by unique development opportunities that encourage downtown development and redevelopment efforts.
I-1	Light Industrial	This district is intended primary for warehousing, wholesaling, and distribution activities. The district includes light industry or assembly of small products. This district should be located with efficient access to major transportation routes and require limited amounts of storage.
I-2	Heavy Industrial	This district is intended for large-scale basic or primary industrial uses involving extensive processing, manufacturing, or assembly of large products or equipment. Because the nature of the products or character of activities, uses within this district will likely produce negative effects such as noise, fumes, noxious odors, glare, or other atmospheric influence beyond the site. This district should be located along regional thoroughfares, separated from commercial and residential

District Abbreviation	District Name	District Purpose
		uses.

156.03.08 Use Matrix

Within each zoning district, different uses are permitted with different conditions. These are displayed in the Use Matrices. Levels of permission include:

A. **Uses which are permitted by right.** These uses are permitted subject only to compliance with all regulations of this Code. Uses permitted by right might be subject to supplemental regulations contained in this Code. These uses are indicated in the Use Matrix by a “P” in the applicable cell.

B. **Specific Uses.** These uses are subject to approval of a Specific Use Permit, following the procedure set forth in *Subsection 156.11.05E*. These uses are indicated in the Use Matrix by a “S” in the applicable cell.

C. Residential Uses Matrix

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Boarding Home				P						
Dwelling, Single-Family Detached		P	P	P						
Dwelling, Single-Family Attached (Townhome)		P	P	P						
Dwelling, Duplex			P	P						
Dwelling, Multi-Family (apartment, multiplex)				P		P	P	P		
Assisted Living/Nursing Home				P				P		
Group Home		S	S	S						
Home Occupation		P	P	P						
Live/Work Unit				P						
Manufactured Home		P	P	P						

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Mobile Home Park					P					
Short-Term Rental		P	P	P	P					
Accessory Dwelling Unit		P	P	P						

D. Non-Residential Uses Matrix

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Agricultural Uses	P								P	P
Alcoholic Beverage Sales						P	P	P		
Animal Shelter or Kennel	P					P	P		P	P
Appliance Repair and Rental						P	P		P	
Art Gallery or Museum						P	P	P		
Automobile and Equipment Repair Services						S	P		P	P
Automobile Parts Store						P	P		P	P
Automobile Rental/Sales						S	P		P	P
Bank or Financial Institution						P	P	P		
Bar						P	P	P		
Brewery or Distillery								P	P	P
Broadcasting Center						P	P	S		
Campground						S	S		P	P
Carpentry Shop										
Car Wash						S	P		P	P
Caterer						P	P	P		

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Cemetery									P	P
Community Garden	P	P	P	P	P					
Community Center						P	P	P		
Consignment Center						P	P	P		
Construction Sales/Service							P		P	P
Construction Yards									P	P
Convalescent Home			P	P		P				
Day Care Center						P	P	S		
Education (primary)		P	P	P		P	P			
Extraction										P
Farmers Market	P					P	P	P	P	
Food Services, no drive thru						P	P	P		
Food Services, with drive thru						P	P	S		
Funeral Service						P	P			
Garage, Storage							P		P	P
Gas Station						P	P	S	P	P
Gas or Oil Well Operation							C		P	P
Group Home	S	S	S	S						
Gym or Health/Fitness Center						P	P	S		
Hospital, Clinics, Urgent Care						P	P	S		
Hotels/Motels						P	P	S		
Indoor Recreation						P	P	P	S	

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Industry, General									P	P
Industry, Heavy										P
Junk Yards										P
Landfill, Refuse, and Compost Disposal									S	P
Light Industry							S		P	P
Livestock Sales	S								P	P
Lounge or Nightclub							P		P	
Mixed-Use						P	P	P		
Mobile Food Vendor Park						S	S	S	P	
Movie Theater						S	P	P		
Office						P	P	P	P	P
Outdoor Commercial Recreation	P						P		P	P
Park & Recreation	P	P	P	P	P	P	P	P	P	P
Parking Structure or Lot							P		P	P
Pawn Shop						P	P			
Personal Services						P	P	P		
Pet Services						P	P	P		
Pharmacy						P	P	P		
Place of Assembly	P	P	P	P	P	P	P	P		
Postal Facilities										
Retail Services, Small						P	P			

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Retail Services, Large							P		P	
Restaurants (Drive-Through)						P	P	S		
Restaurants (General)						P	P	P		
Safety Services						P	P	S	P	P
Self-Storage Facility (Primarily indoor)						S	P		P	P
SES (Solar Energy System) Primary Use							S		P	P
Telecommunication Tower	S	S	S	S	S	S	S		P	P
Truck Sales									P	P
Truck Stop							P		P	P
Truck Terminal									P	P
Urban Farming	P				S		S	S	P	P
Utilities							S		P	P
Vehicle Storage Facilities							S		P	P
Veterinary						P	P		P	
Warehousing (Enclosed)							S		P	P
Warehousing (Open)									P	P
WECS (Small Wind Energy System)						S	S		P	P
Winery							S	S	P	P

E. **Uses that are Not Listed.** Uses that are not listed are subject to the requirements below in determining their application in this Zoning Code.

- i. If a proposed use is not specified in Subsection 156.03.09 or 156.03.10, above, the Administrator has the authority to decide that the use is either a subcategory of a permitted or

conditional use or a use that is functionally similar to a permitted or conditional use. If the Administrator authorizes the use, then all standards of the similar use apply.

ii. If the Administrator determines that a proposed use is not a subcategory of or functionally similar to a permitted or conditional use than the use is prohibited.

#### 156.03.09 Temporary Uses

These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of this Zoning Code and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.

**A. Commercial circuses, carnivals, fairs, festivals, or other transient events.** Provided that events are located on property owned by the sponsoring non-profit organization, or are located within an AG, C-1, C-2, I-1, or I-2 zoning district. Such uses shall not exceed eight (8) weeks in duration without approval from the City.

**B. Construction Batch Plants.** In the I-1 or I-2 District, provided that:

- i. No plant may be located within 600 feet of a developed residential use, park, or school.
- ii. The facility is located no more than one (1) mile from its job site. The Administrator may extend this distance to two (2) miles, if such extension avoids use of local streets by plant-related vehicles.
- iii. Hours of operation do not exceed twelve (12) hours per day.
- iv. The duration of the plant's operation does not exceed 180 days.

**C. Construction site offices.** If located on the construction site itself.

**D. Development sales offices.** Such offices may remain in place until ninety percent (90%) of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.

**E. Garage sales.** Provided that the frequency of such sales at any one location are limited to one (1) sale of no more than three (3) days duration in a month, and three (3) sales during any twelve (12) month period.

**F. Mobile Food Vendors at fixed location.** Any mobile food vendor not parked within a designated Mobile Food Vendor Park may also operate at a fixed location subject to the following regulations:

- i. Mobile food vendors shall be connected to an individual electric meter, shall not be connected to water or sewer lines, and shall only be located on a paved surface or other similar type surface in zoning districts that allow restaurants. The mobile food vendor structure shall either be anchored to the ground or mounted on wheels and shall be wired in metal conduit. Mobile food vendors shall not sell alcoholic beverages.
- ii. The mobile food vendor shall provide written permission from the property owner to park on their lot to the Administrator upon request.
- iii. Trash receptacles shall be provided by the mobile food vendor each time they set up. The trash must be removed and properly disposed of each day.

iv. Mobile food vendors may not park on public property or right-of-way without express permission from the Administrator.

v. Mobile food vendors are only allowed to park on commercially or industrially zoned property.

**G. Outdoor art shows and exhibits.** Provided that such show or exhibit does not last more than seven (7) days without Administrator approval.

**H. Outdoor Commercial or Seasonal sales.** Including Christmas tree or other holiday-related merchandise sales lots, refreshment kiosks, seasonal fruit, vegetable or plant sales, provided that such facilities are not located in a residential zoning district.

**I. Outdoor special sales.** Provided that such sales operate no more than three (3) days in the same week and five (5) days in the same month and are in commercial or industrial zoning districts.

**J. Public assemblies, displays, and exhibits.**

**K. Temporary housing at a job site.** During construction of a new building or structure, temporary recreational vehicles or trailers may be placed on the job site to house workers actively working on construction of the building or structure subject to the following:

i. Waste must be disposed of in accordance with City sanitary codes and not disposed of on site or in the streets.

ii. The buildings must be located so as not to block public streets and alleys or sidewalks and be wholly on the property.

iii. All temporary housing units must be removed within ten (10) days of receiving the certificate of occupancy or the completion of active construction work, whichever is sooner.

**L.** Additional temporary uses that the Administrator determines to be similar to the previously described uses in this Section.

**M. Conditions for all Temporary Uses.**

i. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal with trash containers and recycling container placed near the area for exhibits, assemblies, and shows.

ii. Temporary buildings shall comply with all site development regulations of the respective zoning district.

iii. All temporary uses shall comply with access and circulation requirements of the Kermit Code of Ordinances.

iv. All temporary uses shall comply with signage and lighting requirements of the Kermit Code of Ordinances.

v. The Administrator may establish other conditions that he/she deems necessary to ensure compatibility with surrounding land uses. Examples include but are not limited to:

- a. Hours of operation.
- b. Proof general liability insurance for the event.
- c. Provision of public safety enhancements.

**156.04 SITE DEVELOPMENT REGULATIONS**

**156.04.01 Purpose**

Site Development Regulations are established to promote compatible land use patterns, appropriate to the purposes, and specific nature of each district.

**156.04.02 Application**

The regulations apply to all sites, in each respective zoning district, including development and redevelopment, in the City of Kermit except where explicitly listed as excluded in this Zoning Code.

**156.04.03 Residential Zoning District Dimensional Regulations Chart**

Regulator	AG	R-1	R-2	R-3	MH
<b>Lot Dimension (feet)</b>					
<b>Minimum Lot Depth</b>	100'	100'	100'	100'	100'
<b>Minimum Lot Width</b>	60'	40'	40'	80' for Multi-family 40' for all other uses	40'
<b>Yard Setback Dimensions (feet)</b>					
<b>Front Yard Minimum*</b>	20'	20'	15'	15'	20'
<b>Side Yard (Interior)</b>	5'	5'	5'	15'	5'
<b>Side Yard (Corner)</b>	10'	10'	10'	20'	20'
<b>Rear Yard (adjacent to alley)</b>	2'= structure with no alley access 5'= structure with alley	2'= structure with no alley access 5'= structure with alley	2'= structure with no alley access 5'= structure with alley	10'= 1 story structure 30'= 2+ story structure	10'

Regulator	AG	R-1	R-2	R-3	MH
	access	access	access		
<b>Rear Yard</b>	5' = 1 story structure	5' = 1 story structure	5' = 1 story structure	10' = 1 story structure	5' = 1 story structure
<b>(no adjacent alley)</b>	10' = 2 story structure	10' = 2 story structure	10' = 2 story structure	30' = 2+ story structure	10' = 2 story structure
<b>Structure Height (feet)</b>					
<b>Maximum Height (principal structure)</b>	32'	32'	32'	56'/4 stories	28'
<b>Area Coverage</b>					
<b>Maximum Impervious Surface Ratio</b>	70%	70%	80%	90%	80%
<b>Notes:</b>					
*Minimum front yard setback can be reduced to 10 feet if lot is served by a paved alley and no front driveway is provided or allowed					

156.04.04 Non-Residential Zoning District Dimensional Regulations Chart

Regulator	C-1	C-2	CBD	I-1	I-2
<b>Lot Dimension (feet)</b>					
<b>Minimum Lot Depth</b>	100'	100'	100'	None	None
<b>Minimum Lot Width</b>	60'	60'	0'	None	None
<b>Minimum Yard Setback Dimensions (feet)</b>					
<b>Front Yard</b>	15'	15'	0'	30'	40'
<b>Side Yard (Interior)</b>	0' when not adjacent to residential uses 10' when adjacent to residential uses	0' when not adjacent to residential uses 10' when adjacent to residential uses	0'	15'	15'
<b>Side Yard (Corner)</b>	15'	15'	0'	25'	25'
<b>Rear Yard</b>	0' when not adjacent to residential uses 20' when adjacent to residential uses	0' when not adjacent to residential uses 20' when adjacent to residential uses	0' when not adjacent to residential uses 10' when adjacent to residential uses	20'	30'
<b>Structure Height (feet)</b>					
<b>Maximum Height (principal structure)</b>	56'/4 stories	70'/5 stories	None	None	None
<b>Area Coverage</b>					
<b>Maximum Impervious</b>	70%	80%	None	90%	90%

Regulator	C-1	C-2	CBD	I-1	I-2
Surface Ratio					

Notes:

**156.04.05 Minimum Floor Area per Dwelling Unit**

No residential structure shall have less than 500 square feet per one-bedroom unit, 740 square feet per two-bedroom unit, and 150 square feet for each additional unit.

**156.04.06 Maximum Occupancy**

The maximum occupancy of a dwelling unit located in the R-1, R-2, R-3, and MH districts shall not exceed one (1) family plus three (3) unrelated persons.

**156.04.07 Accessory Buildings and Uses**

**A. Accessory Uses and Structure in General.** Accessory and temporary uses and structures are permitted in any district in connection with any principal use lawfully existing within such district when located in the same district as the principal use or in an adjoining district in which the principal use is permitted. Accessory uses, and accessory buildings and structures include, but are not limited to, those set out in the table below.

**B. Permitted Accessory Uses**

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Accessory Dwelling Unit	P	P	P	P	P					
Animal Coops, Pens, Runs	P	P	P	P	P				P	P
Barn or Stable (Private Use Only)	P									
Building Mounted Telecommunication Antennas	P		P	P	P	P	P		P	P
Carport	P	P	P	P	P					
Greenhouse (Private Use Only)	P	P	P	P	P					

Use Types	AG	R-1	R-2	R-3	MH	C-1	C-2	CBD	I-1	I-2
Home Occupation	P	P	P	P	P					
Outdoor Storage	P	P	P	P	P	P	P		P	P
Parking Lots	P		P	P		P	P		P	P
Portable Storage Units/Shipping Containers	P						P		P	P
Private Garage	P	P	P	P	P	P	P		P	P
Private Pool or Recreational Equipment	P	P	P	P	P					
Refreshment Kiosks	P						P		P	P
Sheds and Storm Shelters	P	P	P	P	P	P	P		P	P
Solar Energy Systems	P	P	P	P	P	P	P	P	P	P
Temporary Construction Buildings	S	S	S	S	S	S	P		P	P
Temporary Construction Equipment or Yards	P	S	S	S	S	S	P		P	P

C. **General Requirements.** No accessory structure or use shall be constructed or established on any lot prior to the time of the substantial completion of the construction of the principal structure to which it is accessory and shall comply with the regulations of the applicable zoning district.

D. **Accessory Use Standards.**

i. **Setbacks.** Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:

a. **Side Yards.** An accessory building or structure must be located a minimum of five (5) feet from the side lot line of the property.

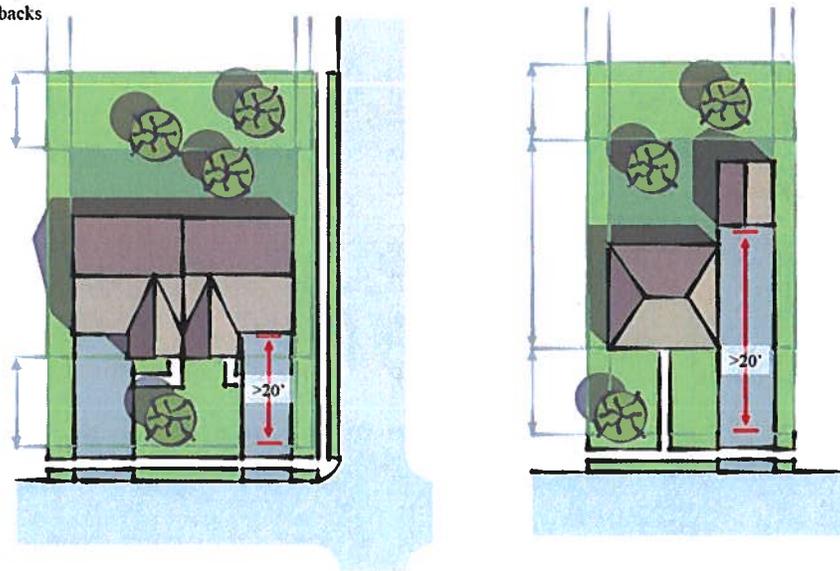
b. **Front Yards.** No accessory building or structure may be located between the front building line of the principal building and the front property line. Carports may be constructed within five (5) feet of the front property line if the sides remain open on both sides.

c. **Rear Yard.** The minimum rear yard setback for accessory building and structures shall be five (5) feet if the accessory building has a garage door directly oriented toward an alley. If no access is fronting the alley, the setback is reduced to two (2) feet. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.

d. **Street Yard.** No accessory building or structure shall be located within twenty (20) feet from any street right-of-way line.

e. **Garage Setbacks.** Any detached garage that fronts on a public street must be set back at least twenty (20) feet from the adjacent property line, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

Garage Setbacks



ii. **Residential Accessory Building Size.**

a. The maximum size of a detached garage for a single-family detached, single-family attached, or duplex residential uses shall not exceed the larger of 720 square feet, or 33% of the building coverage of the principal residential structure. A detached garage may exceed these maximums subject to approval of a Specific Use Permit and other requirements of this Section.

b. All accessory buildings on a site, taken together with the principal structure(s), must comply with the building coverage requirements for the zoning district.

iii. **Height.** In residential districts, the maximum height shall be fifteen (15) feet for any accessory building.

iv. **Other Standards for Accessory Buildings.**

a. **Separation from Other Buildings:** No accessory building shall be placed within five (5) feet of any other building on its own property.

- b. **Attached Accessory Buildings:** Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district, except as modified in this Section.
- c. **Hazards:** Any accessory use that creates a potential fire hazard shall be located a minimum of ten (10) feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.
- d. No accessory building shall be built upon any lot until construction of the principal building has begun.
- e. Any animal coops, pens, or runs must be located no less than twenty (20) feet from any habitable building on an adjacent property. The use shall be visually screened from adjacent residential uses. The use shall be constructed of durable materials and located entirely to the rear of the principal residential structure.

156.04.08 **Outdoor Storage and Display Standards.** Outdoor storage is permitted only as provided in this Subsection, Subsection *156.04.07B Permitted Accessory Uses*, and any applicable use conditions listed in this Zoning Code.

- A. **AG Agricultural.** Outdoor storage is permitted, as listed in Subsection *156.04.07B Permitted Accessory Uses*, only where incidental to agricultural uses.
- B. **Residential Districts.** Except as otherwise provided by this Zoning Code, any goods, equipment, materials, machinery, and parts thereof stored on any residentially zoned property must be:
  - i. Stored in completely enclosed buildings; or
  - ii. In spaces not more than five percent (5%) of the lot size and screened by fencing and/or evergreen shrubbery providing at least an 80% screen and having a height of no less than six (6) feet nor more than eight (8) feet.
- C. **Commercial Districts and CBD.** Outdoor storage is permitted, as listed in Subsection *156.04.07B Permitted Accessory Uses*, where incidental to any use provided that such storage:
  - i. Occupies a maximum of ten percent (10%) of the gross floor area of the principal building; and
  - ii. Is completely screened at property lines by an opaque barrier, as set forth in Subsection *156.07.06, Bufferyard and Screening Provisions*.
- D. **Industrial Districts.** Outdoor storage is permitted, as listed in Subsection *156.04.07B Permitted Accessory Uses*, where it is incidental to industrial uses provided that such storage:
  - i. Is subject to screening requirements set forth in Subsection *156.07.06, Bufferyard and Screening Provisions*.
- E. These provisions shall apply to any established use after the effective date of this Zoning Code.
- F. Where provisions for outdoor storage are listed in other Sections of this Zoning Code, those Section provisions apply over the provisions listed above.

156.04.09 **Fence Regulations**

**A. Corner Visibility.** In any district, no fence or continuous planting shall be maintained within the sight triangle which would impair the sight distance of the operator of a motor vehicle.

**B. Location.** No fences are permitted in the public street right-of-way and shall be erected and maintained to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

**C. Easements.** Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

**D. Materials.** The following materials shall be required:

i. Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, concrete block, or metal.

ii. Wood fences shall use standard building lumber only.

iii. Barbed wire fences are not permitted except for in the AG, I-1, or I-2 districts and are defined as any fence that includes in its material barbs, blades, razors, electric current, or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Barbed wire may not be used at heights lower than eight (8) feet. Barbed wire may not be used when adjacent to a residential use.

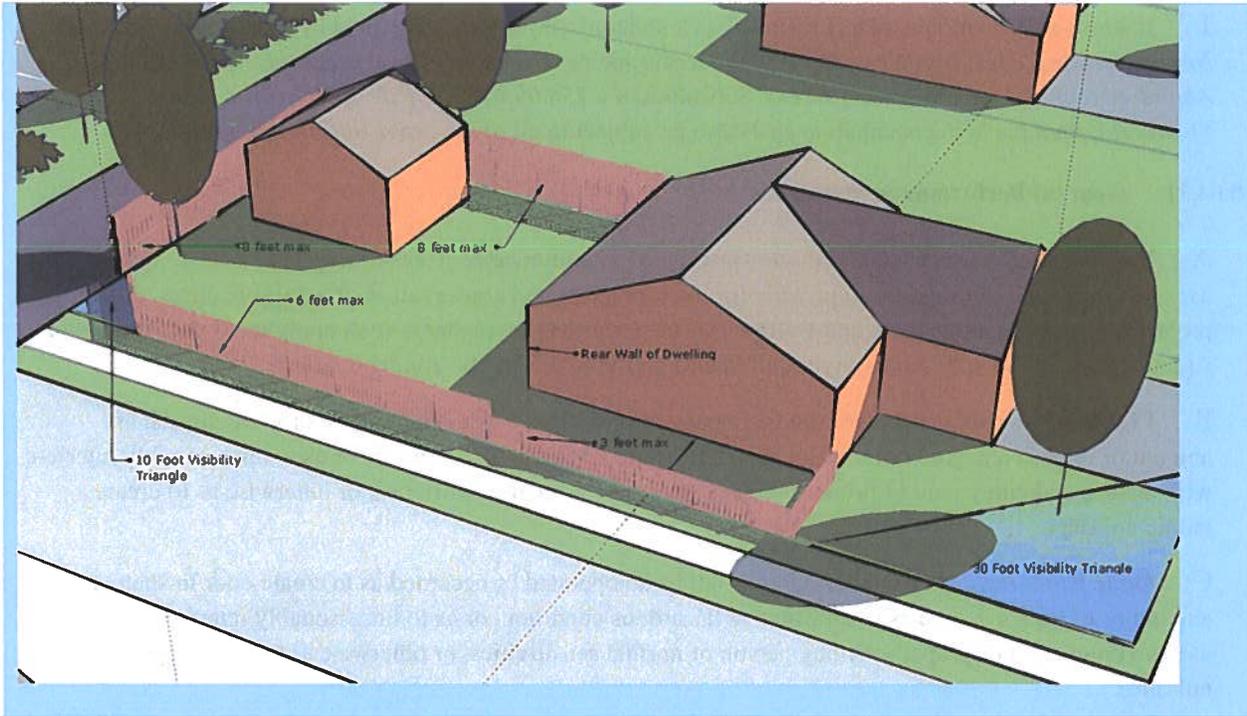
iv. When metal panel fences are installed, they must be uniform in material color and design and not constructed of mismatching panels.

**E. Height Limits**

	<b>Front Yard</b>	<b>Interior Side Yard</b>	<b>Street Side Yard</b>	<b>Rear Yard</b>
<b>Residential Districts</b>	3 feet	8 feet	3 feet*	8 feet
<b>Non-Residential Districts</b>	8 feet**	8 feet	8 feet	8 feet

\*Height may be increased up to six (6) feet at the point beginning at the rear wall of the dwelling

\*\* Fences shall not be permitted in the front yard of commercial districts



F. **Appeals.** Denial, revocations, or cancellations of a building permit based on the provisions of this Subsection may be appealed to the Board of Adjustment, as set forth in Subsubsection [156.11.05K, Appeals](#).

#### 156.04.10 Home Occupations

- A. No home occupation may be operated in such a manner as to create offensive noise, odor, smoke, heat, vibration, electronic interference, or other interference with the appropriate use and enjoyment of adjacent properties or otherwise constitute a nuisance or safety hazard to adjacent persons or properties.
- B. No outdoor storage of equipment or materials used in the home occupation shall be permitted beyond what is allowed for residential districts.
- C. No more than twenty-five percent (25%) of the total floor area of a dwelling unit may be devoted to the home occupation.
- D. No internal or external alteration which would change the basic characteristic of the building as a residential dwelling shall be permitted.
- E. No nonresident employee may be employed on the premises at any time. A home occupation may be carried on by members only of the immediate family.
- F. No public display of goods shall be allowed.
- G. A permitted home occupation may be operated or maintained as an accessory use only in the principal building.
- H. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- I. No motor vehicle repair is permitted for customers.

J. If a home occupation which is operated as a nonconforming use, as defined by Subsection *156.09.05, Nonconforming Uses*, becomes subject to the terms and provisions of Subsubsection *156.09.05C, Abandonment of Nonconforming Use* or Subsubsection *156.09.04D, Repair of Nonconforming Structures*, then the home occupation shall also be subject to all of the provisions of this Section.

#### 156.04.11 General Performance Standards

A. **Purpose.** Performance standards are established to minimize conflicts among land uses, to preserve the use and enjoyment of property, to provide for the protection and conservation of natural features, and to protect the public health, safety and welfare. These performance standards shall apply to all uses of land or structures and are in addition to any requirements applying to specific zoning districts.

B. **Lighting.** No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

C. **Odor Emissions.** No use or structure shall be so operated or occupied as to create odor in such an amount or to such a degree as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

D. **Noise.** No use or structure shall be operated or occupied as to create noise in such an amount or with such recurrence or at such time of day as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

E. **Vibration.** No use or structure shall be operated or occupied as to create vibration in such an amount or with such recurrence or at such time of day as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

F. **Uses with Flammable, Toxic, and Hazardous Materials.** No use or structure involving the manufacture, storage, or use of explosive or flammable materials shall be operated or occupied as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

i. The storage, manufacture, utilization, or dispensing of substances that may constitute or may cause danger to public health, safety, or welfare shall be conducted only within the limits and conditions specified in the latest edition of both the International Fire Code and International Building Code.

ii. The emission of toxic or explosive vapors, dusts, or aerosols into the atmosphere shall not exceed, at the facility property line, fifty percent (50%) of the limit of such as is given in "Threshold Limit Values" as adopted at the most recent International Fire Code and International Building Code.

iii. No form of flammable, toxic, or other hazardous material shall be released into or upon any utility line, pit, dump, open ground, stream, or drainage way.

iv. The container size, location, design, and construction of any storage tank, building, or facility for any flammable, toxic, or other hazardous material shall be approved by the fire marshal and the Administrator as a part of the Building Permit application and shall be based upon the requirements of the International Fire Code and International Building Code.

**G. Pollution Prevention.** No use or structure shall be operated or occupied as to discharge waste material in such an amount as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

i. No operation or activity shall discharge or cause to be released into public waters any liquid or solid waste unless in conformance with the latest provisions of the Texas Commission on Environmental Quality (TCEQ) or its successor, the Texas Department of Health or its successor, and the Texas Railroad Commission or its successor.

ii. No operation or activity shall discharge or cause to be released into the atmosphere any smoke or particulate matter which exceeds the limits permitted by the latest requirements of Texas Commission on Environmental Quality (TCEQ) or its successor.

## **156.05 SPECIFIC USE DEVELOPMENT STANDARDS**

### **156.05.01 Accessory Dwelling Units**

A. Either the primary residential structure or the Accessory Dwelling Unit must be owner-occupied.

B. The living area of an Accessory Dwelling Unit shall not exceed 1,000 square feet or thirty percent (30%) of the area of the principal residence, whichever is less.

C. Only one Accessory Dwelling Unit shall be allowed on any individual tract of land.

D. A mobile home, travel trailer, or recreational vehicle shall not be used as a detached Accessory Dwelling Unit.

E. The total number of people, who live on the property, including the principal residence and the Accessory Dwelling Unit, shall not exceed that of a "Family" as defined in the Zoning Code.

F. One additional parking space meeting the definition of an off-street parking space, shall be provided for the Accessory Dwelling Unit in addition to the minimum required for the Primary Use.

**G. Architectural Elements for Residential Accessory Dwelling Units**

i. The color and material of the roof of the Accessory Dwelling Unit having an area equal to or greater than 400 square feet must closely resemble the color and materials of the roof of the main structure unless the Accessory Dwelling Unit is prefabricated or prefinished.

ii. The principal residence and the Accessory Dwelling Units cannot exceed the maximum lot coverage or encroach in the setbacks for the property as regulated in the applicable zoning district.

iii. Building setbacks for Accessory Dwelling Units shall comply with all required building setbacks for the applicable zoning district.

iv. No Accessory Dwelling Unit may be sold or leased separately from the principal residence.

**156.05.02 Automobile Rental, Sales, and Repairs**

- A. All service and repairs are performed within a fully-enclosed building.
- B. All permanent storage of material, merchandise, and equipment, including wrecked vehicles and excluding the display of vehicles for sale or lease, are stored in areas screened from view in accordance with Subsection *156.07.06, Bufferyard and Screening Provisions*.

**156.05.03 Car Wash**

- A. There are not more than six (6), one car bays.
- B. All facilities are designed and configured such that any outdoor spraying preparation or drying activities are directed away from any abutting residential districts or uses.
- C. Bay access is oriented and/or screen walls are provided to prevent headlights from shining onto any abutting residential district or use.
- D. Accessory equipment is set back at least twenty (20) feet from all property lines.

**156.05.04 Extraction**

- A. Erosion Control. A resource extraction use may not increase the amount of storm run-off onto adjacent properties as determined by review of the Administrator. Erosion control facilities, including retention and sediment basins, are required of each facility, if necessary, to meet this standard.
- B. Surface Drainage. The surface of the use may not result in the collection or ponding of water, unless specifically permitted as part of a Specific Use Permit.
- C. Storage of Topsoil. Topsoil shall be collected and stored for redistribution following the end of the operation.
- D. Elimination of Hazards: Excavation shall not result in a hazard to any person or property.
  - i. Restoration of slopes to a gradient not exceeding 33% as soon as possible.
  - ii. Installation of perimeter safety screening and/or fencing.
  - iii. Installation of visual screening adjacent to any property within a residential or public use district consistent with standards contained in Subsection *156.07.06, Bufferyard and Screening Provisions*.
  - iv. Restoration of Landscape. The topography and soil of the resource extraction site shall be restored and stabilized within nine (9) months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternately, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the Commission.

**156.05.05 Mobile Food Vendor Parks**

- A. A Mobile Food Vendor Park is allowed by Specific Use permit, except when located in the I-1 District, according to the Use Matrix in Subsection *156.03.08D, Non-residential Uses Matrix*.
- B. A Mobile Food Vendor Park shall be considered a primary use on a property and therefore is subject to all development standards applicable to the zoning of the property, including off-street parking requirements.
- C. All Mobile Food Vendors shall be removed from the Mobile Food Vendor Park upon closing of the park.
- D. There must be a designated manager of the site that is responsible for the orderly organization of Mobile Food Vendors, the cleanliness of the site, and the site's compliance with all rules and regulations during business hours.
- E. Mobile Food Vendor Parks may be standalone establishments or may be located on a property with other permanent uses (i.e. retail establishments). These properties shall accommodate all required development standards for all primary uses.
- F. Mobile Food Vendors shall not be parked on unimproved surfaces and at a minimum be parked on compacted gravel base.
- G. Mobile Food Vendor Parks adjacent to R-1 and R-2 zoned property (not including a mixed-use structures), shall provide appropriate screening.
- H. Mobile Food Vendor Park owners are encouraged to provide for an aesthetically-pleasing environment which includes shade and seating elements in addition to pervious groundcover.
- I. Vehicular drive-through service of food and/or beverages shall not be permitted.

**156.05.06 Gas Station**

- A. Lighting is shielded to prevent the direct glare of beams onto any adjacent residential districts or uses.
- B. No repairs other than minor automobile repairs are performed on the premises and any such minor repairs are performed only within the principal building on the premises.
- C. No partially dismantled or wrecked vehicle are stored outside of a completely enclosed building.
- D. The use is separated from all residential districts in accordance with Subsection *156.07.06, Bufferyard and Screening Provisions*.
- E. If the use contains a car wash, the supplemental standards for a car wash shall apply.

**156.05.07 Junk Yard**

- A. The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight (8) feet. Any such enclosure shall be constructed behind required landscaped bufferyards.
- B. Each existing junk yard facility shall be screened as provided above within one (1) year of the effective date of this Zoning Code.
  - i. The above requirement shall also apply to uses adjacent to residential zoning districts or residential uses that include the long-term storage and dismantling of vehicles.

C. Storage of materials within any junk yard may not be higher than the height of the surrounding screen fence or wall.

D. No new junk yards use may be established within 500 feet of the nearest property line of a pre-existing residential zoning district.

**156.05.08 Kennels**

A. Outdoor animal runs cannot exceed two thousand (2,000) square feet in area.

B. Outdoor animal runs shall be fully enclosed with a minimum six (6) foot tall solid fence. The run shall be maintained in a dust free, erosion-controlled manner.

C. Outdoor animal runs shall be located no less than fifty (50) feet from any adjacent ground floor use.

D. Dogs shall always be supervised while in the animal run and any barking dogs shall be immediately taken into the building.

E. Dog runs shall not be used after 9:00 p.m. or before 7:00 a.m.

**156.05.09 Manufactured Home Park and Vacation Travel Trailer Park Standards**

A. All manufactured home parks and vacation travel trailer parks shall follow the regulations set forth in Title XII, Chapter 119: Recreational Vehicle Parks and Title XV, Chapter 152 Mobile Homes of the Kermit Code of Ordinances.

**156.05.10 Multi-family Dwelling**

A. Parking areas and garages shall be in the rear or side yards.

B. Walkways with a minimum width of five (5) feet shall directly connect each front door or front entrance with surrounding sidewalks, walkways, or paths.

C. All crossings of internal streets, access drives, and driveways shall have well-defined pavement markings and pedestrian crossing signs.

D. Lighting shall be shielded from adjacent properties and directed downward.

**156.05.11 Oil and Gas Wells**

Regulations for Oil and Gas Well Operation can be found in Title XI: Chapter 118 of the Kermit Code of Ordinances. Oil and Gas Well Operations shall conform to all applicable laws, ordinances, rules, and regulations.

**156.05.12 Outdoor Commercial Recreation**

A. The use is spaced 600 feet from residential districts and uses.

B. All lighting is shielded to prevent the direct glare of beams onto any adjacent residential district or use.

**156.05.13 Refreshment Kiosk**

- A. The applicant shall submit to the Administrator a letter of authorization from the owner of the property upon which the refreshment kiosk is proposed to be located.
- B. The Refreshment Kiosk shall be located on a paved surface.
- C. Business signs, limited to flat wall signs, are permitted on the structure. All signage shall conform to all applicable laws, ordinances, rules, and regulations.
- D. The design and operation of the refreshment kiosk shall comply with all applicable laws, ordinances, rules, and regulations.
- E. The area of the Refreshment Kiosk shall not exceed 200 square feet.
- F. A structure used for a Refreshment Kiosk shall not be required to be a permanent structure and may be a movable structure having skids or wheels. A movable structure shall be anchored to the ground adequately in a manner determined to be sufficient by the manufacturer of the building.

**156.05.14 Self-Storage Facility**

- A. The minimum size of a self-storage facility site shall be one (1) acre.
- B. Primary activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- C. Accessory activities can include the storage of vehicles, light trucks, boats, and recreational vehicles provided that the area:
  - i. Does not face the street
  - ii. Does not comprise more the fifty percent (50%) of the gross site area.
  - iii. Includes screening according to Subsection *156.07.06, Bufferyard and Screening Provisions*. However, chain-linked fencing shall not be used as the required fencing method along sides facing the street.
- D. All driveways within the facility shall provide a paved surface with a minimum width of twenty-five (25) feet.
- E. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- F. No storage buildings may open into required front yards.
- G. Facilities must maintain landscaped bufferyards of thirty (30) feet adjacent to any public right-of-way and twenty (20) feet adjacent to other property lines, unless greater setbacks are required by Section 156.07, Landscaping and Screening.

**156.05.15 Solar Energy Systems**

- A. **Height.** The system shall not be taller than twenty (20) feet in industrial and agricultural districts, twelve (12) feet in commercial districts, and six (6) feet in all other permitted districts.
- B. **Setbacks and Lot Coverage.** Setback and lot coverage standards for principal buildings in the underlying zoning district apply.

**C. Easements.** No portion of any Solar Energy System shall extend into any easement, right of way, or public way regardless of above stated minimum setbacks.

**D. Interconnection Agreement.** A Solar Energy System shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned system and a copy of executed interconnection agreement with the utility company is provided.

**E. Abandonment.** Any Solar Energy System that is not operated for a continuous period of 180 days shall be considered abandoned and shall be removed by the property owner. Removal includes the entire structure including transmission equipment.

**F. Maintenance.** The property owner of any Solar Energy System shall maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system.

**G. Underground Wire Requirement.** The electrical collection system shall be placed underground within the interior of each parcel. Overhead lines shall not be permitted.

**H. Industry Standard.** As part of the approval, documentation shall be provided showing that the system and parts meet industry standards, such as Underwriters Laboratories (UL), or another standard applicable to the technology and materials of the system.

**I. Solar Access.** A property owner who has installed or intends to install a Solar Energy System shall be responsible for negotiation with other property owners in the vicinity for any necessary solar easement. The approval for Solar Energy System by the City does not constitute solar access rights.

#### 156.05.16 Telecommunication Tower

**A. Purpose.** The regulation of Telecommunication Towers is intended to provide for the appropriate location and development of Telecommunication Towers and antennas to serve the residents and businesses, minimize the visual impacts of towers through careful design, siting and screening, prevent potential damage to adjacent properties through engineering and careful siting of structures, and maximize use of any new or existing towers to reduce the number of towers needed. The intent of this section is to:

- i. Discourage the location of towers in residential areas and minimize the total number of towers throughout the City.
- ii. Encourage the shared use of new and existing towers, and the use of existing alternate structures.
- iii. Require users to locate and engineer towers and design sites in ways that minimize the adverse visual impact and ensure the public safety.

**B. Compliance with Telecommunications Act.** The regulations herein have been developed under the following general guidelines as provided in the federal Telecommunications Act of 1996:

- i. Cities have local authority over "placement, construction, and modification" of cellular telephone facilities and other personal wireless telecommunication service facilities.

- ii. Regulations “shall not unreasonably discriminate among providers of functionally equivalent services.”
- iii. Regulations “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”
- iv. “Denial shall be in writing and supported by substantial evidence.”
- v. Cities may not “regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental or radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission regulations concerning such emissions.”

**C. Design Standards.** The Use Matrix in Subsection *156.03.08, Use Matrix*, shall govern the use of Telecommunication Towers. Prior to filling a request for a Specific Use Designation or construction of a new facility, the following requirements must be met:

- i. The setback of an antenna support structure from a residential zoning district, except by a Specific Use Designation, measured from the base of the antenna support structure to the nearest residential zoning district boundary shall be equal to the height of the antenna support structure plus the setback of the zoning in which it is located.
- ii. The unmanned equipment buildings shall not exceed 750 square feet of gross floor area per building and shall not exceed twelve (12) feet in overall height.
- iii. The overall height of antenna support structures including the antenna shall not exceed 150 feet. Buildings or other independent support structures as defined in this Section shall be exempt from the maximum height requirement; however, they shall comply with all other requirements as set forth.
- iv. The fall radius of the antenna support structure must be from finished grade to the height of the antenna plus an additional ten (10) feet.
- v. The shared use of existing antenna support structures and approved antenna support structure sites shall be preferred to the construction of new facilities. The antenna support structures must be constructed to support a minimum of two (2) antenna arrays from two (2) separate Telecommunication Towers providers or users.
- vi. Telecommunications Towers and telecommunications facilities should be designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screening the same color scheme, antennas integrated into architectural elements, and towers designed to look other than like a tower, such as light poles, power poles, and trees.

**D. Additional Design Standard Requirements**

- i. Tower illumination. Towers shall not be illuminated except as required by the Federal Aviation Administration (FAA) or other applicable federal or state agencies.

ii. Radiation standards. Telecommunication Towers shall comply with current Federal Communications Commission (FCC) standards for non-ionizing electromagnetic radiation (NIER). The applicant shall submit verification that the proposed site plan ensures compliance with these standards.

iii. A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on a building or other independent support structure. The fence shall not be less than eight (8) feet in height measured from finished grade. Access to the antenna support structure shall be through a locked gate.

iv. Landscaping shall be required to screen as much of the antenna support structure as possible, the fence surrounding the antenna support structure, and any other ground level features, such as a building. A combination of existing/native vegetation, natural topography, manmade features such as berms, walls, decorative fences and any other features can be used instead of landscaping if those features achieve the same degree of screening as the required landscaping. Landscaping shall be exempt for Telecommunication Towers where permitted by right.

v. In the event the use of any Telecommunication Towers, which would include the antenna support structure, has been discontinued for a period of 180 consecutive days, the antenna support structure shall be deemed abandoned. Determination of the date of abandonment shall be made by the Administrator, who shall have the right to request documentation and/or affidavits from the antenna support structure owner/operator regarding the issue of usage. Upon determination of abandonment, the owner/operator of the antenna support structure shall remove the antenna support structure within ninety (90) days of receipt of notice from the Administrator notifying the owner/operator of such abandonment. If such antenna support structure is not removed within said ninety (90) days, the Administrator may cause such antenna support structure to be removed at the owner's expense. If there are two (2) or more users of an antenna support structure, then this provision shall not become effective until all users cease using the antenna support structure.

#### 156.05.17 WECS (Wind Energy Conservation System)

A. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of referral to the Council for approval if the City Council, after recommendation by the Commission, finds that the reduction is consistent with public health, safety, and welfare.

B. The distance between the tower support bases of any two WECS shall be the minimum of five (5) rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a referred approval if the City Council, after recommendation by the Commission, finds that the reduction does not impede the operation of either WECS.

C. Any tower or rotor shall maintain a distance of at least 100 horizontal feet from any structure, power line, or antenna located on another property.

D. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.

E. A fence eight (8) feet high with a locking gate shall be placed around any WECS tower base or the tower climbing apparatus shall begin no lower than twelve (12) feet above ground.

F. The height of the WECS may exceed the height restrictions of the base district by up to 50%. The bottom tip of any rotor must be at least ten (10) feet above any area accessible to pedestrians.

**156.06 PARKING, LOADING, AND SITE ACCESS**

**156.06.01 Purpose**

The regulations establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

**156.06.02 Application**

Parking, loading, and site access shall be provided for any new building constructed, for new uses or conversions of existing buildings, or for enlargements of existing structures.

**156.06.03 Parking Requirements**

Parking facilities for each use shall be provided in accordance with the minimum requirements set forth in *Subsubsection Error! Reference source not found., Minimum Parking Requirements* below. Parking shall be calculated separately for each use on a property subject to the calculation ratios below, unless allowed according to shared parking regulation.

A. **Mixed Uses.** Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses based on the square footage projected for each use.

B. **Fractional Measurements.** Where fractional spaces result, the parking spaces required shall be rounded up to the next highest whole number.

C. **Maximum.** No use shall provide more than 150 percent of the required parking shown in the table below except single-family dwellings and duplex dwellings.

D. **Unlisted Uses.** The parking space requirements for a use not specifically listed in the table shall be the same as for the listed use deemed most similar to the proposed use by the Administrator or designee.

E. **Credit for On-Street Spaces.** On-street parking spaces located immediately abutting the subject parcel, lying entirely within the extension of the side lot lines into the roadway and not within any required clear sight distance, may be counted toward meeting these parking requirements except in the R-1 and R-2 zoning districts.

F. **ADA Requirements.** All parking lots shall comply with the American with Disabilities Act to provide accommodating parking spaces, location, and access.

**G. Minimum Parking Requirements**

Use Types	Parking Requirement
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Use Types	Parking Requirement
<b>Residential Uses</b>	
<b>Boarding Home</b>	1 space per rentable room
<b>Dwelling, Single-Family Detached</b>	2 spaces per dwelling unit
<b>Dwelling, Single-Family Attached (Townhome)</b>	2 spaces per dwelling unit
<b>Dwelling, Duplex</b>	2 spaces per dwelling unit
<b>Dwelling, Multi-Family (apartment, multiplex)</b>	1 space per one bedroom unit
	2 spaces per two bedroom unit
<b>Assisted Living/Nursing Home</b>	1 space per 4 person capacity
<b>Group Home</b>	1 space per 4 person capacity
<b>Home Occupation</b>	None more than residential use requirement
<b>Live/Work Unit</b>	2 spaces per dwelling unit
<b>Manufactured Home</b>	2 spaces per dwelling unit
<b>Mobile Home Park</b>	2 spaces per dwelling unit
<b>Short-term rental</b>	2 spaces per dwelling unit
<b>Accessory Dwelling Unit</b>	1 additional space above principal residential use requirement.
<b>Nonresidential Uses</b>	
<b>Agricultural Uses</b>	No requirement
<b>Alcoholic Beverage Sales</b>	1 space per 300 sf. of gross floor area; or one space per 100 square feet of gross floor area for on-site consumption
<b>Animal Shelter or Kennel</b>	1 space per 250 square feet; animal enclosure area not counted
<b>Appliance Repair and Rental</b>	1 space for 300 square feet of gross floor area.
<b>Art Gallery or Museum</b>	1 space for 400 square feet of gross floor area.

Use Types	Parking Requirement
Automobile and Equipment Repair Services	3 spaces per repair stall.
Automobile Parts Store	1 space for 300 square feet of gross floor area.
Automobile Rental/Sales	1 space per 400 square feet of office area; plus one space per each 5,000 sf. outdoor vehicle display area
Bank or Financial Institution	1 space for 400 square feet of gross floor area.
Bar	1 space per 100 square feet gross floor area
Brewery or Distillery	1 space per 400 square feet gross floor area
Broadcasting Center	1 space
Campground	No requirement
Carpentry Shop	1 space per 1,500 square feet of gross floor area
Car Wash	1 space per bay
Caterer	1 space per 1,500 square feet of gross floor area
Cemetery	No requirement
Community Garden	No requirement
Community Center	1 space per 300 square feet of gross floor area
Consignment Center	1 space per 400 square feet of gross floor area
Construction Sales/Service	1 space per 2,000 square feet of outdoor display area
Construction Yards	No requirement
Convalescent Home	1 space per 4 beds
Day Care Center	1 space per 300 square feet of gross floor area
Education (primary)	2 per office/classroom
Extraction	1 space per employee on the largest shift

Use Types	Parking Requirement
Farmers Market	No requirement
Food Services, no drive thru	1 space per 100 square feet of gross floor area
Food Services, with drive thru	1 space per 200 square feet of gross floor area
Funeral Service	1 space per 5 seats
Garage, Storage	1 space per 300 square feet of office space
Gas Station	1 space per 4 pumps + parking required for retail service
Gas or Oil Well Operation	1 space per 300 square feet of office space
General Industry	1 space per 600 square feet of office + 1 per 4,000 square feet of other gross floor area
Gym or Health/Fitness Center	1 space per 500 square feet gross floor area
Heavy Industry	1 space per 600 square feet of office + 1 per 4,000 square feet of other gross floor area
Hospital, Clinics, Urgent Care	1 space per 4 beds
Hotels/Motels	1 space per guest room
Indoor Recreation	1 space per 300 square feet of gross floor area
Junk Yards	A minimum of 4 spaces
Landfill, Refuse, and Compost Disposal	No requirement
Light Industry	1 space per 600 square feet of office + 1 per 4,000 square feet of other gross floor area
Livestock Sales	No requirement
Lounge or Nightclub	1 space per 200 square feet gross floor area
Mixed-Use	Amount for each respective use
Mobile Food Vendor Park	No requirement
Movie Theater	Provide report indicated parking need and number

Use Types	Parking Requirement
	of seats
Office	1 space per 300 square feet of gross floor area
Outdoor Commercial Recreation	5 spaces per acre; for observation activities 1 space per 5 fixed seats
Park & Recreation	Provide report indicated parking need and master plan
Parking Structure or Lot	-
Pawn Shop	1 space for 300 square feet of gross floor area.
Personal Services	1 space for 500 square feet of gross floor area.
Pet Services	1 space for 500 square feet of gross floor area.
Pharmacy	1 space for 500 square feet of gross floor area.
Place of Assembly	1 per 4 seats in assembly area; or 1 per office/classroom, whichever is greater
Postal Facilities	1 space per 300 square feet of office space
Restaurants (Drive-Through)	1 space per 75 square feet of customer service area.
Restaurants (General)	1 space per 150 square feet or 3 person capacity in dining area, whichever is greater
Retail Services, Small or Large	1 space for 300 square feet of gross floor area.
Safety Services	1 space per employee on the largest shift
Self-Storage Facility (Primarily indoor)	1 space per 300 square feet of office space
SES (Solar Energy System) Primary Use	No requirement
Telecommunication Tower	1 space per tower
Truck Sales	1 space per 5,000 square feet of display area
Truck Stop	1 space per 4 pumps + parking required for retail

Use Types	Parking Requirement
	service
Truck Terminal	No requirement
Urban Farming	No requirement
Utilities	1 space per two staff members
Vehicle Storage Facilities	1 space per 5,000 square feet of storage area
Veterinary	1 space per 500 square feet of gross floor area
Warehousing (Enclosed)	1 space per 600 square feet of office + 1 per 4,000 square feet of other gross floor area
Warehousing (Open)	1 space per 600 square feet of office + 1 per 4,000 square feet of other gross floor area
WECS (Small Wind Energy System)	No requirement
Winery	1 space per 100 square feet gross floor area

**H. Shared Parking.** Sharing parking spaces is allowed and encouraged when uses on the same lot or development site have different parking needs at different times of the day. A reduction in parking requirements is permitted based on the following standards:

- i. Required parking for persons with disabilities cannot be shared or count in the reduction calculations.
- ii. Shared parking can be located on-site or off-site, subject to the off-site parking allowances.
- iii. Shared parking is permitted between different property owners when a shared parking agreement is executed by the parties involved and submitted to the Administrator that identifies the shared parking area permission of each party to share their parking area.

#### 156.06.04 Loading Requirements

All nonresidential uses having 30,000 square feet or more of gross floor area shall provide adequate off-street facilities for loading and unloading of merchandise and goods within or adjacent to the building, in such a manner as not to obstruct freedom of traffic movement of the public streets, alleys, or sidewalks. One loading space shall be required for each 30,000 square feet or fraction thereof of building gross floor area.

**A. Space Standards.** Each loading space shall be at least twelve (12) feet wide by forty (40) feet long, with a vertical clearance of at least fourteen (14) feet.

**B. Material.** All loading areas shall be surfaced with concrete, asphalt, asphaltic concrete, or brick to provide a durable surface.

- i. Sites within the AG and I-2 Districts are exempt from this requirement.

#### 156.06.05 Design Standards

**A. Purpose.** The purpose of this section is to set out standards for the design, use, and appearance of off-street parking areas to achieve well-designed parking areas that are safe, accessible, and attractive.

**B. Application.** The objectives and standards of this Section are to be used in the review and approval of on-site parking areas for all uses that have on-site parking, whether required by Subsubsection *Error! Reference source not found.*, *Minimum Parking Requirements*, or not.

#### **C. Location, Residential**

- i. No part of any parking space shall be closer than five (5) feet to any established street right-of-way, or alley line.
- ii. Off-street parking for single family and duplex residential uses shall be located on the same lot or site as the use.
- iii. Parking for single family and duplex residential uses shall only be allowed in the front yard if the space is leading to garage space. No parking is allowed in front of the dwelling units.
- iv. Off-street parking areas for multi-family or group residential uses shall:
  - a. Not be located within a required front yard or street side yard.
  - b. Parking incorporated into the design of multi-family buildings, or within parking structures, shall be counted toward fulfillment of parking requirements.

#### **D. Location, Nonresidential**

- i. Off-street parking for non-residential uses shall be located on the same lot or site as the use, or within 600 feet of that use if the parking site is within a zoning district that permits parking lots or structures. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.
- ii. No part of any parking space shall be closer than ten (10) feet to any established street right-of-way, or alley line.

#### **E. Site Access and Circulation**

- i. Head-in parking from any public right-of-way shall be permitted only in the CBD district.
- ii. Lots that front on arterials and collectors, other than single-family detached, duplex, or single-family attached dwellings shall provide cross-access to each other to reduce the

number of driveway access points from the street to at most one per 200 feet measured from the interior driveway curb, unless cross-access is demonstrated as infeasible.

iii. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility and shall not create blind, hidden, or hazardous areas.

**F. Space Design Standards.** Standard parking stalls shall be at least nine (9) feet wide and eighteen (18) feet long. All two-way drive aisles shall be a minimum of twenty-four (24) feet wide and one-way aisles sixteen (16) feet wide. Both angled and 90-degree parking are permitted subject to the stall and aisle design standards.

i. All parking stalls adjacent to property lines shall have parking bumpers or other parking stops installed two (2) feet from the property line to keep vehicles from overhanging across the property line.

**G. Maintenance.** All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter, maintaining parking surfaces in sound condition, and sustaining the appearance and health of landscaped areas.

i. All off-street parking and drive areas, including any commercial parking lot and residential driveway, shall be surfaced with concrete, asphalt, asphaltic concrete, or brick to provide a durable surface.

a. Sites within the AG and I-2 Districts are exempt from this requirement.

ii. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties. Parking lot design which discharges water onto public right-of-way is subject to review and approval by the Administrator.

iii. All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter, maintaining parking surfaces in sound condition, and sustaining the appearance and health of landscaped areas.

**H. Compliance.** Any nonconforming parking lot facilities that are repaved or restriped shall come into compliance with the design standards of this Section.

#### 156.06.06 Other Vehicle Use Areas

**A. Drive-Through Services.** Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances.

i. All drive-through services must provide a ten (10) foot alternative turnaround access for vehicles not in a drive-through queue.

ii. Stacking spaces shall be nine (9) feet wide by twenty (20) feet long.

iii. **Minimum stacking requirements:**

Type of Operation	Minimum Stacking Space, including the vehicle at the window/station
Commercial, financial services drive thru, ATM	3 vehicles per window or kiosk
Self-service or automatic car wash	Entrance: 4 vehicles per bay Exit: 1 vehicle per bay
Restaurant, drive through	6 vehicles behind the menu board
Personal Services	2 vehicles per service window
Pharmacy	4 vehicles per service window

**B. Vehicle Storage Areas.** Storing or displaying materials, boats, campers, or inoperable vehicles, or parking trucks or trailers is prohibited in parking areas unless the use of vehicle storage, outdoor storage, or junk yards is permitted in the applicable zoning district and complies with the associated standards of the permitted use.

**156.06.07 Recreational Vehicle Parking and Storage**

- A. No front yard parking or storage is allowed exceeding forty-eight (48) hours.
- B. Storage or parking of recreational vehicles is allowed in the rear yard. If the rear yard is not accessible, the recreational vehicle can be stored in the side yard but must not encroach into the zoning side yard required area or into the front yard required area applicable for principal buildings in Section [156.04 Site Development Regulations](#).
- C. Any recreational vehicle which exceeds forty (40) feet in length or fourteen (14) feet in height shall not be stored in any residential area.
- D. Recreational vehicles must have current registration.
- E. Equipment may not be permanently connected to utility lines, including sewer, water, gas, or electricity. Equipment may be connected to electrical supply temporarily to charge batteries.

**156.07 LANDSCAPING AND SCREENING**

**156.07.01 Purpose**

The Landscaping and Screening regulations provide additional guidance on the development of sites within the City by addressing landscaping and screening requirements. They are designed to improve the appearance of the community, buffer potentially incompatible land uses from one another, promote water and energy conservation, and conserve the value of properties within the City. The Landscape and Screening regulations are further intended to expedite development approval by including predictable, uniform standards for landscaping.

#### 156.07.02 **Applicability**

The provisions of this Section shall apply to all new development on each lot or site upon application for a building permit. Any change in use requires compliance with the regulations in this section. The Commission, City Council, or Board may require buffering and screening above or in addition to the requirements of this Section during relevant application review when warranted based on evidence of adverse impacts on adjacent property or the public, except for the following:

- A. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss;
- B. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements; and
- C. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than twenty percent (20%) of the building established on the site on the effective date of this Zoning Code. Where such cumulative additions or enlargements are twenty percent (20%) or greater, these provisions shall apply only to that portion where the new development occurs.

#### 156.07.03 **General Requirements**

A. **Review Procedure.** The provisions contained in this Section shall be applied for each individual lot or site when an application for a building permit on such lot is made. A landscape plan shall be submitted with each application for a building permit. Such plan shall be reviewed by the Administrator for compliance with the provisions of this Section.

B. **Landscaping Materials.**

- i. The entirety of the right-of-way space from the edge of street pavement or back of curb to the property line or sidewalk shall be landscaped in addition to five percent (5%) of the total lot area. The area used to calculate the landscaped area shall not include the area of any existing or proposed structures.
- ii. Plantings shall be used in required landscaped areas or bufferyards using native plant species or drought tolerant plants where possible. Turf grass and ground covers may be used; however, more drought tolerant varieties are preferred. All plant materials shall conform in size, species, and spacing with this Section of this Zoning Code.
- iii. No artificial trees, shrubs, plants, or turf shall be used to fulfill the minimum requirements for landscaping. School athletic fields are exempt from this requirement. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than fifty percent (50%) of the minimum required landscaped area. Other concrete, crushed gravel, or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for driveways and walkways as allowed in Section [156.06, Parking, Loading, and Site Access](#).
- iv. **Required Trees.** Shade trees shall be provided at one tree per fifty (50) linear feet of street frontage, or fraction thereof. Such trees shall be located where they are visible from the public street, sidewalk, or paved parking area adjacent to the public street. Trees may be placed in the public right-of-way if adequate space is available and if they do not interfere with existing or future utility services, nor interfere with the required sight triangle at all intersections. Existing trees shall be preserved to the

greatest extent possible and those of three-inch caliper or greater may be counted towards satisfying the requirement.

v. No tree shall be planted under or within ten (10) lateral feet of any overhead utility line.

**C. Installation Standards.**

i. Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk, and shall be consistent with the Sight Triangle definition.

ii. All earth berm locations shall be reviewed by the Administrator, or his/her designee to determine how the berms shall relate to drainage and public utilities.

iii. Irrigation systems are required if non-drought tolerant plants or grass is installed. If plantings comply with the Accepted Materials List or a certified letter from a landscape specialist confirms the materials proposed are drought tolerant, irrigation is not required. Any irrigation systems shall comply with State of Texas Law requirements. All sprinkler systems shall be designed to minimize water runoff and eliminate over spray onto adjacent streets, driveways, and parking areas.

**D. Maintenance.** Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with this Section and the approved landscaping plan for the project.

**156.07.04 Planting Standards**

A. All submitted landscape plans shall achieve a score of at least 18 points awarded for the following items:

i. Points awarded for:

Installation	Points
Permeable weed barrier installed	2
Plant material is water efficient/native varieties based on accepted materials list	1 point for each 4-water efficient/native plants planted
If turf grass is used, drought tolerant sod is used	4
Tree quantity exceeds required quantity (per tree)	3
Existing trees of 8" caliper or greater are retained	1 point per tree

Installation	Points
Landscape area exceeds requirement by an additional five percent (5%)	3
Landscape area is sloped to hold water (ex: use of rain garden)	3
Irrigation system installed in all areas	2 points for irrigation system; additional 2 points if the entire system is drip irrigation
Water saving technology used in irrigation system such as rain shutoffs, smart panel technology, and evapotranspiration manger technology	2

ii. Points deducted for:

Installation	Points
More than twenty percent (20%) of the required areas to be landscaped with plant material, is proposed to be turf grass	4
Existing tree material larger than 8-inch caliper is removed	5 per tree
Fescue and/or St. Augustine grass is primary type of turf grass	10

**156.07.05 Parking Lot Landscaping**

Unless otherwise noted, each unenclosed parking facility with a paved surface of 6,000 square feet or more and all drive through lanes shall comply with the following regulations.

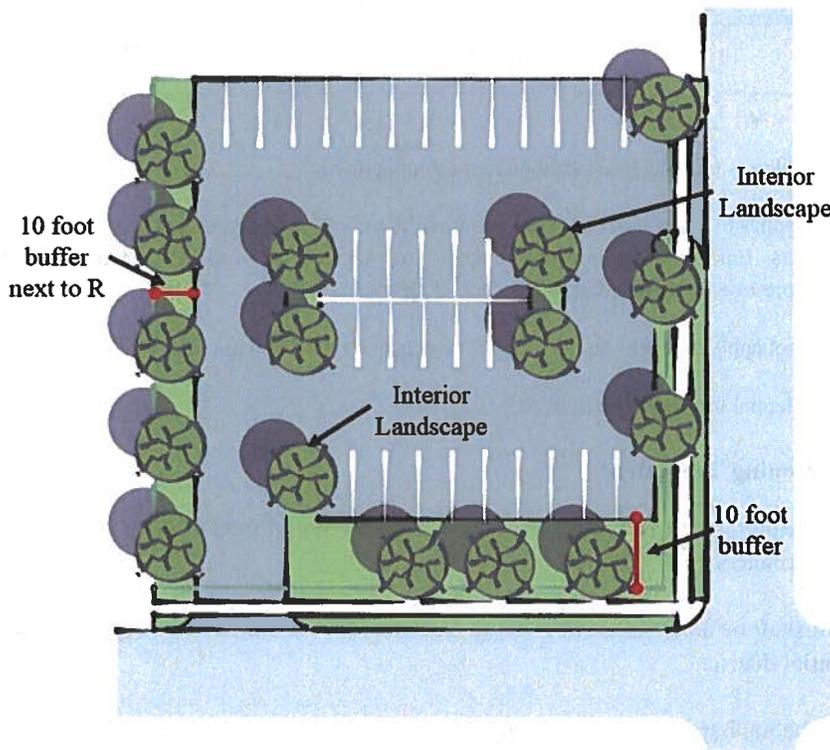
- A. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten (10) feet along any street property line.
- B. Each parking facility that abuts a residential district shall provide a ten (10) foot wide landscaped buffer along its common property line with the residential district.

C. Any parking facility regardless of size which abuts property in a residential district shall provide a wall, landscape screen, or earth berm not less than four (4) feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Administrator.

D. Each unenclosed parking facility of over 6,000 square feet shall provide landscaped area equal to no less than five percent (5%) of the total paved area of the parking facility.

- i. Landscaped areas shall be at least located at the end of parking rows.
- ii. An individual landscaped area shall not be smaller than forty (40) square feet.
- iii. Parking facilities within the I-1 and I-2 Districts shall be exempt from this requirement.
- iv. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in this Section.

E. Landscaping or screening installed in any required landscaped area shall not obstruct the view from the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall further not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.



#### 156.07.06 Bufferyard and Screening Provisions

Bufferyards are areas that include a variety of methods to screen the potential impacts of intensive uses.

##### A. Bufferyard and Screening Provisions.

- i. Bufferyards are required between zoning districts which share a common lot line or are adjacent but separated by an intervening alley as indicated in Subsubsection B, *Bufferyard Requirements*, below.
- ii. Bufferyards are required for certain uses and circumstances as indicated in this Zoning Code.
- iii. Bufferyards are not required for single-family, duplex, or attached use types in any district.

**B. Bufferyard Requirements (in feet)**

District A (More Intensive District) <sup>3</sup>	AG, R-1, R-2 <sup>1</sup>	R-3 <sup>1</sup>
R-3	Applies <sup>4</sup>	---
C-1	Applies	Applies <sup>4</sup>
C-2	Applies <sup>2</sup>	Applies <sup>2</sup>
I-1	Applies	Applies
I-2	Applies	Applies

Notes:

- 1. Applies only to residential uses previously established in the zoning district.
- 2. Buffering requirement applies to adjacencies between commercial and office use types and pre-existing residential land uses in adjacent districts. Buffering requirement also applies to a commercial or office use type established in a C-2 district and adjacent to a pre-existing residential use in the C-2 District.
- 3. Buffer requirements do not apply to single-family, duplex, or attached residential uses established in AG.
- 4. Only applies to non-residential uses established in AG.

**C. Bufferyard and Screening Treatment.**

- i. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.
- ii. The bufferyard shall be a minimum of five (5) feet in width the entire length of the property line abutting the residential district.
- iii. A six (6) foot opaque barrier shall be provided which visually screens the conditions listed in Subsubsection A, *Bufferyard and Screening Provisions*, above or for certain uses and circumstances listed in this Zoning Code, from less intensive uses as follows:
  - a. A solid wood, PVC, and/or masonry fence or wall at least six (6) feet in height.

b. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six (6) feet within three (3) years of planting.

c. A landscaped earth berm with a maximum slope of three (3) to one (1), rising no less than six (6) feet above the existing grade of the lot line separating the zoning districts.

d. Any combination of these methods that achieves a cumulative height of six (6) feet.

iv. Screening shall not adversely affect surface water drainage.

v. Screening may be interrupted to provide access drives to service areas or for loading purposes to buildings. Such breaks or interruptions shall not exceed twenty percent (20%) of the length of the required screened area.

**156.07.07 Exceptions.**

A. A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with bufferyard or screening provisions.

B. Bufferyard requirements are not required when there is an elevation difference between two adjacent properties that is six (6) feet or greater.

C. The City Council may approve reductions in bufferyard or screening requirements for infill development sites.

**156.08 SIGN REGULATIONS**

**156.08.01 Purpose**

It is the purpose of this Section to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death. This Section is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation. This Section establishes sign regulations, including provisions to control the type, design, size, location, and maintenance of signs, to achieve the following purposes:

A. To enable the public to locate goods, services, and facilities without difficulty or confusion;

B. To protect property values, public investment, and overall neighborhood character by preventing conditions that have undesirable impacts on surrounding properties;

C. To promote the development of attractive and harmonious residential districts, viable retail and commercial districts, and appropriately identify industrial uses;

D. To ensure signs are designed and located to reduce distraction and confusion that may be contributing factors to traffic congestion or accidents and maintain a safe and orderly pedestrian and vehicular environment; and

E. To enable the fair and consistent enforcement of these sign regulations and to provide standards regarding the non-communicative aspects of signs.

156.08.02 **Application.** Signs shall be designed, erected, altered, moved, displayed, and maintained in accordance with the regulations set forth in this Section.

A. The provisions in this Section shall not amend or in any way interfere with other codes, rules, or regulations governing traffic signs within the City.

B. The regulations contained in this Section shall apply to signs outside of the public right-of-way, except when specifically stated otherwise.

C. The owner of any sign, which is otherwise permitted by this Section, may substitute noncommercial copy or message in lieu of any other commercial or noncommercial sign copy of message.

156.08.03 **Conflicts.** This Section is not meant to repeal or interfere with enforcement of other sections of the City of Kermit Code of Ordinances. In cases of conflicts between local, state, or federal regulations, the more restrictive regulations shall apply.

156.08.04 **Exceptions.** The following are not regulated by this Zoning Code, so long as they meet the applicable standards described below:

A. **Building Identification Signs.** Building identification signs not exceeding one (1) square foot in area for residential buildings and two (2) square feet in area for nonresidential buildings.

B. **Business Name and Address on an Entry Door.** Name of a business, address information, and/or contact information displayed on an entry door, not exceeding two (2) square feet in area.

C. **Signs Posted on a Community Bulletin Board.** Signs posted on a community bulletin board shall not exceed 11 x 17 inches.

D. **Signs located on residential property** under four (4) square feet in size, not including portable signs.

E. **Historic and Architectural Features.** Historical plaques erected and maintained by non-profit organizations, building cornerstones, and date-constructed stones not exceeding four (4) square feet in area.

F. **Signs Not Readable from the Public Right-of-Way.**

i. Signs or displays located entirely inside of a building and not visible from the building's exterior;

ii. Signs intended to be readable from within a parking area but not readable beyond the boundaries of the lot or parcel upon which they are located or from any public right-of-way; and

iii. Signs located on or within City park and recreation facilities.

G. **Governmental Signs.** Any sign, posting, notice, or similar signs placed, installed or required by law by a city, county, or a federal or state governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including, but not limited to, the following:

- i. Emergency and warning signs necessary for public safety or civil defense;
- ii. Traffic signs erected and maintained by an authorized public agency;
- iii. Signs required to be displayed by law;
- iv. Signs directing the public to points of interest; and
- v. Signs showing the location of public facilities.

156.08.05 **Prohibited Signs and Elements.** The following sign types and elements are not allowed anywhere in the City because of their potential to create distractions to the traveling public and create visual clutter that impacts the natural and architectural aesthetics of the City:

- A. Abandoned signs.
- B. Animated signs.
- C. Balloon signs.
- D. Blinking or flashing signs. No flashing, blinking, or rotation lights shall be permitted for either permanent or temporary signs.
- E. Inflatable signs.
- F. Intermittent signs.
- G. Moving signs or signs with swinging parts or elements.
- H. Signs emitting sound, smoke, or odors.
- I. Signs attached or painted on trees, rocks, fences, or natural features
- J. Signs in the right-of-way except for those placed by a public entity, approved banners on utility or light poles, projecting signs as allowed in this Section, or other signs approved by the City.
- K. Signs or sign support structures that obstruct means of egress, including any fire escape, window, door opening, stairway, opening, exit, walkway, utility access or Fire Department connection.
- L. Signs that interfere with any required opening for ventilation.
- M. Signs or sign structures which resemble, imitate, simulate, or conflict with traffic control signs or devices included in the Manual of Uniform Traffic Control Devices, which otherwise mislead or confuse persons traveling on public streets, which create a traffic hazard.
- N. Signs displayed on motor vehicles and portable storage units, unless:
  - i. The vehicle or storage units are functional and used for their primary purpose.
  - ii. The display is incidental to the use.
  - iii. The motor vehicle is parked in a designated parking or loading space, and the storage unit is in a location that complies with all standards of this Zoning Code.

O. Signs not expressly allowed by this Section.

156.08.06 **Measurements and Illustrations.** For regulating signs as described in this chapter the following shall apply:

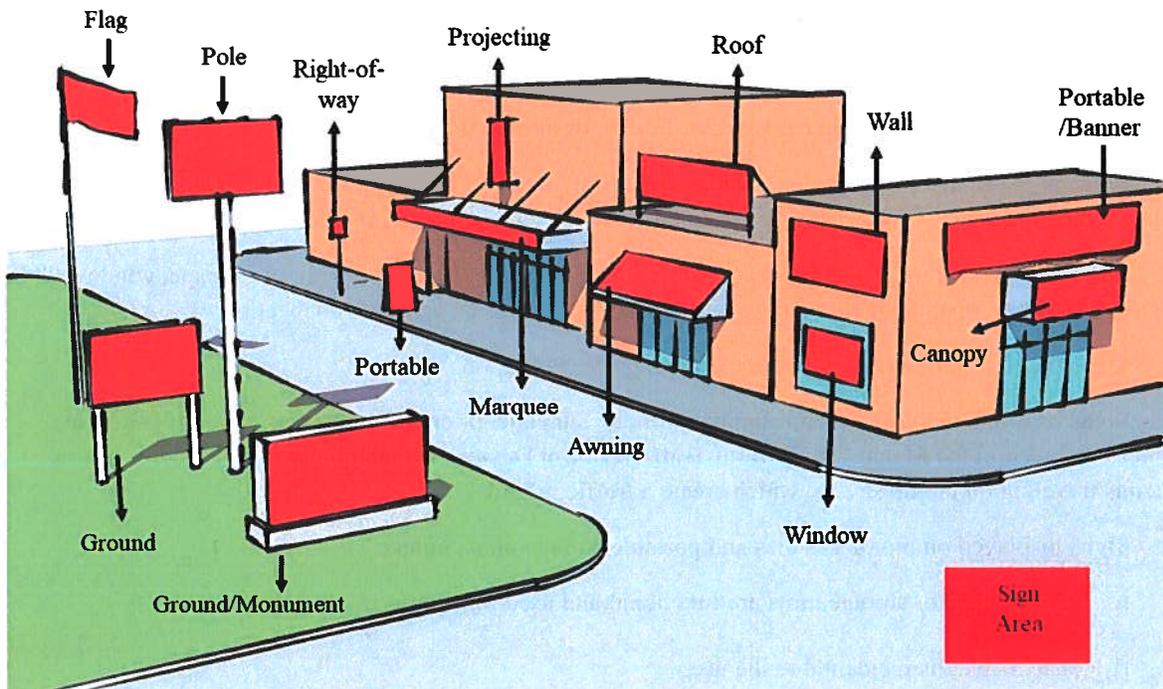
A. **Sign Area.** Computation of sign area shall include the combination of the writing, emblem, illustrations or other display, together with any background material or color forming an integral part of the display, but not including the supporting framework. On a multi-face sign the area is computed only from one face. Where the frame or cabinet is not in the shape of a rectangle, square, triangle or circle, the sign face area shall be determined by calculating the area of an imaginary rectangle drawn around the frame or cabinet.

B. **Height.** Height shall be measured from average ground level exclusive of any filling, berming, mounding, or excavating solely for locating the sign, to the highest point of the sign or support structure, whichever is taller.

C. **Projection.** Any building sign extending more than six (6) inches from the wall to which it is attached shall allow a minimum of eight (8) feet of clearance from the average ground level, as measured in Subsubsection B of this Subsection.

D. **Setback.** The setback of a sign is measured from the property line to the line projected to the ground plane of the nearest portion of the sign.

E. **Sign Type and Area Illustrative Examples**



156.08.07 **General Sign Regulations.**

**A. Design Standards.** The guidelines set out in this Subsection address issues related to sign compatibility, legibility, placement, color, and illumination. They are intended to complement the standards of this Section and to guide quality visual environments.

- i. **Illumination of signs.** Lighted signs facing and on property adjacent to or across a street or alley from a residential district shall not be backlit and shall be no closer than twenty (20) feet from the nearest residential district boundary.
- ii. **Sign Electrical Raceways and Conduits.** Electrical transformer boxes and raceways should be concealed from public view. If a raceway cannot be mounted internally behind the finished exterior wall, the exposed metal surfaces of the raceway should be finished to match the background wall or integrated into the overall sign design.

**B. Standards by Sign Type.**

i. **Wall Signs.**

- a. A wall sign shall not extend more than 18 inches from the wall to which it is attached.
- b. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
- c. A wall sign may not extend beyond its building's roof line.
- d. A wall sign in the CBD District attached to a building on its front property line may encroach upon public right-of-way by no more than 18 inches. Such a wall sign shall provide minimum clearance of eight (8) feet.

ii. **Projecting Signs.**

- a. Within the CBD District, a projecting sign may come within two (2) feet from the vertical plane of the inside curb line.
- b. Projecting signs must minimize visible support structure, including guy wires, cables, turnbuckles, angle iron, or other similar external support structure.

iii. **Pole and Monument Signs.**

- a. Permitted pole signs shall not revolve.
- b. Electronic information signs shall be programmed in a way that does not suggest or resembles a traffic control device, such as a traffic signal.
- c. The area around the base of the sign shall be maintained by the sign owner or property owner in clean condition. A radius of five (5) feet around the base of the sign shall be landscaped with native plants.

iv. **Banner and Flag Signs.** Banner and flag signs count against the attached wall sign area permitted on premise.

v. **Driveway Signs.** Driveway signs to direct internal traffic, identify parking areas, or supply other information, are allowed in addition to the total permitted sign area on a zoning lot given that driveway signs are:

- a. No larger than three (3) square feet per face;
- b. If building mounted, no higher than eight (8) feet from grade;
- c. If freestanding, no higher than three (3) feet from grade; and
- d. A maximum of one (1) at each driveway or drive through lane.

vi. **Portable (Temporary) Signs.** The purpose of these regulations is to ensure that portable signs do not create a distraction to the traveling public by eliminating the aesthetic blight and litter caused by portable signs.

vii. **The following signs types are classified as portable signs:**

(i) A-Frame or upright signs.

(ii) Vertical banners. Only permitted in non-residential districts and not permitted in the CBD district.

(iii) Yard Signs.

(iv) Wall banner. Only permitted in non-residential districts and may only be displayed for thirty (30) days per calendar year and not used as permanent signage.

(v) Window Sign. Only permitted in non-residential districts and not used as permanent signage. The total area combined with permanent window signs shall not exceed forty percent (40%) of the area of the window.

(vi) Other. Other portable sign types may be allowed, such as fuel pump toppers and wraps around waste receptacles, provided the max area limitation for all portable signs is not exceeded.

b. **General Regulations.** Portable signs are subject to all location and design regulations described in Subsection *156.08.08, Specific Sign Standards*.

c. **Aggregate Size.** The total amount of portable signage permitted on any premise shall be the smaller of five percent (5%) of the area of all street facades or 100 square feet, whichever is less.

d. **Individual Size.** The maximum size of an individual portable sign shall be thirty (30) square feet in area in non-residential districts and sixteen (16) square feet in area in residential districts.

e. **Location.** Portable signs shall not be attached to any sign pole or light pole on public or private property, or public utility poles or trees on either public or private property.

f. **Durability.** Portable signs shall be constructed of sufficient weight and durability to withstand wind gusts, storms, and other natural elements.

viii. **Electronic Message Displays.** Where allowed by the Specific Standards for Sign Regulations tables, electronic message displays must follow the following regulations:

a. There shall be no more than one (1) electronic message display per lot.

b. The sign shall be no closer than one hundred (100) feet from the nearest residence district or office residence district property line.

c. The height of the sign shall be limited to fourteen (14) feet or top of wall, whichever is less.

d. The area for the electronic message display shall not exceed forty (40) square feet.

e. The sign message shall remain static for a period of not less than thirty (30) seconds. The transition from one (1) message to the next shall be direct and immediate, without any special effects

e. Electronic Message Displays shall have a pitch of not greater than twenty (20) millimeters between each pixel. Special effects, including but not limited to dissolving, fading, scrolling, starbursts and wiping shall be prohibited.

f. Between sunrise and sunset, the maximum luminance shall be five thousand (5,000) nits and between sunset and sunrise the maximum luminance shall be five hundred (500) nits. All signs with a dynamic display having illumination by means other than natural light must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness to comply with this requirement. The sign shall not display messages or be illuminated when the use is closed.

156.08.08 **Specific Sign Standards.** All signs shall conform to the applicable standards of the following tables, and all other applicable regulations of this chapter.

**A. Permitted Signs by District Table**

Sign Type	AG	MFH	R-1	R-2	R-3	C-1	C-2	CDB	I-1	I-2
Monument	Yes									
Pole						Yes			Yes	
Awning								Yes		
Banner								Yes		
Canopy								Yes		
Marquee								Yes		
Projecting								Yes		
Roof								Yes		
Wall	Yes							Yes		
Window	Yes							Yes		
Portable	Yes									
Flag Sign								Yes		
Billboard								Yes		

**B. Specific Standards for Signs in Residential and AG Districts Table**

Freestanding	AG	MFH	R-1	R-2	R-3
Size Allocation	80 square feet for non-residential uses	32 square feet for non-residential uses and multi-family uses			
Maximum Number of Signs	1	1	1	1	2
Maximum Area per Sign	NA				
Lighting of Signs	Yes, but no backlit signs				
Maximum height of signs	8 feet				

Electronic Message	Not permitted				
<b>Attached to Buildings</b>	<b>AG</b>	<b>MFH</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
Size Allocation	32 square feet for non-residential uses and multi-family uses				
Maximum Number of Signs	1 per building wall			No limit within size allocation	
Maximum Area per Sign	No limit within size allocation				
Lighting of Signs	Not permitted				
Electronic Message	Not permitted				

**C. Specific Standards for Signs in Commercial and Industrial Districts Table**

<b>Freestanding</b>	<b>C-1</b>	<b>C-2</b>	<b>CDB</b>	<b>I-1</b>	<b>I-2</b>
Size Allocation	1 sq. ft. of signage per 1 ft. of primary frontage; maximum 150 sq. ft.	1.5 sq. ft. of signage per 1 ft. of primary frontage; maximum 500 sq. ft.	1 sq. ft. of signage per 1 ft. of primary frontage; maximum 150 sq. ft.	1.5 sq. ft. of signage per 1 ft. of primary frontage; maximum 500 sq. ft.	1.5 sq. ft. of signage per 1 ft. of primary frontage; maximum 500 sq. ft.
Maximum Number of Signs	1	2	1	1	2
Maximum Area per Sign	150 square feet	180 square feet	64 square feet	250 square feet	
Lighting of Signs	Yes				
Maximum height of signs	20 feet	30 feet	20 feet	34 feet	34 feet
Electronic Message	Yes, subject to electronic message display requirements				
<b>Attached to Buildings</b>	<b>C-1</b>	<b>C-2</b>	<b>CDB</b>	<b>I-1</b>	<b>I-2</b>
Size Allocation	1 sq. ft. of signage per 1 linear ft. of building wall if a freestanding sign is on the same lot. If no freestanding sign, 1.5 sq. ft. for each 1			300 sq. ft.	

	ft. of building wall			
Maximum Number of Signs	No limit within size allocation			
Maximum Area per Sign	45 sq. ft.	100 sq. ft.	80 sq. ft.	180 sq. ft.
Lighting of Signs	Yes			
Electronic Message	Yes, subject to electronic message display requirements			

156.08.09 **Billboards.** New billboards are permitted in the City limits in compliance with the following restrictions. All such signs must be placed in conformity with state and federal regulations, even if such are more restrictive than the following regulations.

A. **Minimum Separation.** No proposed billboard location may be approved which is:

- i. Within 1,500 feet of either an existing billboard, either static or electronic; or
- ii. Within 150 feet of an on-premises sign on the same property or abutting property.

B. **Maximum Height.** The maximum height of a billboard shall be thirty (30) feet, except for properties fronting State Highway 302 in which the maximum height is forty (40) feet.

C. **Maximum Sign Area.** The total area of each sign face of a billboard shall not exceed the following:

- i. 500 square feet for a billboard located on property fronting State Highway 320.
- ii. 300 square feet for a billboard located on property fronting a street other than State Highway 320.

D. **Limits of Sign Faces.** A billboard shall be limited to a single face viewed from any one direction. The use of a double-faced billboard (side-by-side or stacked) is prohibited.

E. **Lighting.** Exterior lighting shall be shielded to prevent glare. No external lighting shall be used to illuminate a nonconforming sign.

F. **Setback and side yard requirements.** A billboard must comply with the same side yard and setbacks required for buildings in the zoning district in which it is located. No portion of the billboard or its support shall be closer than 150 feet from the boundary of a property used for residential purposes.

G. **Non-conforming billboards.** Any legally existing billboard which does not comply with these restrictions shall become a non-conforming sign and shall be regulated in conformance with Section [156.09, Non-conforming Development](#). A non-conforming billboard may not be enlarged beyond its present size or modified to an electronic billboard without forfeiting its non-conforming status.

H. **Electronic Billboards.** Electronic billboards shall meet all requirements as noted above.

- i. An electronic billboard shall not:

- a. Contain, display, or be illuminated by flashing, intermittent, or moving lights;
  - b. Contain or display animated, moving video, or scrolling advertising;
  - c. Consist of a static image projected upon a stationary object; or
  - d. Be a portable sign.
- ii. Operation requirements:
- a. An electronic billboard shall display static messages only in compliance with the following:
    - (i) The dwell or hold time of each message, defined as the interval between each message change, shall be at least eight (8) seconds.
    - (ii) Each message change must be accomplished within two (2) seconds or less and must occur simultaneously on the entire sign face.
  - b. An electronic billboard shall not be configured to resemble or simulate a warning or danger signal, or any official lights or signs used to control traffic.
  - c. An electronic billboard shall not display light of such intensity to cause glare, impair vision, or otherwise result in a nuisance to the public. An electronic billboard shall:
    - (i) Be equipped with both a dimmer control or other such electronic control and a photocell or other such automatic control, which will produce the required illumination change according to natural ambient conditions.
  - d. An electronic billboard shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.

156.08.10 **Sign Maintenance.** All signs shall be kept in good repair and free from peeling paint, rust, damaged, or rotted supports, framework or other material, broken or missing faces or missing letters. Any signs not maintained may be ordered to be removed. For maintenance of non-conforming signs, the following shall apply:

**A. Activities considered normal maintenance and repair.** Normal maintenance and repair shall include activities such as replacement, restoration, or improvement. Following damage or destruction, replacement of a nonconformity shall mean that the sign face or sign structure and site, if reinstated with a nonconformity as allowed under the terms of this Chapter, shall be reconstructed to match the conditions of the sign face or sign structure that preceded damage or destruction. Reasonable conditions may be imposed by the Administrator to mitigate any newly created impact on adjacent property. Nonconformities that are completely or substantially reconstructed that include changes to building placement or design shall be subject to the findings and procedures for expansion or alteration of nonconforming uses and structures as specified in Section *156.09, Non-conforming Development*.

**B. Items not considered normal maintenance and repair.** Changes made to the location, size, height, or bulk of the sign or addition of illumination are not considered normal maintenance and repair and shall require that a nonconforming sign be brought into conformance with all requirements of this Chapter.

156.08.11 **Sign Permit.** All signs requiring a permit shall be reviewed by the Administrator, subject to the procedures and criteria in Subsubsection *156.11.05F, Sign Permit.*

**A. Applicability.** A sign permit is not required for:

- i. A sign on property used exclusively for a single-family residence or duplex.
- ii. Repainting without changing permanent wording, composition, or colors; or nonstructural repairs.
- iii. Normal repair and maintenance or conforming or legal non-conforming signs.

156.08.12 **Sign Master Plan.** For projects with an overall site area more than three (3) acres, an applicant may submit a Sign Master Plan, detailing the size, location, and design of all signs on the site. The Sign Master Plan may adjust the strict application of these standards but must clarify the exact nature of the adjustments. Such a Sign Master Plan shall be approved by the City Council after review and recommendation by the Commission.

156.08.13 **Nonconforming Signs.** Except as may be hereinafter specified, no sign shall be erected, placed, maintained, converted, enlarged, reconstructed, or structurally altered which does not comply with all of the regulations established by this Section.

**A. Maintenance.** Signs erected prior to the effective date of this Zoning Code may be maintained and repaired subject to the requirements of Subsection *156.08.10, Sign Maintenance.*

**B. Continuing Nonconformance.** Where a sign exists at the effective date or adoption or amendment of this Zoning Code that could not be built under the terms of this title by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

- i. No such sign may be enlarged or altered in a way which increases its nonconformity.
- ii. Should such a sign be destroyed by any means to an extent of sixty percent (60%) or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section.

**C. Removal.** The Administrator shall have the authority to revoke any permit which has been granted when the Administrator has determined that the sign authorized by the permit has been constructed or maintained in violation of the permit. Written notice shall be given to the owner of the illegal sign or the owner of the property on which the sign is located. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign, and the violations charged; such notice shall specify what repairs, if any, will make the sign conform to the requirements of this Section, and specify that the sign be removed or made to conform with the requirements of this Section within the notice period provided below:

- i. The notice period for a permanent sign is thirty (30) days.
- ii. The notice period for a portable sign is ten (10) days.

Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business.

156.08.14 **Liability for Damages.** Provisions of this Section shall not be construed to relieve or eliminate in any way the responsibility or liability any person who erects or owns any sign, for personal injury or property damage caused by the sign; nor shall the provisions of this section be construed to impose upon the City or the Administrator, the City's officials or its employees any responsibility or liability by reason of the approval of any signs under the provisions of this Section.

## **156.09 NONCONFORMING DEVELOPMENT**

### **156.09.01 Purpose**

- A. To allow for reasonable use of legally created lots of record that do not meet current minimum requirements for their respective zoning districts.
- B. To provide for reasonable use of legally constructed structures that do not meet current site development regulations for their respective zoning districts.
- C. To allow for the reasonable continuation of legally established uses that do not meet current use regulations for their respective zoning districts.
- D. To limit the continuation and provide for the gradual replacement of nonconforming uses.

156.09.02 **Application.** These regulations apply to lots, buildings, structures, and uses that were constructed legally under regulations in effect before the effective date of this Zoning Code. Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

### **156.09.03 Nonconforming Lots**

- A. **Pre-Existing Lots of Record.** Nonconforming lots of record existing at the time of the adoption of this Zoning Code shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by this Zoning Code.
- B. **Reductions from Public Acquisition.** If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

### **156.09.04 Nonconforming Structures**

- A. **Continuation.** A lawful nonconforming structure existing on the effective date of this Zoning Code may be continued, repaired, maintained, or altered, subject to the provisions of this Section.
- B. **Additions or Enlargements to Nonconforming Structures.**

i. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:

a. The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements of this Zoning Code.

b. The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.

c. The addition projects no further into a required side yard setback than the existing building and the length of the side wall of the addition is the smaller of twenty (20) feet or fifty percent (50%) of the length of the existing nonconforming side wall.

ii. No permitted addition to a nonconforming structure may place a wall within ten (10) feet of a window of an adjacent pre-existing residential structure.

iii. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.

**C. Moving of Nonconforming Structures.** A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

**D. Repair of Nonconforming Structures.** A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided restoration is started within six (6) months of the date of partial or full destruction and the use or building meets the following criteria:

i. There is no increase in the degree of nonconformity.

ii. There are no formal complaints about the building, structure, or use on file at the city.

iii. There is no history of building code or residential housing code violations of the building, structure, or use.

iv. The building, structure, or use has been maintained in good condition.

**E. Conversion of a Conforming Building.** A conforming building shall not be changed in any way that will result in a nonconforming development.

**F. Applicability of Landscaping and Screening Regulations.** A pre-existing structure, building, or development shall be exempt from Section *156.07, Landscaping and Screening*. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Zoning Code shall be subject to Section *156.07, Landscaping and Screening*.

**156.09.05 Nonconforming Uses.** Any nonconforming use lawfully existing on the effective date of this Zoning Code may continue, subject to this Section.

**A. Continuation.** Whenever the use of a premise becomes nonconforming through a subsequent change in this Zoning Code or zoning district boundaries, such use may be continued or changed to another nonconforming use of the same or lesser intensity if approved by the City Council at a public hearing following a public hearing by the Commission including their recommendation to the City Council.

**B. Enlargement of Nonconforming Uses.** A building or structure housing a lawful nonconforming use shall not be added to or enlarged.

**C. Abandonment of Nonconforming Use.** If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of six (6) months, any subsequent use must conform to all use regulations applicable to the property's zoning district.

**156.09.06 Nonconforming Use Certificate.** Nothing in this Zoning Code shall prevent the continuance of a nonconforming use as herein authorized, unless a discontinuance is necessary for the safety of life or property. Certificates of occupancy shall be given to each nonconforming use indicating its status as a lawful, nonconforming use as of the time when it legally became a nonconforming use and requiring that any change in use requires a new permit and certificate of occupancy. A certificate of occupancy for the nonconforming use shall be transmitted by the owner to any succeeding owner of the property to confirm its legal existence.

## **156.10 VIOLATIONS, PENALTIES, AND ENFORCEMENT**

**156.10.01 Purpose.** This Section establishes the procedures that the City may use to assure compliance with the provisions of this Zoning Code and to correct violations. The Section also sets out the remedies and penalties that the City may seek to correct violations. The provisions of this Section are intended to encourage the voluntary correction of violations.

**156.10.02 Application.** The Administrator or their appointee shall administer and enforce the provisions of this Zoning Code and shall have powers and duties to:

- A.** Review all permits and certificates required by this Zoning Code for compliance.
- B.** Issue all permits, and certificates required by this Zoning Code subsequent to administrative review.
- C.** Inspect any property, building, or structure that has applied for a permit to be erected, constructed, reconstructed or structurally altered. A building permit or certificate of occupancy will not be issued until an inspection has been made.
- D.** Inspect any structure reported or observed that is not in compliance.
- E.** Notify in writing the person responsible for violations of this Zoning Code, as described in this Section.

**156.10.03 Violations and Penalties.** Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Zoning Code, upon conviction, shall be in violation of the City of Kermit Code of Ordinances, and each day that a violation is permitted to exist constitutes a separate offense. The Council is designated and ordered to enforce this Zoning Code.

**A. Enforcement.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Zoning Code, the Council, in addition to other remedies, shall institute any proper action or proceedings in the name of the City, to prevent such unlawful erection, construction, reconstruction, 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 about said premises.

**B. Abatement.** The City may abate violations of this Zoning Code pursuant to this Subsection. This remedy is authorized for, but is not limited to, any situation where any property owner fails to construct, improve, or maintain any improvement that is required by the terms of any permit or approval, or any condition upon any land that is in violation of this Zoning Code.

i. **Notice.** Before action is taken to abate a violation to this Zoning Code or any violation to an ordinance or other policies of the City, a final warning notice shall be served personally or by certified mail with return receipt required to the owner of record of the property, or to the property owner or association, as applicable, and a period of five (5) business days shall be given from the date of the notice indicated by the date on the letter. Failure to receive such notice when proof of delivery to the correct address has been provided by the U.S. Post Office shall not forestall enforcement action under this provision.

ii. **Timing.** Unless this notice is appealed, pursuant to requirements of this Zoning Code within ten (10) days of the posting of the final warning, the City may proceed to abate the violation in accordance with City policies and procedures.

iii. **Costs.** The Administrator shall keep an account of the direct and indirect cost incurred by the City in the abatement of any violation. The Administrator shall forward a bill for collection to the violator or association, and to the owner of record of the property specifying the nature and costs of the work performed. Direct and indirect costs shall include, but not be limited to, the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, actual physical abatement processes, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.

iv. **Payment.** The responsibility for payment of the charges for abatement as set out in this Subsection shall rest solely upon the owners of the property upon which the abatement occurred, or the property owners' association, as applicable. Such charges shall become a lien upon the real property or properties upon which the violation was located or upon properties associated with the property upon which the violation was located. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

**C. Judicial Remedies.** The City can request remedies to enforce this Zoning Code in a court of competent jurisdiction. This Subsection shall not limit the power of the City to pursue multiple or alternative actions, remedies, and penalties, or to pursue actions, remedies, and penalties that are authorized by law but not listed in this Subsection.

i. **Fines.** Any person, firm, corporation, agent, or employee who violates any of the provisions of this Zoning Code shall be fined according to the resolution of the City Council, as amended from time to time. A fine or penalty for violation of a Zoning Code regulation shall not exceed two thousand dollars (\$2000.00).

ii. **Injunctive Relief.** The City may seek an affirmative injunction to require the demolition or removal of a structure, or to allow the City to demolish or remove a structure and recover costs against the landowner, pursuant to the provisions of State of Texas Law.

D. **Severability.** Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution, or any part thereof other than the part so declared to be unconstitutional or invalid.

## **156.11 ADMINISTRATION AND PROCEDURES**

156.11.01 **Purpose.** The Administration and Procedures Provisions establish the methods for implementation of this Zoning Code. These provisions include procedures for reviewing specific uses within individual zoning districts; amending this Zoning Code; granting variances, specific uses, and appeals; and responsibilities of various boards and commissions.

156.11.02 **Application.** The Administration and Procedures Provisions apply to all properties in the jurisdiction of the City of Kermit.

### **156.11.03 Administrative Bodies, Powers, and Duties**

A. **City Council.** The City Council has all powers conferred upon it by Article III, The City Council, of the Kermit, TX Code of Ordinances, and State of Texas Law. With respect to decision-making pursuant to this Zoning Code, in addition to the authorized acts of the Code of Ordinances, the City Council will exercise the powers set out in this Subsection.

i. After a public hearing is held and after reports and recommendations are provided by the Administrator, the Commission, or another board, commission, or committee, the City Council shall hear and decide the following:

a. Plans and programs for the development and redevelopment of its area of jurisdiction, when applicable in this Zoning Code. This includes, but is not limited to, amending the text and maps of the Comprehensive Plan or other plans from time to time;

b. Proposed amendments to the text of this Zoning Code;

c. Proposed amendments to the Official Zoning Map;

d. Any other action not delegated to any other board or commission as the City Council may deem desirable and necessary to implement the provisions of this Zoning Ordinance and the goals and objectives of the City, provided such action is not contrary to the requirements of this Zoning Code or State of Texas Law.

B. **Planning and Zoning Commission.** Refer to Chapter 33 of the Kermit, TX Code of Ordinances.

C. **Board of Adjustment.** Refer to Chapter 33 of the Kermit, TX Code of Ordinances.

**D. Administrator.** The City Manager is the Administrator responsible for processing an application to decide (in case of administrative approval) or recommend to another review body (in case of public meeting and hearing approvals). The Administrator shall designate staff members to manage applications through the review process and to be points of contact for applicants, and to perform such other functions and duties as may be required of the Administrator by this Zoning Code. The Administrator may also designate review responsibilities to other members of City staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Council.

**i. Duties and Responsibilities.** Such duties may be allocated by the Administrator in the exercise of the responsibilities without amendment to this Zoning Code.

a. Interpret the general intent and/or specific meaning of any portion of this Zoning Code text, position of district boundaries, district designation, or other matters relating to the Official Zoning Map;

b. Maintain the Official Zoning Map and record all amendments to and information thereon;

c. Provide public information relating to zoning matters including scheduled meetings of the Commission and Board;

d. Receive, process, and record all applications in this Zoning Code with accompanying plans and documents, all of which shall be a public record;

e. Register and maintain records and maps of nonconforming uses, buildings, structures, lighting, landscaping, bufferyards, signs, parking and loading, site access, site improvements, and lots;

f. Revoke permits or certificates in violation of the provisions of this Zoning Code;

g. Serve as staff liaison to the Commission and in that capacity when requested to do so by the Commission, attend the meetings of the Commission, inform them of all facts and information with respect to any matter brought before the Commission and perform other duties as may be assigned by this Zoning Code and by the rules of the Commission;

h. Serve as staff liaison to the Board of Adjustment and attend all meetings, inform the Board of all facts and information at his/her disposal with respect to any matter brought before the Board, perform such other duties as may be assigned to him/her by this Zoning Code by the rules of the Board;

i. Initiate and continue such social, economic, physical, and environmental studies as may be necessary or appropriate for the development and revision of the Comprehensive Plan by the Commission; and

j. Identify ordinance violations and enforce the provisions of this Zoning Code and approvals.

156.11.04 **Application Submittal and Processing**

**A. General Application Processing.** Except where this Zoning Code or State of Texas Law provides otherwise, the following procedures are required:

i. **Application.** For requests not initiated by the City or Commission, an application shall be submitted on a form approved by the Administrator. The Administrator may waive certain submittal requirements to tailor the requirements to the information necessary to review an application. Application forms shall include:

- a. Identification of property owner and authorized agent;
- b. Description of the property and the nature of the development that is the subject of the application;
- c. Identification of all zoning classifications for the property;
- d. Identification of all pending legislative applications for the property;
- e. Identification of decisions on all quasi-judicial or administrative Applications for the property that remain in effect;
- f. Application signed by the owner of an interest in the land subject to the Application, or the owner's designated agent; and,
- g. Any other information deemed appropriate by the Administrator.

ii. **Fees.** The City Council shall from time to time establish fees by resolution for the processing and review of the various applications that are required by this Zoning Code. The fees shall be reasonable but shall not exceed the actual costs to review the applications. Fees are nonrefundable once an application is deemed complete by the Administrator.

iii. **Payment of Indebtedness.** No application shall be accepted or reviewed for completeness from a person who owes delinquent taxes, assessments, any fees, or is otherwise indebted to the City until the taxes, assessments, debts, or obligations shall have been first fully discharged by payment, or until an arrangement has been made for the payment of such debts or obligations.

iv. **Administrator Referral.** Upon receipt of a complete application, the Administrator,

- a. May circulate the application to all other administrative officials and departments whose review is required for a decision on the application and shall compile the comments and recommendations of the officials.
- b. May refer any application in this Zoning Code for review and approval of the Commission and Council, subject to the procedures in Subsection *156.11.05, Development Review Procedures*, when an application presents such scale, intensity, or interpretation that warrants additional public review, professional input, or Council authority.

c. Shall refer the application for action at the next scheduled meeting when an application in this Zoning Code requires review and approval by the Commission, Board, City Council, or other agency, provided the application is submitted at least fifteen (15) days prior to the next scheduled meeting, unless the applicant shall agree to some later time.

v. **Notice Requirements.** Unless otherwise provided in this Code, when a public hearing is required, notice of public hearings shall be provided before the fifteenth (15<sup>th</sup>) day before the date of the hearing, which the notice shall provide the time, date, and place of such hearing first be published in a newspaper having a general circulation in the City.

vi. **Public Hearing.** When a public hearing is required, prior to making any recommendation or action on the respective permit, plan, or item, or part thereof, to the Commission and City Council, shall set and conduct a public hearing in accordance with State of Texas Law.

vii. **Decisions.** Except where this Zoning Code or State of Texas Law provides otherwise, official action requires the favorable vote of a majority of a quorum present. Any time limit specified in this Zoning Code for any decision or action on behalf of a review or decision-making body may be extended if the applicant agrees to an extension in writing or on the record during the applicable hearing or if the Administrator determines that a delay of one meeting is necessary for completion of the review.

#### B. Pre-Application Meeting

i. **Purpose.** The pre-application meeting is intended to allow for the exchange of non-binding information between the Applicant and City staff to ensure that the Applicant is aware of pertinent City development regulations and processes.

ii. **Timing.** Potential applicants are encouraged, and where stated in this Zoning Code, required to meet with the Administrator prior to application to discuss the proposal. The Administrator shall inform the applicant on the details of the development process.

C. **Complete Applications.** Every required application shall be subject to a determination of completeness by the Administrator for processing the application, as follows:

i. **Acceptance Standards.** The application shall only be accepted by the Administrator for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Zoning Code. A typographical error shall not, by itself, constitute an incomplete application.

ii. **Decision.** A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Zoning Code.

#### 156.11.05 Development Review Procedures

A. **Comprehensive Plan.** Upon adoption, the Comprehensive Plan shall be considered an official statement of the policy of the City of Kermit. Adoption procedures shall follow those required by State of

Texas Law and the City Code of Ordinances with review by the Commission and approval by the City Council.

i. **Administration.** Following its adoption, a comprehensive plan may be amended by the Council at any time, based on recommendation from the Commission, in the same procedures as adoption.

ii. **Public Hearing.** The Commission, prior to making any recommendation for the adoption or amendment of the Comprehensive Plan, or part thereof, to the City Council, shall set, notice, and conduct a public hearing as permitted and limited by applicable State of Texas Law and Subsection *156.11.04, Application Submittal and Processing*.

iii. **Commission Report.** Following such public hearing, the Commission shall recommend action to approve, approve with conditions, or deny the application. A vote either for or against an amendment by a majority of all Commission members shall constitute a recommendation to the City Council. If the Commission makes no report within thirty (30) days, it shall be considered to have made a report approving the plan.

iv. **Council Vote.** Within thirty (30) days of the receipt of a recommendation by the Commission, the City Council shall set, notice, and conduct a public hearing as permitted and limited by applicable State of Texas Law and Subsection *156.11.04, Application Submittal and Processing* to review and consider the Comprehensive Plan for adoption. The City Council may approve, approve with conditions, refer back to the Commission, or deny the Comprehensive Plan, upon a recommendation of the Commission. Approval shall be made by resolution.

v. **Approval or Amendment Criteria.** The following criteria shall be considered to determine whether a Comprehensive Plan shall be approved or amended:

a. A proposed map amendment is warranted by changing conditions in the area, or it corrects an error in fact concerning the property's future land use classification at the time of the original plan adoption;

b. If the map amendment is approved, there will be an adequate supply of land permitted in the category being changed;

c. A proposed text amendment furthers the goals, objectives, and policies of the Comprehensive Plan;

d. A proposed text amendment advances a legitimate public need; and

e. A proposed text amendment is warranted by changing conditions or a current need.

**B. Building Permit.** The Administrator, or his/her designee shall review, evaluate, and act on all building permits submitted pursuant to this procedure.

i. **Application.** To obtain a building permit, the applicant shall file an application on a form approved by the Administrator subject to Subsection *156.11.04, Application Submittal*

*and Processing* and be accompanied by plans and specifications for proposed construction, including the estimated construction value.

ii. **Notification of Completion.** Any party having obtained a building permit shall notify the Administrator when the erection or alteration of the building or structure is completed. The certificate of occupancy and certificate of zoning compliance shall then be issued if the building is found to follow this Zoning Code and any other building requirements of the City.

C. **Site Plan Review.** The Site Plan review procedure provides for review in addition to building permit and plan review required by other sections of the Kermit Code of Ordinances for projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

i. **Administration.** The Administrator, or his/her designee shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

ii. **Applicability.** Site plan review is required for all non-residential uses in the City of Kermit.

iii. **Pre-Application Conference.** Potential applicants are required to meet with the Administrator prior to application to discuss the proposal. The Administrator shall inform the applicant on the details of the site plan process.

iv. **Application.** An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Administrator. The application shall follow Subsection *156.11.04, Application Submittal and Processing*. Additional information may include:

a. Any other information that may be required for review by the Administrator, or his/her designee, such as stormwater management plans, utility plans, landscaping plans, architectural elevations, and off-site improvements.

v. **Decision.** The Administrator, or his/her designee, after consultation with other applicable City staff, shall review and approve, approve with conditions, refer, or deny the site plan based on the criteria below and conformance with applicable regulations in this Zoning Code. The Administrator, or his/her designee must act upon each complete application within thirty (30) days of filing. The decision shall be communicated to the applicant in writing along with any recommendations.

vi. **Approval Criteria.** The Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before approval of the site plan:

a. Be designed to minimize impacts on the reasonable development expectations or the use and enjoyment of adjacent land or the public interest, consistent with the applicable standards of this Zoning Code;

- b. Include adequate circulation as to not overwhelm the existing off-site transportation system, create traffic hazards, and safe pedestrian access;
- c. Protect public health and safety against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, and flooding;
- d. Provide for compatibility between the proposed development, surrounding land uses (existing or planned), and the natural environment;
- e. Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects; and
- f. The site plan conforms to this Zoning Code and intent of the Comprehensive Plan.

vii. **Referral.** The Administrator may refer a site plan application to the Commission for their review and recommendation to the City Council, subject to the public hearing requirements in Subsection *156.11.04, Application Submittal and Processing*. Referral may be required when, but not limited to:

- a. Discretion is required as to the level of conformity of the site plan with the standards of this Zoning Code and the policies and objectives of City plans.
- b. The project is of such scale and intensity that that warrants additional public review or professional input and recommendations from other agencies or organizations.
- c. This Zoning Code specifically states a use requires review by that the Commission and/or City Council.

viii. **Term.** A Site Plan approval shall become void two (2) years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

ix. **Modification.** The Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the approval criteria.

x. **Revoking of Approval.** The Administrator, or his/her designee may revoke a Site Plan approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

xi. **Effect of Approval.** An approval pursuant to this Subsection shall run with the land until the expiration date of such approval. Upon approval the applicant may proceed with requests for other required approvals or permits.

xii. **Resubmittal.** If the Administrator, Commission, or City Council deny a site plan application, a new application affecting the same property may be submitted only if substantial change is made in the plans.

**D. Special Exception.** Special exception is a permission given by the Board properly authorized by this Zoning Code in specific cases for an applicant to use his property in a manner contrary to the provisions of this Zoning Code provided such use serves the general welfare and preserves the community interest.

i. **Administration.** The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards according to this Subsection, make special exceptions to the terms of this Code in harmony with its general purpose and intent and in accordance with the general and specific rules herein contained.

ii. **Application.** The applicant shall submit a special exception application to the Administrator. An application for a special exception shall follow Subsection *156.11.04, Application Submittal and Processing.*

iii. **Jurisdiction.** The Board of Adjustment may after public notice and hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this Code as follows:

a. Permit the reconstruction, extension and/or enlargement of a building and/or lot occupied as a nonconforming use;

b. Permit such modification of a yard, lot area, or lot width requirement as may be necessary to secure appropriate improvement of a parcel of land where such parcel was separately owned on the effective date of this Code, and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification or of such restricted area that it cannot be appropriately improved without such modification.

iv. **Public Hearing.** The Board of Adjustment shall hold a public hearing on all special exceptions.

a. **Mail Notice.** Written notice of all such public hearings shall be sent by the Administrator to the applicant and all other persons deemed by the board to be affected thereby, and all owners of real property lying within 200 feet of the property on which the variance is proposed, such notice to be given not less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll.

b. **Public Notice.** Notice shall also be given by publishing the same in a newspaper of general circulation in the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing; provided, however, all provisions contained herein with respect to the mailing and publishing of notices of hearing shall be deemed sufficient upon substantial compliance with this Section.

v. **Board Vote.** Within thirty (30) days following the close of the public hearing, the Board of Adjustment shall render a decision on the special exception based on the merits of the application, their findings of fact, and deliberations. Such decision may reverse, affirm, or modify, in whole or in part, the action from which the special exception is taken. Within

seven (7) days of such decision, or the expiration of such period, notice of such decision or failure to act shall be mailed by the Administrator to all parties entitled to such notice.

vi. **Approval Criteria.** A special exception may be granted an applicant when the Board finds:

- a. That the granting of such exception will not be injurious or otherwise detrimental to the public health, safety, morals and the general welfare of the general public, and;
- b. That the granting of such exception will not be substantially or permanently injurious to the property or improvement in such zone or neighborhood in which the property is located, and;
- c. That the granting of such exception will be in harmony with the general purpose and intent of this Code.
- d. In determining its finding, the board shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such building or upon such land and traffic conditions in the vicinity.

vii. **Conditions.** In granting any special exceptions under the provisions of this Code, the board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this Code.

E. **Specific Use Permit.** This section provides for review and approval for uses within zoning districts that have unusual site development or operating characteristics that could adversely affect surrounding properties. The provisions of this Subsection apply to all uses designated as specific uses in Subsubsection [156.03.08C](#) and [156.03.08D](#).

- i. **Administration.** The Commission shall review, evaluate and act upon all applications for a specific use permit submitted pursuant to this Subsection.
- ii. **Pre-Application Conference.** Potential applicants are required to meet with the Administrator before application to discuss the proposal. The Administrator shall inform the applicant on the details and advisability of the specific use permit.
- iii. **Application.** The applicant shall submit a specific use permit application to the Administrator. An application for a specific use permit shall follow Subsection [156.11.04](#), *Application Submittal and Processing*.
- iv. **Public Hearing.** The Commission shall hold a public hearing on all specific use permits.
  - a. **Mail Notice.** Written notice of all such public hearings shall be sent by the Administrator to the applicant and all other persons deemed by the Commission to be affected thereby, and all owners of real property lying within 200 feet of the property on which the variance is proposed, such notice to be given

not less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll.

b. **Public Notice.** Notice shall also be given by publishing the same in a newspaper of general circulation in the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing; provided, however, all provisions contained herein with respect to the mailing and publishing of notices of hearing shall be deemed sufficient upon substantial compliance with this Section.

v. **Approval Criteria.** The Commission shall review and act upon the request based on the following established criteria and conformance with applicable regulations in this Zoning Code:

a. Will be in harmony with the general purpose, goals, objectives and standards of the Comprehensive Plan and this Zoning Code;

b. Will not have a substantial, undue, or adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare;

c. Will be constructed, arranged, or operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations;

d. Will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services;

e. Will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance;

f. Complies with all additional standards imposed on it by the provisions of the district in which such specific use may be authorized.

vi. **Lapse and Revocation of Permit.** A specific use permit shall become void 180 days after its effective date if the applicant has not carried out development or occupancy during that period, or sooner if so conditioned by the Commission. The Commission may revoke a specific use permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

vii. **Amendments.** No building, premise, or land approved as a special use may be enlarged, modified, structurally altered, or otherwise significantly changed, unless an amendment to the approved specific use is granted for such enlargement, modifications, structural alteration, or change.

**F. Sign Permit.** A sign permit is required for all permitted signs as set out in Section *156.08, Sign Regulations*.

- i. **Administration.** The Administrator shall review, evaluate, and act upon all applications for a sign permit submitted pursuant to this Subsection.
- ii. **Application.** The applicant shall submit a sign permit application to the Administrator, who first will review the proposed sign in relation to the dimensional, locational and numerical requirements of this section. An application for a sign permit shall follow Subsection *156.11.04, Application Submittal and Processing* and also include:
  - a. Drawings showing the location of the sign and location and sizes of all other existing signs on the same premises, including the property lines; and
  - b. Information stating the dimensions, supports, sizes, materials, and type of the sign being proposed.
- iii. **Administrator Action.** Within thirty (30) days of sign permit application submittal, the Administrator shall act on the submittal by approving or denying the application. If the application is not acted upon by the Administrator within thirty (30) days, the application shall be deemed approved. If the application is denied, then the reasons for the denial shall be communicated to the applicant in writing along with any recommendations.
- iv. **Appeal.** Any person or persons aggrieved by the decision of the Administrator to approve or disapprove a sign permit, as provided by this title, may appeal such decision to the Board of Adjustment as provided by Subsubsection **K, Appeals**, below.

**G. Variance.** The variance procedure allows authorization of the Board granting relief and doing substantial justice in the use of the applicant's property by a property owner where, owing to special conditions a literal enforcement of the provisions of this Code will result in unnecessary hardship.

- i. **Administration.** The Board of Adjustment shall only have the authority to grant variances from the Zoning Code not reviewed by other bodies. Examples not within the jurisdiction of the Board include, but are not limited to, building code variances, variances for non-conformities, variances to State and Federal law, and variances that would allow a use in a district which the use is prohibited.
- ii. **Application.** An application for a variance may be filed by the owner of, or any other person having a contractual interest in, the subject property according to the procedures below. Applications for a variance shall be submitted to the Administrator. The application shall follow Subsection *156.11.04, Application Submittal and Processing* and include:
  - a. A written statement and evidence supporting the nature and reason for the requested variance, referencing the approval criteria in this subsection.
- iii. **Public Hearing.** The Board of Adjustment shall hold a public hearing on all variances.
  - a. **Mail Notice.** Written notice of all such public hearings shall be sent by the Administrator to the applicant and all other persons deemed by the board to be

affected thereby, and all owners of real property lying within 200 feet of the property on which the variance is proposed, such notice to be given not less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll.

b. **Public Notice.** Notice shall also be given by publishing the same in a newspaper of general circulation in the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing; provided, however, all provisions contained herein with respect to the mailing and publishing of notices of hearing shall be deemed sufficient upon substantial compliance with this Section.

iv. **Board Vote.** In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under the Kermit Code of Ordinances. In exercising such authority, the Board shall be mindful that a variance shall not be granted where:

a. The variance will operate to relieve the applicant of conditions or circumstances which are not inherent in the property itself, but rather are the result of the use or development of the property; or which are caused by the division of land after the effective date hereof, which division of land caused the property to be unusable for any reasonable development under the existing regulations; or which were otherwise self-imposed by the present or a previous owner; or

b. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner; or

c. The variance would modify any requirement or condition placed upon a specific use permit which is in addition to the general requirements and provisions of the Zoning Code or

d. The variance would not only affect a specific parcel of property but would be of such general nature as to constitute, in effect, a change in zoning of said parcel or a larger area or would merit consideration of an amendment to the Zoning Code.

e. Within thirty (30) days following the close of the public hearing, the Board of Adjustment shall render a decision on the appeal based on the merits of the application based on their findings of fact and deliberations. Such decision may reverse, affirm, or modify, in whole or in part, the action from which the variance is taken. Within seven (7) days of such decision, or the expiration of such period, notice of such decision or failure to act shall be mailed by the Administrator to all parties entitled to such notice.

v. **Approval Criteria.** The burden of proof shall be on the applicant to establish the facts necessary, which the Board of Adjustment must find before granting any variance as herein contained. No such variance shall be authorized by the Board unless it finds that:

a. There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district and that said circumstances or conditions are such that the strict application of the provisions of the Zoning Code would deprive the applicant of the reasonable use of such land or building, but not including only financial hardship;

b. That granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the comprehensive plan for the area;

c. That the variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity; and

d. That the variance to be granted is the minimum variance that will relieve the proven hardship.

H. **Map Amendment.** The Council may from time to time, on its own motion or petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts established in this Zoning Code, as provided by State of Texas Law, as may be amended. Any proposed amendments, supplement, change, modification or repeal shall be filed with the City Clerk.

i. **Application.** Such proposed amendment, supplement, modification or change shall be filed with the Administrator following Subsection *156.11.04, Application Submittal and Processing*. Additional information shall include:

a. A description of the reason for the map amendment application and the nature and operating characteristics of the proposed use.

ii. **Commission Report and Public Hearing.** The Commission shall hold a public hearing on an Application for a map amendment or prior to making its report to the City Council.

a. **Mail Notice.** Written notice of all public hearings before the Commission on a proposed amendment or change shall be sent to all owners of real property within 200 feet of the property on which the change is requested before the tenth (10<sup>th</sup>) day before the date set for hearing.

b. **Notice Period.** Notice shall be given before the tenth (10<sup>th</sup>) day before the date set for hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.

iii. **City Council Public Hearings.** Pursuant to Subsection *156.11.04, Application Submittal and Processing*, the Commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the City Council. The City Council may not hold a public hearing until it receives the final report of the Commission. The City Council may not act on the matter until it receives the final report of the Commission.

a. **Public Notice.** Notice shall be given by publishing the same in a newspaper of general circulation in the City at least fifteen (15) days prior to the date set for hearing, which notice shall state the time and place of such hearing.

b. **Council Vote.** A majority vote of Council members shall indicate approval of a map amendment request, except that three-fourths majority affirmative vote is required to approve a change if a written protest is filed by the owners of at least twenty percent (20%) of either:

(i) The area of the lots or land covered by the proposed change; or

(ii) The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

iv. **Approval Criteria.** The Commission may recommend approval, and City Council may grant the approval of a map or text amendment request if it is demonstrated that:

a. The proposed amendment is preferable to the existing zoning or text in terms of its likelihood of advancing the goals, objectives, and policies of the Comprehensive Plan or another adopted land use or area plan, including but not limited to redevelopment plans;

b. The proposed amendment is consistent with the future land use map of the Comprehensive Plan (a future land use map amendment may be processed concurrently with the map amendment);

c. The proposed amendment is consistent with the implementation of existing or pending plans for providing streets, water and wastewater, other utilities, and the delivery of public services to the area in which the parcel proposed for a map amendment is located;

d. The range of uses and the character of development that is allowed by the proposed amendment will be compatible with the properties in the immediate vicinity of the parcel proposed for a zone change, and the parcel proposed for a zone change has sufficient dimensions to accommodate reasonable development that complies with the requirements of this Zoning Code, including parking and buffering requirements;

e. The pace of development and/or the amount of vacant land currently zoned for comparable development in the vicinity suggests a need for the proposed rezoning to ensure an appropriate inventory of land to maintain a competitive land market that promote economic development; and

- f. Is consistent with the stated purposes of this Zoning Code.

**I. Text Amendment.** The Council may from time to time, on its own motion or petition, amend text regulations or restrictions established in this Zoning Code, as provided by State of Texas Law, as may be amended. Any proposed amendments shall be filed with the City Clerk.

i. **Application.** Such proposed amendment, supplement, modification or change shall be filed with the Administrator following Subsection *156.11.04, Application Submittal and Processing*. Additional information shall include:

a. A description of the reason for the text amendment application.

ii. **Commission Report and Public Hearing.** The Commission shall hold a public hearing on an Application for a text amendment or prior to making its report to the City Council.

iii. **City Council Public Hearings.** Pursuant to Subsection *156.11.04, Application Submittal and Processing*, the Commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the City Council. The City Council may not hold a public hearing until it receives the final report of the Planning Commission. The City Council may not act on the matter until it receives the final report of the Commission.

a. **Public Notice.** Notice shall be given by publishing the same in a newspaper of general circulation in the City at least fifteen (15) days prior to the date set for hearing, which notice shall state the time and place of such hearing

b. **Council Vote.** A majority vote of Council members shall indicate approval of a text amendment request.

iv. **Approval Criteria.** The Commission may recommend approval, and City Council may grant the approval of a map or text amendment request if it is demonstrated that:

a. The proposed amendment is preferable to the existing zoning or text in terms of its likelihood of advancing the goals, objectives, and policies of the Comprehensive Plan or another adopted land use or area plan, including but not limited to redevelopment plans;

b. The proposed amendment is consistent with the future land use map of the Comprehensive Plan (a future land use map amendment may be processed concurrently with the map amendment);

c. The proposed amendment is consistent with the implementation of existing or pending plans for providing streets, water and wastewater, other utilities, and the delivery of public services to the area in which the parcel proposed for a zone change is located;

d. The range of uses and the character of development that is allowed by the proposed amendment will be compatible with the properties in the immediate

vicinity of the parcel proposed for a zone change, and the parcel proposed for a zone change has sufficient dimensions to accommodate reasonable development that complies with the requirements of this Zoning Code, including parking and buffering requirements;

e. The pace of development and/or the amount of vacant land currently zoned for comparable development in the vicinity suggests a need for the proposed rezoning to ensure an appropriate inventory of land to maintain a competitive land market that promote economic development; and

f. Is consistent with the stated purposes of this Zoning Code.

**J. Interpretations.** The Administrator may render interpretations of any provision of this Zoning Code, or any rule or regulation issued pursuant to it, including interpretations as to whether a use that is not listed is a subcategory of or substantially similar to an allowed, limited, or conditional use. All questions of interpretation and enforcement shall be first presented to the Administrator and shall be subsequently presented to the Board of Adjustment only on appeal from the decision of the Administrator.

i. **Administration.** The Administrator shall review, evaluate, and act upon all applications for interpretations submitted pursuant to this Subsection.

ii. **Application.** A request for interpretation of any provision of this Zoning Code shall be submitted in writing to the Administrator. It shall set out the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before the rendering of any interpretation, the Administrator may require further facts and information as are, in the Administrator's judgment, necessary to a meaningful interpretation of the provision in question.

iii. **Approval Criteria.** The interpretation shall be based on the plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in Webster's Third New International Dictionary or other current and authoritative dictionaries, including the context and intent of the applicable Code section as related to the Comprehensive Plan.

iv. **Decision.** Within fifteen (15) working days following the receipt of a completed request or application for interpretation, the Administrator shall inform the applicant in writing of the interpretation. The Administrator may consult with the City Attorney or other officials, departments, or agencies in drafting the interpretation. The Administrator shall state the specific precedent, reasons, and analysis upon which such interpretation is based and shall be communicated to the applicant in writing.

v. **Record.** The Administrator shall keep a record of all interpretations issued as a record of an interpretation of the subject Code Subsection.

**K. Appeals.** Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any decision of the Council, Commission, or Administrator.

- i. **Administration.** The Board of Adjustment shall review, evaluate, and act upon all applications for appeals submitted pursuant to this Subsection.
- ii. **Application.** An appeal shall be filed with the Administrator in such form and contain such information as shall be prescribed from time to time by the Administrator. An application for an appeal shall be taken within fifteen (15) days after the action the applicant is appealing.
- iii. **Procedures.** Such appeal application shall be taken within fifteen (15) working days of filing with the Administrator, and with the Board of Adjustment, a notice of appeal specifying the ground thereof. The Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
- iv. **Stay of Proceedings.** Such notice of appeal properly filed as herein provided shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his 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 of Adjustment or by a court of record on application and after notice to the officer from whom the appeal is taken and for due cause shown.
- v. **Public Hearing.** The Board of Adjustment shall hold a public hearing on all appeals.
  - a. **Mail Notice.** Written notice of all such public hearings shall be sent by the Administrator to the applicant and all other persons deemed by the board to be affected thereby, and all owners of real property lying within 200 feet of the property on which the appeal is proposed, such notice to be given not less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll.
  - b. **Public Notice.** Notice shall also be given by publishing the same in a newspaper of general circulation in the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing; provided, however, all provisions contained herein with respect to the mailing and publishing of notices of hearing shall be deemed sufficient upon substantial compliance with this Section.
- vi. **Board Vote.** Within thirty (30) days following the close of the public hearing, the Board of Adjustment shall render a decision on the appeal based on the merits of the appeal based on their findings of fact and deliberations. Such decision may reverse, affirm, or modify, in whole or in part, the action from which the appeal is taken. Within seven (7) days of such decision, or the expiration of such period, notice of such decision or failure to act shall be mailed by the Administrator to all parties entitled to such notice.
- vii. **Approval Criteria.** The criteria used by the Board of Adjustment in their decision may include such order or determination as, in the opinion of the Board of Adjustment, is proper to

be made on the premises. To that end, the Board of Adjustment shall have the same powers and be subject to the same standards and limitations as the Administrator, or other City official, department, or agency, with respect to the action being appealed.