

Boerne Unified Development Code

Chapter 3: Zoning

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3.1. ZONING PROVISIONS

A. SHORT TITLE (§1.01)

This Chapter shall be known and may be cited as the "Zoning Ordinance," or "Zoning Code" of the City of Boerne. Herein it may be referred to as the Chapter.

B. PURPOSE (§1.02)

1. The zoning regulations have been designed to:
 - a. lessen congestion in the streets,
 - b. secure safety from fire, panic, and other dangers,
 - c. promote health and general welfare
 - d. provide appropriate light and air,
 - e. prevent the overcrowding of land,
 - f. Facilitate appropriate concentration of population,
 - g. facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and
 - h. safeguard natural resources
2. The zoning regulations have been made with reasonable consideration, among other things:
 - a. for the protection and preservation of places and areas of historical, natural and cultural importance and significance,
 - b. for the character of the zoning districts and the peculiar suitability of particular uses,
 - c. with a view to conserving the value of buildings and other improvements, and
 - d. encouraging the most appropriate use of the land throughout the City consistent with the City's adopted Master Plan.

C. CONSISTENCY WITH THE MASTER PLAN

1. This chapter is intended to implement the goals, objectives and policies of the comprehensive plan. Any amendments to this chapter, including any rezoning approved pursuant to this chapter, shall take into consideration the goals of the adopted comprehensive plan, as it may be amended from time to time, in effect at the time of such request for amendment,
2. The zoning regulations and districts as established in this chapter have been made in accordance with the comprehensive plan and are hereby deemed to be consistent and in accordance with the comprehensive plan.

D. MORE RESTRICTIVE STANDARDS SHALL GOVERN (§1.03.B)

Whenever higher or more restrictive standards are established by the provisions of any other applicable statute, ordinance or regulation of the City than are established by the provisions of this Chapter, the provisions of such other statute, ordinance or regulation shall govern.

E. AUTHORITY (§1.04)

This chapter is adopted pursuant to Texas Local Government Code, Chapter 211 and the City Charter, and in the exercise of the power granted to municipalities by such statutes and pursuant to any and all other applicable laws.

F. APPLICABILITY

1. This chapter shall apply within the corporate limits of the City to all land and uses thereon, over which the city has jurisdiction under the City Charter, constitution and laws of the State of Texas, and of the United States.
2. This chapter shall further apply to any and all legal annexations of land or additions made to the City after the adoption of this Chapter.

G. COMPLIANCE REQUIRED (§3.01)

Except as provided in this Chapter:

1. No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, structure or land be used, for any purpose other than is permitted in the district in which such building, structure or land is located.
2. No building or structure shall be erected, reconstructed or structurally altered to exceed a height or bulk limit or setback requirement herein established for the district in which such building or structure is located.
3. No lot area shall be reduced or diminished so that the yards, courts, or other open spaces shall be smaller than prescribed by this ordinance.
4. No yard, court, or open space provided in conjunction with a particular building or structure for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard, court, or open space for any other building or structure.
5. Every building hereafter erected shall be located on a lot.

H. ADMINISTRATION AND ENFORCEMENT (§2.01)

1. City Manager

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

2. City Council

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

3. Planning and Zoning Commission

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

4. Zoning Board of Adjustment

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

5. Historic Landmark Commission

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

I. ZONING OF NEWLY ANNEXED TERRITORY (§3.16)

1. All territory annexed to the City hereafter shall be temporarily classified as R-A until permanently zoned by the City Council.
2. The Planning and Zoning Commission shall, as soon as practicable after annexation of any territory to the City, institute proceedings on its own motion to give the newly annexed territory a permanent zoning district classification, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.
3. The City does not prohibit a person from:
 - a. continuing to use land in the newly annexed area in the manner in which the land was being used on the date of incorporation, provided that the land use was legal at that time; or
 - b. beginning to use land in the newly annexed area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:
 - i. one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - ii. a completed application for the initial authorization was filed with the governmental entity before the date of annexation. A completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

J. RECONSTRUCTION OF DAMAGED BUILDINGS (§3.11)

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

3.2. ZONING MAP

A. MAP OF DISTRICT BOUNDARIES (ZONING MAP) (§3.14)

1. The City is hereby divided into zoning districts. The boundaries of these districts shall be maintained on the Official Zoning Map of the City, herein referred to as the Zoning Map.
2. The Zoning Map is incorporated by reference into this Chapter. All notations, references and other information shown on the Zoning Map shall be considered a part of this Chapter as if the matters and information set forth by such maps were all fully described herein.
3. The Official Zoning Map shall be maintained in the office of the City Manager. It shall bear the signature of the Mayor and the attestation of the City Secretary. In any and all questions and disputes regarding zoning district boundaries, this Official Zoning Map shall be controlling.
4. All amendments to the zoning map shall be listed in the order adopted in a separate register maintained and kept current by the [CITY OFFICIAL]. The official zoning map shall carry the zoning district designations established in this chapter.
5. The regulations established in this chapter shall apply uniformly to all geographical areas having the same district classification and bearing the same symbol or designation on the zoning map.

B. RULES FOR INTERPRETATION OF ZONING MAPS (§3.15)

1. When zoning district boundaries are intended to be along the right-of-way or centerlines of streets, highways or alleys, along platted lot lines, or along the line of the corporate limits of the City, they shall be construed to follow such lines.
2. Zoning district boundaries that follow railroad lines shall be construed to be midway between the main tracks.
3. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
4. When zoning district boundaries are intended to be along platted lot lines, they shall be construed as following such lines.
5. When the location of a district boundary line is not otherwise determined, it shall be determined by the scale of the maps measured from a given line.
6. Where the district boundary actually on the ground varies from the boundary shown on the zoning map, the Planning Director shall interpret the boundaries with appeal to the board of adjustment.

3.3. NONCONFORMITIES (§3.12)

A. INTENT

1. Within the districts established by this Chapter, there exist uses of land and structures which were lawful before the effective date of this Chapter, but which do not now conform to the regulations of the district in which they are located.
2. It is the intent of this Chapter to permit such non-conforming uses to continue, subject to the limitations of this section and other applicable regulations of the City.
3. It is also the intent of this Chapter that non-conforming uses shall not be enlarged and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
4. Although nonconforming uses may exercise the right to continue operation, subject to the provisions of this Chapter, nonconforming uses are incompatible with the normal exercise of right of use afforded under the provisions of the designated zoning category and of this Chapter.

B. DEMONSTRATION OF NON-CONFORMING STATUS

1. The burden of demonstrating nonconformity shall belong to the property owner.
2. The nonconforming status shall specify whether the building, the lot, the use, the site, or some combination thereof is non-conforming at the time of designation. Requirements shall be in accordance with the type of nonconformity.

C. NONCONFORMING USES

1. Any use which was lawful before the effective date of this Chapter may be continued even though such use does not conform to the provisions of this Chapter. Such use may be extended throughout the structure, provided no structural alterations, except those required by law or ordinance, are made therein.
2. Any use which does not conform to the regulations of the zoning district and any applicable overlay district in which it is located shall be deemed a non-conforming use when:
 - a. The use was in existence and lawfully operating prior to the effective date of this Chapter, and which has since been in regular and continuous use;
 - b. The use was in existence and lawfully operating at the time of any amendment to this chapter, but by such amendment is now found to be in a district where said use is not otherwise permitted, and has since been in regular and continuous use; or
 - c. The use was in existence and lawfully operating at the time of annexation into the city and has since been in regular and continuous use.
3. Should land adjacent to a nonconforming use, which is in the same ownership but not itself the site of the nonconforming use, be sold separately from the nonconforming use, the use of the land which is sold shall conform to the requirements of this Chapter and shall not be considered a nonconforming use.
4. The right to continue a nonconforming use shall be transferable by deed provided the preceding requirements are met.
5. Whenever a nonconforming use is discontinued for six months or more, all nonconforming use rights shall cease, the use shall be deemed abandoned and future use of the premises shall thereafter be in conformance with this Chapter.
6. Any nonconforming use may be changed to a conforming use. Once such a change is made, the use may not be changed back to nonconforming status.

D. NONCONFORMING STRUCTURES

1. Any structure which does not conform to the regulations of the zoning category and any applicable overlay district in which it is located shall be deemed a non-conforming structure when:
 - a. The structure was in existence and lawfully located, constructed and operating prior to the effective date of this Chapter, and which has since been in regular and continuous use;
 - b. The structure was in existence and lawfully located, constructed and operating at the time of any amendment to this chapter, but by such amendment is now found to be in a district where said use, platted lot or structure is not otherwise permitted, and has since been in regular and continuous use; or
 - c. The structure was in existence and lawfully located, constructed and operating at the time of annexation into the city, and has since been in regular and continuous use.
2. Any nonconforming structure may be changed to a conforming structure. Once such a change is made, the structure may not be changed back to nonconforming status.
3. For a non-conforming structure to be changed to a conforming structure, building permits and a certificate of occupancy, granted in accordance with the current building code at the time of the petition for a change to conforming status, shall be required.
4. Except as hereinafter provided, a nonconforming structure may be occupied and operated and maintained with a conforming use, as long as the structure is maintained in a state of good repair and a certificate of occupancy is obtained from the City prior to the occupancy.
5. A nonconforming structure shall not be enlarged or extended.
6. When a conforming use is intended to be located within a nonconforming structure, this use may be enlarged or extended within the nonconforming structure. However, an extension or enlargement of a conforming use shall not change the non-conforming status of the structure, if the structure is deemed to be non-conforming.
7. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of the structure's value, both the preexisting structure and the addition shall be required to conform to the standards of this Chapter.
8. All remodeling of the exterior or adding onto a nonconforming structure at a cost less than fifty percent (50%) of the value of the structure shall, at a minimum, have the same level and standard of materials, architectural features, and style as the existing structure.
9. A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than 50 per cent of its replacement cost may be restored, provided restoration is begun within one year and completed within two years of the date of damages.
10. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.
11. Whenever a nonconforming structure is unoccupied, abandoned or in violation of any of the applicable building regulations of the City for six months or more, all rights of nonconformity shall cease, and future use of the premises shall thereafter be in conformance with the regulations of this Chapter.

E. NONCONFORMING LOTS

1. Nonconforming lots that lawfully existed on the effective date of this Chapter or subsequent amendments to this Chapter shall be considered legal nonconforming lots.

2. Minimum residential lot areas shall be in accordance with the Master Table of Dimensions, except that a lot having less area than required by this chapter, which was an official "lot of record" prior to the adoption of this chapter, may be used for a single-family dwelling.

F. NONCONFORMING SITES

1. Sites where improvements such as fences, parking areas, landscaping or sidewalks were conforming at the time of installation, but which are not in conformity with the standards of design standards at the time of adoption, shall be considered nonconforming sites.
2. Any remodeling or replacement of a non-conforming site component at a cost less than 50% of the value of the nonconforming component shall be permitted, provided the remodeling or replacement maintains the same materials and design as the existing non-conforming design component.
3. Any remodeling or replacement of a nonconforming site component at a cost greater than 50% of the value of the nonconforming component shall require conformity with the City's current standards.

G. NONCONFORMITIES UNDER PREVIOUS ORDINANCE

1. Any legal nonconformity under the zoning regulations in effect before the effective date of this chapter shall be considered a legal nonconformity under this chapter, provided the situation that resulted in the nonconformity under the previous regulations continues to exist.
2. If, however, a nonconformity under a prior ordinance becomes conforming because of the adoption of this Chapter or any subsequent amendment to this chapter, then such situation shall no longer be considered a nonconformity.

H. CONTINUATION OF LAND USE REGARDING MANUFACTURED HOME COMMUNITIES.

1. The governing body of a municipality may not require a change in the nonconforming use of any manufactured home lot within the boundaries of a manufactured home community if:
 - a. the nonconforming use of the land constituting the manufactured home community is authorized by law; and
 - b. at least 50 percent of the manufactured home lots in the manufactured home community are physically occupied by a manufactured home used as a residence.
2. Requiring a change in the nonconforming use includes:
 - a. requiring the number of manufactured home lots designated as a nonconforming use to be decreased; and
 - b. declaring that the nonconforming use of the manufactured home lots has been abandoned based on a period of continuous abandonment of use as a manufactured home lot of any lot for less than 12 months.
3. A manufactured home owner may install a new or used manufactured home, regardless of the size, or any appurtenance on a manufactured home lot located in a manufactured home community for which a nonconforming use is authorized by law, provided that the manufactured home or appurtenance and the installation of the manufactured home or appurtenance comply with:

- a. nonconforming land use standards, including standards relating to separation and setback distances and lot size, applicable on the date the nonconforming use of the land constituting the manufactured home community was authorized by law; and
 - b. all applicable state and federal law and standards in effect on the date of the installation of the manufactured home or appurtenance.
4. If the construction of new single-family residences or the construction of additions to existing single-family residences on a site located in a designated floodplain is prohibited, the City may prohibit the installation of a manufactured home in a manufactured home community on a manufactured home lot that is located in an equivalently designated floodplain.

I. COMPLETION OF BUILDINGS UNDER CONSTRUCTION

Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a structure actually under construction, and for which a building permit was issued, so long as such structure is completed within one year from the date of this Chapter.

J. VARIANCES

1. The Board of Adjustment may grant a variance to this section only if the owner can show there was a clear intent not to abandon the use even though the use may have been discontinued for six months.
2. Evidence that the use was not intended to be abandoned may include evidence that the property or structure continued to be marketed throughout the period of the vacancy for the non-conforming use, or that the property or structure has not during the period of vacancy become delinquent in City taxes.

3.4. PERMITTED USES OF BUILDINGS AND LAND (§1.07)

A. GENERALLY

1. Particular uses identify those uses of buildings and land permitted in the City.
2. Permitted uses are assigned by Zoning District, in accordance with the Master Use Table (3.XX.XX).
3. No use shall be permitted pursuant to this chapter, and no development permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use conforms to the provisions and regulations of this Chapter.
4. Notwithstanding, uses which are required to be permitted in any zoning district by state statute may be permitted in accordance with state law whether or not the use is included in the Master Use Table (XX.XX).
5. In cases where a particular use is not identified in the Use Tables but meets all of the characteristics of and is so similar to a use specifically described below that no difference in impact on the district or adjacent property can be anticipated, the City Manager may interpret that use as being included within that similar category and use type.
6. The City Manager shall determine whether a proposed use is included or excluded from the scope of the uses listed in these tables and the provisions concerning particular districts.

B. USE RESTRICTIONS

Due to their nature, some particular uses, though allowed by right, must demonstrate compliance with additional standards in order to preserve the health, safety, welfare and economic stability of the community. The following uses shall be allowed, provided the use meets the standards established herein, and the use is permitted under the zoning district assigned to the property.

RESIDENTIAL USES

1. Assisted Living Facilities

- a. Assisted Living Facilities with 6 or fewer residents shall be permitted by right in any residential district.
- b. An Assisted Living Facility with more than 6 residents shall require a Special Use Permit in all single-family residential districts.
- c. An Assisted Living Facility with more than 6 residents shall be permitted by right in any district where multi-family residential is permitted.

2. Bed and Breakfast

- a. Duplex dwellings may be used as bed and breakfasts. If duplex dwellings are used as bed and breakfasts:
 - i. The bed and breakfast shall be in conformity with the requirements for a Special Use Permit; and
 - ii. Both units shall be under a single ownership and operate as a single bed and breakfast

3. Boarding Houses

- a. No more than one boarding house per individual parcel or platted lot is allowed.
- b. No more than two (2) persons are permitted per bedroom.

- c. All sleeping rooms shall be a minimum size of 70 square feet for one occupant and 120 square feet for two occupants.
- d. Reasonable accommodation may be made, per ADA standards, for persons with restricted physical mobility living in a boarding house.
- e. Public ingress and egress to the boarding house shall be through one common exterior entrance. Ingress and egress for boarders shall be through common exterior entrances.
- f. Entry access to all sleeping rooms shall be through the interior of the building.
- g. No exit doors from individual sleeping rooms shall lead directly to the exterior of the building.
- h. Residents must have access on-site to shared common areas for cooking and eating. A common kitchen facility equipped for cooking meals located on-site must be available to the residents, or daily meals must be provided on-site for the residents of the boarding house.
- i. No cooking is permitted in any sleeping room. No cooking facilities are permitted in any sleeping room.
- j. Each floor shall contain at least one fully equipped bathroom for each five residents that is accessible from a common hallway.
- k. Each boarding house shall have a resident manager.
- l. All residents shall execute a lease before occupancy.
- m. Rooms shall be leased to the same resident for at least seven consecutive calendar days.
- n. Parking spaces shall be provided as follows: one space for the resident manager; one space per leased sleeping room; and one space per four employees.
- o. The owner of the boarding house shall obtain a Certificate of Occupancy and register with the City before operating a boarding house.

4. Bungalow Courts

- a. Bungalow Court Communities shall consist of multiple detached residences on a single lot.
- b. All residences shall front a common open space, which could be a courtyard, a lawn or a plaza.
- c. A Bungalow Court development shall be on at least half an acre.
- d. Residences shall be clustered, with no more than 10 units in a cluster.
- e. Multiple clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.
- f. Shared grounds shall include the perimeter fence.
- g. A shared parking area shall be provided
- h. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation of common areas and the services to the residences are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance. Documentation shall be provided at preliminary plat submittal.
- i. Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association or a similar mechanism, and shall not be dedicated to the municipality.
- j. There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
- k. Parking shall provide a minimum of 1 and maximum of 2.0 car parking spots per residence.
- l. Parking shall be set back at least 10 feet from street frontage.
- m. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.

5. Community Homes

- a. To qualify as a Community Home for Persons with Disabilities (community home), the home shall be a community-based residential home operated by:
 - i. the Texas Department of Aging and Disability Services; or
 - ii. a community center that provides services to persons with disabilities; or
 - iii. a non-profit corporation; or
 - iv. an entity certified by Texas Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program; or
 - v. be classified as an assisted living facility licensed under Health and Safety Code Chapter 247.002, with an exterior structure compatible with surrounding residential dwellings, which:
 - (a) furnishes food and shelter to four or more unrelated persons
 - (b) provides personal care services or administration of medication by licensed or authorized person
 - (c) may provide assistance with or supervision of administration of medication
 - (d) may provide skilled nursing services for limited purposes
- b. A community home shall not house more than six persons with disabilities and two supervisors at the same time, regardless of relationship. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized as a Conditional Use to allow from seven (7) to no more than sixteen (16) residents.
- c. Reasonable accommodation is encouraged where such accommodation may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- d. A community home shall meet all applicable licensing requirements.
- e. Community Homes shall register with the City of Boerne Code Enforcement Department.
- f. A current and valid certificate of occupancy issued by the City of Boerne is required.
- g. The number of vehicles kept at the community home shall not exceed the number of bedrooms in the home.

6. Cottage Housing Development

- a. A cottage housing development must be on at least half an acre.
- b. Each cottage development must be on at least a half-acre.
- c. Residences shall be clustered, with no more than 10 units in a cluster.
- d. Multiple clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.
- e. Shared grounds shall include the perimeter fence.
- f. A shared parking area shall be provided
- g. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation of common areas and the services to the residences are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance. Documentation shall be provided at preliminary plat submittal.
- h. Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association or a similar mechanism, and shall not be dedicated to the municipality.

- i. There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
 - j. A minimum 20% of the property shall be dedicated as open space.
 - k. An extra cottage house in each cluster may be permitted if low impact storm water development techniques that are approved by the City Manager are used in the development. Such techniques may be directing roof drains and parking lot runoff to landscape beds, green or living roofs, and rain barrels. If the LID is approved then open space for the development as a whole may be diminished, by no more than 5%.
 - l. Parking shall provide a minimum of 1 and maximum of 2.0 car parking spots per residence.
 - m. Parking shall be set back at least 10 feet from street frontage.
 - n. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.
- 7. Duplex
 - a. The units may be separated by different stories where the structure is intended for single or condominium ownership
 - b. Duplexes may be sited on a single lot or may have a shared wall along a lot line of adjoining lots.
- 8. Garden Homes, Zero Lot Line Homes and Patio Homes
 - a. Garden Homes, also known as Zero Lot Line homes and Patio Homes, are permitted to build to the side property line, with no side yard setback, provided the nearest walls on both properties are built as fire walls.
 - b. In cases where a garden home or patio home is to be built on a lot that is adjacent to a lot with an existing structure, the side yard setback for the garden home or patio home shall not be closer than 10 feet to the existing structure on the adjacent property, unless the nearest wall of the existing structure was built as a fire wall.
 - c. Where multiple lots or tracts are built as Garden Homes, the home may be built with no side yard setback, provided the house on the neighboring lot maintains a 10-foot side yard setback at the adjoining lot line.
- 9. Group Homes
 - a. See Community Homes.
- 10. Halfway Houses
 - a. The home shall be a community-based residential home.
 - b. The exterior structure of the home shall retain compatibility with the surrounding residential dwellings.
 - c. A halfway house shall not be located within a 1,000-foot radius of another halfway house, as measured from building to building.
 - d. A halfway house shall meet all applicable licensing requirements.
 - e. Halfway houses shall register with the City of Boerne Code Enforcement Department.
 - f. A current and valid certificate of occupancy issued by the City of Boerne is required.
 - g. The number of vehicles kept at the halfway house shall not exceed the number of bedrooms in the home.
- 11. Manufactured Home Parks

- a. A Manufactured Home Park shall provide water and sewer service for each unit.
- b. A manufactured home park shall be a development of twenty or more spaces for rent or lease for HUD-Code manufactured homes.
- c. A manufactured home park shall include common areas and facilities such as recreational areas, laundry and utility services, storage and similar services for the convenience of residents of the manufactured home community.
- d. An approved site plan shall be required for each Manufactured Home Community.
- e. A manufactured home shall not be admitted to any manufactured home park unless it meets the minimum standards and requirements of the "American Standards for Installation in Manufactured Homes of Electrical, Heating and Plumbing Systems".
- f. A manufactured home park exceeding six hundred (600) feet in depth shall be required to install a 6-inch fire main, looped if possible, located within the manufactured home community and installed at or near the edge of the paving in a dedicated easement or fire lane. Fire hydrants shall be located in accordance with the City's Fire Code.
- g. Exposed ground surfaces in all parts of every manufactured home community shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.
- h. All public utilities and all public or private streets shall be installed to City of Boerne specifications.
- i. Manufactured home parks shall conform to the drainage and flood hazard requirements of the City of Boerne.
- j. Manufactured Home Communities shall be at least 6 acres in size and shall not exceed a net developable area of 25 acres, exclusive of any parks or land necessary to meet other requirements for infrastructure or amenities.

12. Mixed-Use Dwelling Units

- a. Each unit, residential and commercial, shall have two clearly distinct areas.
- b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
- c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district.
- d. The use shall not by reason of noise, odor, or physical operation create any adverse impacts on adjacent lots or uses.
- e. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

13. Modular Homes

- a. All modular homes shall bear a State of Texas Compliance Decal in accordance with the Texas Department of Labor and Standards Rules.
- b. All modular homes shall be affixed to a permanent foundation in accordance with the City of Boerne Building Code requirements. There shall be no space variation between the finished floor elevation and the foundation.
- c. All other uses shall be subject to the same requirements and restrictions in the corresponding residential zoning category.

14. Retirement Housing

- a. Retirement housing shall be exclusively for persons 62 years of age or older, who may need limited assistance with daily living activities.
- b. Such facilities shall include, at a minimum:

- i. Private living quarters that are designed for a maximum of double occupancy, and in which no full kitchen facilities, such as a dishwasher or oven, shall be allowed.
- ii. Daily prepared meals and a common dining area for congregate meals.
- iii. Housekeeping, laundry service and private transportation service.
- iv. Dedicated areas for social activities.
- v. Dedicated areas for indoor and outdoor recreational activities.

15. Supervised Living Facilities

- a. Any Supervised Living Facility that requires licensing shall register with the City of Boerne Code Enforcement Department.
- b. No other use, including a home occupation, shall be conducted on the premises of a Residential Care Facility, except for such activities clearly incidental to the administration of the facility and the provision of services in connection with the facility's State license.

NON-RESIDENTIAL USES

16. Adult Day Care

- a. Adequate provision for pick-up and drop-off shall be provided and maintained, including:
 - i. Clearly marked building entry
 - ii. Adequate lighting around entry, building front and areas of outdoor congregation as appropriate for hours of operation
 - iii. At least 4 temporary parking spaces for loading and unloading
 - iv. At least 2 accessible parking spaces
 - v. Landscaping that does not disrupt line of sight from windows and entryways.
- b. All outdoor gathering spaces shall be fenced or gated, conforming to City requirements.
- c. At least 300sf of landscaped outdoor gathering space shall be provided.

17. Agricultural uses

- a. All agricultural uses are limited to the Rural Lot types or to parcels that are 10 acres or more in size.

18. Assemblies

- a. Assemblies are limited in the districts by the seating capacities in the primary facility (this excludes any support facilities such as, education buildings, athletic buildings).
- b. Accessory uses to the principal use, such as schools, coffee houses and daycare facilities, shall only be permitted on site if the assigned zoning category permits the use as a primary use.
- c. Assemblies shall provide access points as follows:

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

19. Automobile sales

- a. Used vehicles may only be sold as an ancillary use to new vehicle sales.
- b. All outside display of vehicles shall be on an approved concrete or enhanced concrete surface.
- c. Vehicle display areas shall meet the landscaping requirements for parking areas.

20. Bars

- a. Bars shall be located at least 100 feet from a Residential Use and shall have an interior square footage of no more than 2,500 square feet.
- b. Bars shall not serve alcohol past midnight in the River Road Overlay District.

21. Bed & Breakfasts

- a. There shall be at least one on-site parking space per rental unit.
- b. A bed and breakfast does not have to be owner occupied or occupied at times other than its rental.
- c. The bed & breakfast must be registered with the City of Boerne and the State Comptroller's Office as a bed & breakfast and it must collect and pay the appropriate hotel/motel taxes.
- d. No new accessory structures will be permitted for additional rental units in a residentially zoned area.
- e. No outside advertising shall be permitted on the lot, unless located in a non-residential zoning district or permitted by an SUP.
- f. Any bed and breakfast SUP shall be reviewed after an initial six-month period, and annually thereafter, unless otherwise stipulated in the permit.

22. Carports

- a. Carports shall be open on at least two sides.
- b. They shall be located at least 20 feet behind the corner of the front façade of the house and shall meet all side and rear setback requirements.
- c. Carports which are visible from a public street shall be constructed of materials matching those of the primary residential structure.
- d. Porte-cocheres are not carports, and are permitted, provided that they are an attached and structurally integrated component of the house.

23. Carwash or auto detail.

- a. Entrances and exits to the car wash shall not directly face any public street. Where car washes are located on corner lots, entrances and exits shall not face the street with the higher traffic volume, as determined by the [CITY OFFICIAL].
- b. The car wash structure shall be set back a minimum of 50 feet from any street frontage.
- c. Free-standing vacuuming, cleaning and servicing areas that are not found inside of an enclosed structure shall be set back at least 50 feet from any street frontage.
- d. Vehicles and other material stored on the property before or after the hours of normal business operation shall be stored in the rear yard space of the property, out of view from public streets, public spaces and residential properties.

24. Childcare, In-home

- a. Outdoor play space shall not be permitted within the front yard area.
- b. No signs shall be permitted except for a name plate not exceeding one (1) square foot in size and attached flat to the primary building.

25. Childcare Centers (Daycare Centers)

- a. The outdoor play space for childcare centers which abut or are zoned for residential use shall be enclosed by a six-foot solid (opaque) fence.
- b. If the adjacent property is zoned residential but is in use as a school, church or park, a fence shall be required, but fencing materials are at the discretion of the applicant, provided the fence conforms to the fencing requirements of the City.

26. Commercial Stables

- a. Commercial stables are limited to the Rural Lot types or to parcels that are 10 acres or more in size.

27. Community Gardens

- a. Community gardens shall comply with all setback standards for the zoning districts in which they occur.
- b. No planting activity shall be permitted in the setback area.
- c. All chemicals, including fuels and pesticides, shall be stored in an enclosed, locked structure.
- d. Sale or donations, special events or other public use of the garden shall begin no earlier than 7:00am and must end by 7:00pm each day which the garden is open to the public.
- e. Sale of produce shall not be permitted in community gardens that occur on a lot that also contains a residence.
- f. Drive Through Facilities
 - i. A drive through shall not be located on a property adjacent to a residential use and shall be separated from a residential use by an intervening building.
 - ii. A drive through shall not be accessible from a neighborhood street.
 - iii. Stacking lanes for service windows shall accommodate at least six cars per lane.

28. Convenience Stores

- a. Pump islands and service locations shall be limited to no more than two islands and no more than 8 service locations and shall be set back at least 20 feet from any right-of-way or lot line.

- b. Canopies shall be no more than 14 feet high gabled roofs with recessed lighting, shall be setback at least 10 feet from any property line, and shall cover no more than 1,500 square feet of area.
- c. Gas stations shall be located only on secondary or support streets and shall otherwise meet the intent, guidelines, and design standards for buildings in the district.
- d. Curb cuts and driveways shall be limited to no wider than 30 feet and no more than 30% of the lot frontage, whichever is less.

29. Fairgrounds and Exhibition Grounds

- a. Fairgrounds and exposition grounds are limited to the Rural Lot types or to parcels that are 10 acres or more in size.

30. Gas station.

- a. The primary structure shall be set back at least 50 feet from any street frontage.

31. Health Clinic

- a. A health clinic may not include in-patient care or operating rooms for surgery.

32. Home Occupations (§3.04)

- a. No person(s) outside of the family residing in the home may make use of the home office space, including other employees.
- b. There shall be no exterior display, signage, exterior storage or materials or other exterior indication of the home occupation which would cause the structure to vary in character from a residential use.
- c. No traffic shall be generated by such home occupation than would normally be expected in the neighborhood.
- d. The home occupation shall generate no nuisance for neighbors or the general public.
- e. The following uses are not allowable as a home occupation:
 - i. Motorized vehicle repair
 - ii. Electronics and appliance repair
 - iii. Any industrial use
 - iv. Retail sales involving on-site purchases
- f. Sample sales, garage sales, estate sales and other event-related sales
 - i. There shall be no more than 4 sale days per calendar year for a property.
 - ii. Sales events in a residence shall only take place between the hours of 7am and 7pm.
- g. All existing residential single-family residential buildings located in a non-residential district, as of the effective date of this Chapter, may be used as both a single-family dwelling and a business. Home occupations in non-residential districts must meet the following requirements:
 - i. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
 - ii. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a

- day-care nursery. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.
- iii. On-site parking in addition to that required for the dwelling shall not be required for those business uses which require three or fewer parking spaces.
- iv. No automobile engine or small engine repair shall be permitted as a home occupation.
- h. Home occupations in all residential districts shall meet the following requirements:
 - i. Home occupation shall never be permitted as the primary use of the property.
 - ii. No business shall be permitted that principally involves the resale of tangible personal property at the business.
 - iii. No manufacturing or industrial use shall be permitted.
 - iv. No barber shop, beauty shop, carpenter shop, electrician shop, plumber shop, radio shop, or sign painting business shall be permitted. No automobile engine or transmission, or small engine repair or service work shall be permitted as a home occupation.
 - v. A Day Care shall be limited to a maximum of six children.
 - vi. All employees must reside on the premises.
 - vii. The home occupation use shall not utilize more than 25% of the gross floor area of the building.
 - viii. No construction features shall be permitted which are not customarily found in a dwelling.
 - ix. No signs identifying the home occupation shall be permitted, except that a single nameplate, not exceeding one square foot in area, may be attached flat to the main building.
 - x. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
 - xi. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery.
 - xii. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.

33. Indoor entertainment activities

- a. A freestanding indoor entertainment activities facility, including the building footprint, outdoor eating, drinking and entertainment areas/patios, drive-through lanes and associated facilities, trash dumpsters and receptacles, and loading/unloading facilities, are prohibited within 150 feet of a residential property line.
- b. An indoor entertainment activities facility within a multi-tenant building is prohibited within 50 feet of a residential property line. Outdoor eating, drinking and entertainment areas/patios and drive-through lanes and associated facilities are prohibited within 150 feet of a residential property line.
- c. Outdoor rear or side patio areas shall be screened by a natural stone, simulated stone, or brick fence that is at least six (6) feet tall.
- d. The zoning administrator may waive the above requirement based upon a finding of any of the following:
 - i. The zoning administrator determines that due to the site plan layout and/or existing conditions, potential impacts will be negligible;

- ii. The zoning administrator determines that existing and/or proposed vegetation will serve as an adequate screen.

34. Outdoor building and landscape material sales and storage

- a. Permanent outdoor storage and display areas shall be indicated on the site plan submitted to the City.
- b. Outdoor storage, sales and display areas may not exceed ten percent of the enclosed portion of the primary building.
- c. For commercially zoned properties (B1, B2, B2-R, and B3), outdoor storage, sales and display areas shall be screened from view of adjacent roadways, public areas and adjacent properties. Such screening shall:
 - i. Be at least eight feet in height or one foot taller than the display area, whichever is greater.
 - ii. Be of one or a combination of the following materials:
 - (a) Solid screening, using material that matches the primary building
 - (b) Landscape screening, provided that the material is evergreen and conforms to the screening standards of the Unified Development Code
 - (c) Wrought iron accompanied by evergreen landscape screening
 - (d) Chain link fencing accompanied by evergreen landscape screening
 - (e) Other similar material that meets the screening requirements of the City.
- d. Outdoor storage, sales and display areas shall maintain adequate, permanent lighting.
- e. Outdoor storage, sales and display areas shall be adjacent to the primary structure or connected to the primary structure.
- f. Outdoor storage, sales or display areas shall not be located in areas that are used to meet the minimum parking requirements for the property.

35. Outdoor commercial recreation.

- a. Outdoor commercial recreation facilities shall not be located within 400 feet of residentially zoned land.

36. Outdoor Dog Kennels

- a. Outdoor dog kennels shall be located at least 300 feet from a residential structure that is located on any property in separate ownership, as measured from the nearest portion of an existing habitation to the nearest portion of the kennel.

37. Oversize vehicle sales, including boats, marine crafts, and trailers

- a. The area to be used for outdoor storage and display shall not exceed 50 percent of the total lot area and shall not be located within 100 feet of an adjacent street.
- b. Outdoor storage and display space shall be permanently paved to City standards.
- c. Outdoor storage and display space shall be screened along all road frontages with solid evergreen landscape screen that is at least three feet in height.
- d. All outdoor storage and display space shall be lighted with directed exterior lighting that does not produce glare within the adjacent roadway space.
- e. Boat and marine craft sales shall not be permitted to have any portion of a front yard or side yard along any neighborhood streets and shall not be permitted to front a collector street.

38. Personal storage facilities

- a. The maximum lot size shall be 5 acres.
- b. The facility shall have a minimum of 20 units.
- c. Screening shall be provided adequate to protect adjacent properties from the environmental impacts of the storage facilities, such as visual blight, parking or roadway illumination, headlights, noise, blowing papers and dust, and service areas.
- d. If adjacent to residential on any side, the building height shall not exceed 20 feet, with the exception of the office and the caretaker's residence, which, if a separate structure, may be up to 35 feet in height.
- e. On lots zoned for commercial use, perimeter walls of the buildings which face the front yard shall incorporate architectural features consistent with the surrounding uses, and shall not incorporate pre-engineered, metal building components.
- f. The front, side and rear setback areas shall be landscaped in conformity to the landscape standards of this Chapter.
- g. The facilities shall incorporate perimeter gates that limit access to the storage areas to customers and caretakers only. Security gates shall conform to all applicable requirements of this Chapter, including the building code and fire code.
- h. Any metal fencing shall be wrought iron or similar. Chain link fencing shall be prohibited, and barbed wire shall be prohibited.
- i. Overhead doors shall not face the front street.
- j. No outdoor storage of any kind shall be permitted on the property.
- k. All paving shall be in concrete.
- l. Mechanical equipment on the roof shall be screened from view with the roof structure or with parapet walls.
- m. There shall be no advertising signs on the property other than identifying signage of the mini-warehouses facility itself.

39. Plant nurseries

- a. For properties zoned _____, the site area may not exceed one acre.
- b. Storage areas for herbicides, pesticides, or fertilizers, if any, must be shown on the site plan.
- c. This subsection applies to products that are required by the Environmental Protection Agency to be labeled "combustible", "corrosive", "danger", "flammable", "highly flammable", "poison", or "warning".
 - i. Storage or display of a product is required to be:
 - (a) in an enclosed building; and
 - (b) for a site larger than one acre, separated from property used or zoned for a residential use by at least 75 feet plus 20 feet for each acre of site area over one acre.
 - ii. Total storage and display area:
 - (a) is limited to 100 square feet for each acre, or portion of an acre, of site area; and
 - (b) may not exceed 1,000 square feet.
- d. A bulk storage area for soil, compost, or a similar product outside of an enclosed building:

- i. may not exceed 10 percent of the site area;
- ii. must be at least 25 feet from property used or zoned for a residential use;
- iii. must be screened from view from adjacent property used or zoned for a residential use; and
- iv. may not cause noxious odors that are detectible from adjacent property used or zoned for a residential use.

40. Portable buildings

- a. Only one portable building is allowed per property for single family residential lots.
- b. No portable buildings are permitted for multi-family properties, except for duplexes where the two units are separated by a privacy fence.
- c. Portable buildings are only permitted in the rear yard space and must be located outside of the side and rear setbacks of the property.

41. Private club, lodge or fraternal organization.

- a. The club shall be located at least 300 feet from a church, school or public hospital at its nearest point, in any direction.
- b. A variance shall be required to locate a Private Club, Lodge or Fraternal Organization nearer than 300 feet from a church, school or hospital.
- c. The measurement of the distance between a Club, lodge or fraternal organization and the church or hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
- d. The measurement of the distance between a Private Club, lodge or fraternal organization and a public or private school shall be:
 - i. in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - ii. if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- e. There shall be no exterior signs advertising the sale of alcoholic beverages, provided this does not prohibit using established trademark names.
- f. The bar area shall not exceed 30 percent of the total floor area of the establishment, whether indoor or outdoor.
- g. If the private club is located in a multi-tenant building, the boundaries of the club are hereby defined as only that portion of the building in which the private club is located, which is separately leased or owned, or with contiguous internal access, should such floor area be leased to more than one party.
- h. No uses that meet the terms or definitions of “sexually oriented business” as defined in this Unified Development Code shall be located in a private club.
- i. A copy of the permit approved by the State shall be submitted to the City prior to issuance of a Certificate of Occupancy, to ensure that the property is in compliance.
- j. All Special Use Permits issued for the operation of private clubs may be canceled, suspended, or revoked in accordance with the provisions of this Chapter and of the Procedures Chapter of the Unified Development Code, or as the same shall be amended.

42. RV Parks

- a. A recreational vehicle park shall be operated in conformity with state law relating to hotels. A person engaging accommodations in a recreational vehicle park shall register and give to the manager, operator, or person in charge the person's name, residence address, and automobile license plate number and the state in which it is registered.
- b. A permit issued under this provision is nontransferable and expires one year from the date of issuance. The permit fee shall be set by a separate ordinance.
- c. A recreational vehicle park must be located on land that is well-drained, free from heavy growth or brush or weeds, free from marsh, and graded or equipped with storm sewers to insure rapid drainage of rainwater.
- d. An entrance or exit drive to a recreational vehicle park licensed under this division must:
 - i. be surfaced with a minimum width of 18 feet;
 - ii. be well marked to designate roadway parking, and unit boundaries,
 - iii. be lighted at night; and
 - iv. comply with the Fire Code.
- e. A unit reserved for the accommodation of a recreational vehicle or camp cottage must:
 - i. have an area of not less than 576 square feet, excluding the driveway
 - ii. be at least 24 feet wide, defined clearly by markers at each corner; and
 - iii. be level, free from rock and weeds, and well drained.
- f. The owner or licensee of a recreational vehicle park shall provide the park with a water supply that complies with the utility standards of the City.
- g. The owner or licensee of a recreational vehicle park shall provide the park with a sewer system, either by connecting to the City sewerage system if available, or to a private on-site sewage facility, in compliance with the City code and regulations.
- h. The owner or licensee of a recreational vehicle park shall provide the park with facilities for the collection and removal of waste and garbage.
- i. An owner or licensee of a recreational vehicle park shall provide community toilet facilities, wash basins, bathing facilities, slop basins, and water faucets and spigots in a recreational vehicle park where two or more recreational vehicles or camp cottages are located, and where private conveniences for each site or cottage are not provided. A toilet facility must be in a room separate from a bathing facility or partitioned in a manner that provides privacy and promotes cleanliness.
- j. A recreational vehicle or other structure may not be placed or erected at a distance of less than twenty-five feet from the property line separating the court from the adjoining property, measuring from the nearest point of the recreational vehicle.
- k. A sleeping room in a recreational vehicle park must have at least two well screened windows with a total window surface area of not less than 25 square feet, and the height from the floor to the top of the wall may not be less than seven feet.

43. Towing facility with impound yard

- a. Vehicles stored on site shall be stored behind the front building line of the principal structure and shall be screened from view from all public streets, public spaces and residential lots.

44. Truck stop

- a. Entrances and exits to service bays shall not directly face any public street. On corner lots, service bay entrances or exits shall not open toward the street with the higher traffic volume, as determined by the [CITY OFFICIAL].
- b. The location of access drives shall require approval of the [CITY OFFICIAL].

45. Vehicle repair services

- a. For properties zoned _____, facilities that only service vehicles of 7,000 pounds gross weight or less shall be permitted. No service to larger vehicles shall be permitted.
- b. A vehicle repair service facility is permitted as a standalone use on a property zoned Community Commercial, provided that the facility:
 - i. is limited to four service bays
 - ii. each bay has a driveway on each side with a stack space sufficient for at least one car per driveway.
 - iii. There is an enclosed customer service area, with a separate entry, that is separated or structurally partitioned from the repair service space.
- c. Where an auto repair garage is permitted as an accessory use:
 - i. all work shall be conducted wholly within a completely enclosed building.
 - ii. The repair service space shall be separated or structurally partitioned from the retail space.
 - iii. The repair service space shall have a separate entry from the entry used for the retail space.
 - iv. The gross floor area of the auto repair service area shall not exceed the gross floor area of the retail sales area.
- d. Garage doors or bays shall be completely screened from view if they face a neighborhood street or residential lot, in accordance with the City's screening requirements.
- e. Vehicles may be stored outside overnight, provided that they are completely screened from view from public streets, sidewalks, public spaces and residential lots.

46. Sexually Oriented Businesses

These regulations are authorized by Texas Local Government Code, Chapter 243.

- a. Notwithstanding any provision of this chapter to the contrary, it shall be a violation to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented business within one thousand (1,000) feet of a property that is described as follows:
 - i. Another sexually oriented business;
 - ii. Any property within a residential zoning district boundary, whether temporary or permanent, or devoted to a residential use, including any land zoned for one (1) of the aforementioned residential uses which is also described as a planned unit development (PUD) or a unit within a Planned Development District (PDD);
 - iii. Any place of regular religious worship, including property used as a church, synagogue, mosque, or other religious assembly facility;
 - iv. Any public or private elementary, secondary or high school;
 - v. Any public park; or
 - vi. Any licensed childcare facility.

b. Method of Measurement and Survey Requirements

i. Sole Tenant

Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the lot on which the sexually oriented business is located, to the nearest property line of the protected properties described in the above subsection (a), which requires separation. This method of measurement shall apply to a sexually oriented business that is the sole tenant within one (1) building located on one (1) platted lot.

ii. Multiple Tenants

Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the occupied space of the sexually oriented business to the nearest property line of the protected property described in the above subsection (a) which requires separation. This method of measurement shall apply to a sexually oriented business that is a tenant within a multiple tenant building.

iii. Easements Excluded

In calculating the distances described herein, easements (such as right-of-way, drainage and utility easements) that are zoned as, or abut, a protected property classification, shall not be considered as part of the protected property.

iv. Surveyor

A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this subsection shall be submitted to the [CITY OFFICIAL] for all sexually oriented businesses as part of the application for the certificate of occupancy for the use. Any certificate of occupancy issued for a building or facility used to conduct a sexually oriented business without submission of the required survey shall be null and void.

c. Annexation

Any sexually-oriented business annexed by the city after the effective date of this Chapter shall be subject to all the requirements of this section.

C. ACCESSORY USES

1. The regulations applicable to a primary use apply to an accessory use, except as otherwise provided in this section.
2. Accessory buildings not used as dwelling units
 - a. Properties zoned R2-N, R2-M, R2-MO, R3-A, R3-C R4 and R-D shall have only one accessory building to the principal structure, whether portable or permanent.
 - b. Properties zoned RAG, RMA, RES, R1-L, R1-S AND R1-MO shall have no more than two accessory buildings to the principal structure, whether portable or permanent.
 - c. An outdoor swimming pool, a tennis court or any other unenclosed facility shall not be counted as a building.
3. Accessory Dwelling Units (§3.06)
 - a. Accessory Dwelling Units shall be restricted to certain zoning districts identified in the Master Table of Uses.
 - b. The property owner, which shall include title holders and contract purchasers, must reside in either the primary residence or the accessory dwelling unit, and shall at no time receive rent for the owner- occupied unit.
 - c. The property owner shall sign an affidavit before a notary public affirming that the owner occupies either the main building or the accessory dwelling.
 - d. The applicant shall provide a restrictive covenant and the appropriate filing fee suitable for recording with the County Recorder, providing notice to future owners or long term leasers of the subject lot that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by the person to whom the certificate of occupancy has been issued. The covenant shall also require the owner of the property to notify a prospective buyer of the limitations of this Section and to provide for the removal or disconnection of improvements that cause the premises to be defined as an accessory dwelling and to restore the site to a single-family dwelling, in the event that any condition of approval is violated.
 - e. The number of occupants in the Accessory Dwelling Unit shall not exceed a number equal to two persons per bedroom.
 - f. The Accessory Dwelling Unit shall not exceed 1,200 square feet of gross floor area. This restriction applies only to that portion of a structure which constitutes living area for an accessory dwelling.
 - g. An Accessory Dwelling Unit shall not contain more than two (2) bedrooms.
 - h. An Accessory Dwelling Unit shall be equipped with a kitchen and a bathroom, which are separate from the kitchen and bathrooms of the primary dwelling unit.
 - i. One permanent, on-site parking space, in addition to the on-site parking requirements of the primary dwelling unit, shall be required for any type of Accessory Dwelling Unit.
 - j. Parking areas shall be located behind the minimum required front yard setback line.
 - k. Only one (1) Accessory Dwelling Unit shall be permitted per lot.
 - l. The architectural design, style, appearance and character of the Accessory Dwelling Unit shall be consistent with that of the primary residence and shall generally maintain the same proportions.
 - m. Accessory Dwelling Units permitted in the City include:
 - i. Garage Apartments
 - ii. Detached Guest Houses
 - iii. Attached Apartments

- n. The building footprint of a Detached Guest House shall not exceed 30 percent of the building footprint of the main structure.
 - o. Attached Apartment
 - i. A primary dwelling that has a partitioned space that is rented out as an apartment is considered to be an Attached Apartment.
 - ii. Attached Apartment shall have a separate, dedicated entry, other than the entry to the primary dwelling unit.
4. Accessory Uses for Religious Assemblies
 - a. Accessory uses to the principal use, such as schools, coffee houses and daycare facilities, shall only be permitted on site if the assigned zoning category permits the use as a primary use.
 5. Commercial Accessory Use (in a non-residential district)
 - a. A commercial accessory use shall be operated primarily for the convenience of employees, clients, or customers of the principal use;
 - b. occupies less than 10 percent of the total floor area of the use; and
 - c. is an integral part of the principal use
 6. Childcare as an accessory use
 - a. The outdoor play space for any childcare facility, including childcare facilities which are accessory uses, which abut a residential use, shall be enclosed by a six-foot solid (opaque) fence.
 - b. Outdoor play spaces shall be screened from view from arterials and primary collectors, as defined by the City's Thoroughfare Plan.
 - c. If the adjacent property is zoned residential but is in use as a school, church or park, a fence shall be required, but fencing materials are at the discretion of the applicant, provided the fence conforms to the fencing requirements of the City.
 7. Drive-through Facilities
 - a. Stacking spaces, speaker boxes, service windows, and other facilities associated with a drive-through lane shall be located a minimum of 150 feet from any residential property line.
 8. Greenhouses as accessory uses
 - a. Greenhouses which are not used for commercial purposes and which are accessory structures shall conform to the dimensional standards for accessory buildings for the zoning category applied to the property.
 9. Residential Convenience Service
 - a. A residential convenience service is permitted if the principal use is a multifamily use or a manufactured home park use.
 - b. A residential convenience service:
 - i. is a commercial use that is operated as an integral part of the principal use,
 - ii. is not identifiable from outside the site, and
 - iii. is intended to be patronized solely by the residents of the principal use.
 10. Outdoor Retail Displays

- a. Outdoor retail displays shall only occur during limited portions of the business hours and shall be brought indoors after business hours.
- b. Outdoor retail displays are limited in extent to less than 10% of the entire merchandise area of the Retail use.
- c. Outdoor retail displays are limited to seasonal sales or events lasting no longer than two weeks at a time, with at least 4 weeks between consecutive events.
- d. The use of trash bags to display merchandise is not permitted. Each item shall be displayed individually and not in containers or bags.
- e. Outdoor sales and displays may occupy up to 30 percent of a sidewalk, and the display space shall be entirely located within 20 feet of the primary building.
- f. Sidewalk displays shall not impede pedestrian use of the sidewalk. No less than five feet of passable distance shall be maintained at any point along the sidewalk that is being used as sale or display space.

D. USES REQUIRING A SPECIAL USE PERMIT (SUP)

- 1. Certain primary or accessory uses which have unique and definitive impacts on the community, though not permitted by right, may, if meeting certain conditions, be acceptable in certain zoning districts, as indicated by the Master Use Table.
- 2. Exercise of these uses requires a Special Use Permit
- 3. No inherent right exists to receive a Special Use Permit; such authorizations are a special privilege granted by the City Council under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient and additional measures may be necessary to mitigate the impact of the proposed development.

3.5. BASE ZONING DISTRICTS

A. BASE ZONING DISTRICTS ESTABLISHED (§3.13)

Zoning regulations and districts as set forth in this ordinance are established and the City is divided into base zoning districts as follows:

RAG	Agriculture and Rural Residential
RMA	Manor Residential
RES	Estate Residential
R1-L	Low Density Residential
R1-S	Medium Density Residential
R1-MO	Medium Density Modular Residential
R2-N	Neighborhood Residential
R2-M	Moderate Density Residential
R2-MO	Moderate Density Modular Residential
R3-A	Attached Residential
R4-C	Cottage Home Community
R4	Multi-Family Residential
RD	Duplex Residential
RMHC	Manufactured Home Community
B1	Neighborhood Commercial
B2	General Commercial
B2-R	Community Commercial
B3	Center City Commercial
O1	Community Office
O2	Office Park
O3	Industrial Office
I1	Storage and Transportation
I2	Technology and Innovation
I3	General Industrial
I3-C	Craft Industrial
PUB	Public and Civic Use
HOL	Interim Holding

B. REGULATING USES, LOTS AND DIMENSIONS OF THE BASE ZONING DISTRICTS

1. The uses permitted in each base zoning district shall be in accordance with the Master Use Tables, and with the use restrictions and other provisions of this Chapter.
2. The dimensional standards for each base zoning district shall be in accordance with the Master Tables of Dimensional Standards.

C. PURPOSE AND APPLICABILITY OF THE BASE ZONING DISTRICTS

1. AGRICULTURE AND RURAL RESIDENTIAL (RAG)

The Agriculture and Rural Residential category is for agricultural properties, detached dwellings on large lots, un-subdivided parcels requiring little or no public infrastructure in the short term, or rural level infrastructure requirements in the long-term. The regulations are designed to protect the open, rural character of the area.

The Agriculture and Rural Residential District is applicable in any areas where significant open spaces are to be protected, specifically the Rural Residential and Low-density designation in the Boerne Master Plan.

2. MANOR RESIDENTIAL (RMA)

The Manor Residential category is for single-family dwelling lots and tracts of a rural nature. The regulations are designed to protect the essentially rural character of the property and to provide more privacy and open space than what is associated with developed urban areas. The regulations prohibit the establishment of commercial, industrial or other incompatible uses.

Manor Residential is applicable in areas where low-density suburban development patterns are desired, and where Low-density Residential is designated in the Boerne Master Plan. RMA is most appropriate with an Organic Transportation Network and the Rural Street Design Types indicated in the Infrastructure Design chapter.

3. ESTATE RESIDENTIAL (RES)

The Estate Residential category is for detached dwellings. RES is a lot type that preserves privacy yet accommodates a more suburban development form. The regulations prohibit the establishment of commercial, industrial or other incompatible uses. Estate Residential is applicable in areas designated Low-density Residential in the Boerne Master Plan.

4. LOW-DENSITY RESIDENTIAL (R1-L)

The Low-Density Residential category is for detached dwellings. R1-L is similar to the Estate Residential category except for the reduced lot dimensions. R1-L lots allow for a conventional, suburban neighborhood form. Commercial, industrial and other non-residential uses are prohibited. Low Density Residential is applicable in suburban areas designated as Low-density Residential in the Boerne Master Plan.

5. MEDIUM-DENSITY RESIDENTIAL (R1-S)

The Medium-Density Residential category is for detached dwellings on suburban lots. R1-S lots allow for a conventional suburban neighborhood form. Commercial, industrial and other non-residential uses are prohibited. R1-S is most appropriate for the center or edges of neighborhoods where a larger mix of lot types is desired, within walking distance of a nearby activity center or commercial area. Medium-Density Residential is applicable in suburban areas designated as Neighborhood Residential in the Boerne Master Plan.

6. NEIGHBORHOOD RESIDENTIAL (R2-N)

The Neighborhood Residential category is for compact, walkable neighborhoods in close proximity to the activity centers and commercial areas that provide many of the daily needs and services sought by residents. R2-N is applicable in areas designated as Neighborhood Residential in the Boerne Master Plan.

7. MODERATE-DENSITY RESIDENTIAL (R2-M)

The Moderate-Density Residential category is for compact, walkable neighborhoods in close proximity to activity centers and commercial areas, which provide many of the daily needs and services sought by residents. This category accommodates small lot configurations and zero lot line housing types, such as garden homes or patio homes, as well as cottage house developments, providing opportunities for alternative housing forms in the City. Moderate-Density Residential is applicable in

areas where a more compact neighborhood development pattern is desired, which are designated as Neighborhood Residential in the Boerne Master Plan.

8. MODERATE-DENSITY MODULAR RESIDENTIAL (R2-MO)

The Moderate-Density Modular Residential category has the same requirements as R2-M, except that Modular Homes are permitted for R2-MO properties. The Moderate-Density Modular Residential category is one of the categories that accommodates alternative housing forms that are in keeping with the Master Plan of the City. Moderate-Density Modular Residential is applicable in areas designated as Neighborhood Residential in the Boerne Master Plan.

9. ATTACHED RESIDENTIAL (R3-A)

The Attached Residential category is for residences that share a common wall with neighboring residences, such as townhouses and row houses. Attached Residential is applicable in areas where a compact neighborhood development pattern is desired, as a way to transition from activity centers and commercial areas to surrounding single family neighborhoods.

10. BUNGALOW COURTS (R4-B)

Bungalow Courts provide a type of multi-family residential development that is more appropriate for a neighborhood context. Bungalow Courts consist of multiple detached residences on a single lot. Like cottage homes, a bungalow court accommodates detached single-family homes that front an internal common area, rather than a public street. It is intended for compact, walkable neighborhoods in close proximity to activity centers and commercial areas, which provide many of the daily needs and services sought by residents. Bungalow Courts is one of the categories that accommodates alternative housing forms in the City. The difference between Cottage Homes and Bungalow Courts is the ownership model. Whereas cottage homes are designed as individual lots with one home on each lot, Bungalow Courts are designed as multiple homes on a single, larger lot. Therefore, site dimensions are different for the two expressions.

11. MULTI-FAMILY RESIDENTIAL (R4)

The Multi-Family Residential category is applicable in areas where a compact neighborhood development pattern is desired, at transitions between Neighborhood Residential and Commercial designations in the Boerne Master Plan. R4 should be used only where higher density is appropriate to create a walkable Center. Multi-family uses include a broad density range, and therefore minimum lot size is determined by number of dwelling units.

12. DUPLEX RESIDENTIAL DISTRICT (RD)

The Duplex Residential category is applicable in areas where a more compact neighborhood development pattern is desired, in keeping with the Neighborhood Residential designation of the Boerne Master Plan. Duplex Residential dwellings can be integrated with detached dwelling building types by spatial and architectural design, limits on the overall intensity of development, and minimum yard and lot area requirements.

13. MANUFACTURED HOME COMMUNITY (RMHC)

Manufactured Home Community properties offer manufactured home spaces for rent or lease. The Manufactured Home Community category is one of the categories that accommodates alternative housing forms in the City. RMHC shall be sited in locations that do not conflict with the Master Plan.

14. NEIGHBORHOOD COMMERCIAL (B1)

The Neighborhood Commercial category is for neighborhood-compatible commercial uses. Although usually located between residential areas and commercial areas, Neighborhood Residential can be single or multi-tenant properties. Neighborhood Commercial is applicable in any area where small scale retail and services are desired to support adjacent non-retail land uses.

15. GENERAL COMMERCIAL (B2)

The General Commercial category is for commercial areas along principal arterial streets that do not abut neighborhoods, such as properties along Interstate 10. General retail trade and a wide variety of other commercial uses are permitted. General Commercial is appropriate in areas where large scale and regional businesses are desired, and where the impacts on other more walkable development patterns can be minimized. It is not intended for smaller-scale and neighborhood-oriented businesses.

16. COMMUNITY COMMERCIAL (B2-R)

The Community Commercial category is to accommodate commercial uses that have a lower transportation demand and footprint than General Commercial. Building heights are more restrictive for this category, in order to transition to neighborhoods and residential areas. Community commercial properties contribute to activity centers and the commercial areas that are spread throughout the City, but not located along the Interstate.

17. CENTER CITY COMMERCIAL (B3)

Although Center City Commercial accommodates a broad mixture of commercial uses, lot sizes, building heights and traffic impacts are in keeping with the pedestrian-oriented environment of Downtown Boerne. The requirements are designed to preserve the traditional and historical function and character of downtown commerce and downtown residences. Center City Commercial is applicable in the area identified as traditional downtown in the Boerne Master Plan.

18. COMMUNITY OFFICE (O1)

The Community Office category is for offices and studios that are generally located between residential areas and business areas. The district regulations are designed to protect and encourage a transitional character and to protect the abutting and surrounding residential areas.

19. OFFICE PARK (O2)

The Office Park category is to accommodate larger office buildings and areas that provide professional services to the City. Office Parks should be located where streets and city infrastructure can accommodate the higher demand than Community Office properties.

20. INDUSTRIAL OFFICE (O3)

The Industrial Office category is for flexible spaces that can accommodate both light industrial uses and office uses. In the Industrial Office category, traffic patterns and activities are consistent with industrial development. It is compatible with properties which are zoned industrial, office or commercial. As such, it is an effective transition between commercial and industrial uses.

21. STORAGE AND TRANSPORTATION (I1)

The Storage and Transportation category is for warehouses, storage facilities and transportation facilities that provide service to the community. Storage and Transportation facilities are to be located where streets and infrastructure can accommodate the higher impacts. I1 is not compatible with residential zoning categories, and therefore shall not be permitted in proximity to them.

22. TECHNOLOGY AND INNOVATION (I2)

The Technology and Innovation category is for campus-type developments which accommodate light industrial uses that are fully contained within a building, and which have a lower environmental impact than uses permitted in the General Industrial category. Examples include laboratories, research and development facilities and assembly of electronics. These uses often have higher power and transportation access needs. Properties zoned for Technology and Innovation are typically clustered with similar uses and are not compatible with residential neighborhoods.

23. GENERAL INDUSTRIAL (I3)

The General Industrial category is for manufacturing and general industrial uses which do not have to be fully contained within a building. These uses often have higher power and transportation access needs. Properties zoned for General Industrial use are not compatible with neighborhood residential areas, with Center City Commercial, or with Community Commercial. Buffers and setbacks are general greater for these properties.

24. CRAFT INDUSTRY (I3-C)

The Craft Industry category is for uses that are by nature industrial, but which do not conflict with activities within commercial areas. Industrial arts studios, microbreweries and artisan workshops are permitted, as are small-scale distribution and limited, small-scale manufacturing activities. These uses are compatible with commercial uses, industrial uses and live-work units.

25. PUBLIC AND CIVIC USE (PUB)

The Public and Civic Use category is for public or non-profit activities, or facilities that provide a service to the general public. Public and civic uses include, but are not limited to, facilities for education, day care, government, social services, institutions, places of worship, and parks and open spaces.

26. INTERIM HOLDING (HOL)

The Interim Holding category is applied as a holding zone for areas that may be further developed, re-subdivided and reclassified in the long-term, but where

minimal development activity in the interim is acceptable and will not prematurely establish a development pattern through infrastructure investments, street networks, or smaller lot patterns.

3.6. FLEXIBLE ZONING TOOLS

A. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

1. Purpose

- a. A Planned Unit Development (PUD) is intended for infill development projects and the development of sites which are difficult to develop under conventional designs because of their shape, size, abutting development, poor accessibility, unique topography or other factors.
- b. A PUD provides flexibility in the planning and construction of development projects by allowing a combination of land uses to be developed as an integrated whole, in accordance with an approved plan that protects adjacent properties and better implements the broader public benefits, goals and policies of the Boerne Master Plan, which cannot be achieved under conventional zoning district standards.
- c. A PUD may be used to contribute to a sense of community and a coherent living style, encouraging the preservation and enhancement of natural amenities and cultural resources and protecting the natural features of a site that relate to its topography, shape and size.
- d. A PUD may be used to provide for a greater amount of useable open space and foster compact and walkable development forms.
- e. A PUD may be used to provide for a more efficient arrangement of land uses, buildings, circulation systems and infrastructure.
- f. A PUD is intended to encourage quality development and innovative design, while ensuring adequate public facilities and services, in a manner consistent with the Master Plan of the City.

2. Applicability

- a. A Planned Unit Development District may only be applied to land that is less than 10 acres in size.
- b. All properties in the application shall be contiguous and under unified control.
- c. The PUD may assign any combination of underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses.
- d. The granting of a PUD Zoning District shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in the approved PUD ordinance.
- e. Zoning of a property PUD shall follow the procedure established in Chapter 2: Procedures.

3. Planned Unit Developments Approved Prior to the Effective Date of this Chapter

A Planned Unit Development (PUD) that was approved prior to the effective date of this Chapter shall retain the rights of use and development included in the PUD ordinance.

4. PUD as the Zoning Designation

- a. A Planned Unit Development shall replace the existing zoning for the property.
- b. The zoning designation for a property shall consist of the underlying base zoning categories with the prefix PUD attached (example: PUD-R4).

5. Permitted Uses

- a. An application for a PUD shall specify the applicable base zoning category and the use or the combination of uses proposed.
- b. The base zoning categories of a PUD shall be consistent with the Future Land Use Plan and Future Land Use Map of the Boerne Master Plan.
- c. The uses allowed in the PUD shall be similar to or compatible with those allowed in the base zoning category.
- d. All use restrictions applicable to a particular zoning category apply to the base zoning category within a PUD district unless otherwise modified by this Chapter or the ordinance adopting the PUD.
- e. Any requested use that is not permitted within the specified base zoning category must be identified as such in the PUD application.
- f. Special Use Permits allowed in a base zoning district are allowed in a PUD only if identified at the time of PUD approval.

6. Residential Lot Dimensions and Density Limitations

- a. The dimensions for a residential lot in a Planned Unit Development shall be no smaller than the minimum lot size allowed in the base zoning category, except for minor changes in order to provide improved design.
- b. *Residential Density Limitations.* The maximum number of dwelling units per net developable acre (total land area minus public improvements; i.e. rights-of-way) is limited as follows:

TYPE OF DWELLING	UNITS PER ACRE	AMOUNT OF REQUIRED OPEN SPACE*
ATTACHED	16	20%
DETACHED OR DUPLEX	6 or less	12.5%
	7	15%
	8	17.5%
	8 to 16	20%

* Required Open Space shall be based on Gross site area of the subdivision

7. Building Setbacks

- a. Yard setbacks shall conform to any drainage easements and utility easements required by other provisions of this Code.

B. PLANNED DEVELOPMENT DISTRICT (PDD)

1. Purpose

- a. The purpose of a Planned Development District (PDD) is to provide for the development of land that may include uses, regulations and other requirements that vary from the provisions of other zoning categories.
- b. PDDs allow for accommodation of unique site conditions or development concepts that make other zoning categories incompatible with the use and design intended for a property.
- c. PDDs are intended to provide flexibility in the development of land by allowing a combination of land uses to be developed as a single project, in accordance with an approved plan that protects adjacent properties.

- d. A PDD is intended to encourage quality development and innovative design, while ensuring adequate public facilities and services, in a manner consistent with the Master Plan of the City.
- e. PDDs are intended to be used in conjunction with one of the following:
 - i. Master-planned communities
 - ii. Large commercial centers
 - iii. Mixed-use developments
 - iv. Master-planned industrial parks

2. Applicability

- a. A Planned Development District may only be applied to land with an area of at least 10 acres.
- b. A Planned Development District shall be planned as a single, contiguous project under unified control.
- c. The PDD may assign any combination of underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses.
- d. The granting of a PDD Zoning District shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in this Chapter or as approved in the PDD ordinance .
- e. Zoning of a property as a Planned Development District shall follow the procedure established in Chapter 2:Procedures.

3. PDD as the Zoning Designation

- a. A Planned Development District shall replace the existing zoning for the property.
- b. The zoning designation for a property shall consist of the underlying base zoning categories with the prefix PDD attached (example: PDD-R4).

4. Permitted Uses

- a. An application for a PDD shall specify the applicable base zoning category and the proposed use or combination of uses.
- b. The base zoning categories of a PDD shall be consistent with the Future Land Use Plan and Future Land Use Map of the Boerne Master Plan.
- c. The uses allowed in the PDD shall be similar to or compatible with the base zoning category.
- d. All use restrictions applicable to a particular zoning category apply to the base zoning categories within a PDD, unless otherwise modified by this Chapter, the ordinance adopting the PDD, or the PDD plan approved by the City.
- e. Any requested use that is not permitted within the specified base zoning category must be identified as such in the PDD application.
- f. Special Use Permits allowed in a base zoning district are allowed in a PDD only if identified at the time of PDD approval.

5. Residential Lots Dimensions and Density Limitations

- a. In a PDD, the proposed lot area for all residential lots shall be no smaller than the lot sizes allowed in the base zoning district, except for minor changes in order to provide improved design.

- b. The gross density for the entire PDD (total dwelling units divided by total land area) shall not exceed that of any existing residential subdivision adjoining the PDD.
- c. Where a PDD adjoins an existing residence, buildings within the PDD shall not be more than the 14 feet taller than the adjoining residential lot that is not within the PDD.

C. CLUSTER DEVELOPMENT DISTRICTS (CL)

1. Purpose

- a. A Cluster Development District (CL) shall be used to preserve contiguous amounts of open space by aggregating residences and utilizing smaller building footprints and yard spaces, in order to preserve rural areas and open landscapes.
- b. CLs shall be compatible with rural or agricultural lifestyles and activities. They shall not significantly impact the existing traffic patterns, viewshed or landscape of the areas in which they are located.
- c. CLs grant flexibility and incentives in site design and development patterns in exchange for permanent preservation of the ecological and topographical features of a site.

2. Applicability

- a. A Cluster Development (CL) shall be planned as a single, contiguous project under unified control.
- b. Cluster Development is applicable in areas that have significant natural features worthy of preservation, or in areas designated as Estate Residential or Neighborhood Residential in the City's Master Plan.
- c. CL zoning may assign any combination of the allowed underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses. The allowed base zoning categories are:
 - i. R-MA
 - ii. R-ES
 - iii. R-1L
 - iv. R-1S
 - v. R-1MO
 - vi. R-2N
- d. The granting of CL zoning shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in the approved Development Plan.
- e. Zoning of a property as a Cluster Development shall follow the procedure established in Chapter 2 Procedures.

3. CL as the Zoning Designation

- a. Cluster Development (CL) shall replace the existing zoning for the property.
- b. The zoning designation for a Cluster Development property shall consist of the underlying base zoning categories with the prefix CL attached (example: CL-R2).

4. Permitted Uses

- a. Cluster developments shall permit only those residential uses and accessory uses that are permitted for the assigned base zoning category.

- b. Cluster Developments shall provide at least 40% of total site area as permanently dedicated, unimproved open space.

5. Residential Lot Dimensions and Density Limitations

- a. Minimum lot size for a Cluster Development is 2,700 square feet.
- b. Gross density (total number of dwelling units divided by total acreage of the property) shall not exceed the maximum permitted dwelling units per acre of the underlying base zoning category, where maximum permitted dwelling units per acre equals:

$$43,560 \text{ sf} \div \text{minimum lot size (sf)}$$

Note:

3.7. PERMITTED USE TABLES

A. INTERPRETATION OF USE TABLES

1. The uses which are permitted subject to the general standards of this Chapter are designated in these tables by the symbol "P." Uses which may be permitted, but which require a Special Use Permit are designated in the Use Tables with a "S." Blank spaces in the use tables indicate that a particular use is not permitted.
2. The reference to any additional restrictions for a particular use is provided in the second column of the tables and shall apply regardless of zoning category under which that use is exercised.

B. RESIDENTIAL USES

(SEE USE TABLES)

C. NON-RESIDENTIAL USES

(SEE USE TABLES)

3.8. DIMENSIONAL STANDARDS

A. RESIDENTIAL DIMENSIONAL STANDARDS

(SEE DIMENSIONAL TABLES)

B. NON-RESIDENTIAL DIMENSIONAL STANDARDS

(SEE DIMENSIONAL TABLES)

C. ADDITIONAL DIMENSIONAL STANDARDS

1. A fire wall shall be required for all walls where the distance between buildings is less than 10 feet.
2. 0' setbacks on attached dwelling lots requires a party wall meeting all building code standards and proper designation on a recorded plat.
3. Building heights of accessory buildings shall not exceed the actual height of the principle building on the same lot.
4. Special purpose lots, including but not limited to landscape lots and utility lots, may be exempted from these requirements.
5. For the R3-A, R3-MO, R4-C, R4 districts, all required setbacks shall be free from any encroachments, including but not limited to, accessory buildings or structures, eaves, roof overhangs, bay windows, and fireplaces. Air conditioning units and other similar ground-mounted equipment are exempt from this requirement.
6. For all other residential districts, limited encroachment into the front and rear setbacks shall be permitted for eaves, roof overhangs, unenclosed patios and porches, and minor architectural details such as fireplaces and bay windows. They may encroach into the front setback by a maximum of three (3) feet and into the rear setback by a maximum of 10 feet.
7. Accessory buildings are prohibited in the front street yard.