



## CITY COUNCIL SPECIAL/WORKSHOP MEETING

Monday, July 21, 2025 at 5:30 PM

City Council Chambers | 202 N. Virginia Street, Port Lavaca TX 77979

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### PUBLIC NOTICE OF MEETING

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**The following item will be addressed at this or any other meeting of the city council upon the request of the mayor, any member(s) of council and/or the city attorney:**

*Announcement by the mayor that council will retire into closed session for consultation with city attorney on matters in which the duty of the attorney to the city council under the Texas disciplinary rules of professional conduct of the state bar of Texas clearly conflicts with the open meetings act (title 5, chapter 551, section 551.071(2) of the Texas government code).*

**(All matters listed under the consent agenda item are routine by the city council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.)**

### AGENDA

*Council will consider/discuss the following items and take any action deemed necessary.*

#### MEETING PROCEDURE

***Public notice is hereby given that the City Council of the City of Port Lavaca, Texas, will hold a special and workshop meeting Monday, July 21, 2025 beginning at 5:30 p.m., at the regular meeting place in Council Chambers at City Hall, 202 North Virginia Street, Port Lavaca, Texas to consider the following items of business:***

***[After publication, any information in a council packet is subject to change during the meeting]***

*The meeting will also be available via the video conferencing application "Zoom",*

*Join Zoom Meeting:*

<https://us02web.zoom.us/j/83850528578?pwd=6xh2X82NQwRfHvCl1OPc8p4gaMGtZ.1>

*Meeting ID: 838 5052 8578*

*Passcode: 672406*

*One Tap Mobile*

*+13462487799,,83850528578#,,,\*672406# US (Houston)*

*Dial by your location*

*+1 346 248 7799 US (Houston)*

**CITY COUNCIL SPECIAL MEETING****I. ROLL CALL****II. CALL TO ORDER****III. COMMENTS FROM THE PUBLIC**

*(Limited to 3 minutes per individual unless permission to speak longer is received in advance. You may make public comments as you would at a meeting by logging on with your computer and using "Join Zoom Meeting" information on first page of this agenda).*

**IV. ACTION ITEMS - Council will consider/discuss the following items and take any action deemed necessary**

1. Receive presentation from Pettit & Ayala Consulting regarding the use of Tax Increment Financing and the creation of a Tax Increment Reinvestment Zone (TIRZ) as an economic development tool for the City of Port Lavaca. Presenter is David Pettit
2. Consider approval of the Professional Services Proposal of Pettit & Ayala to provide professional economic development services to the City, including, but not limited to services relating to creation of a Tax Increment Reinvestment Zone (TIRZ). Presenter is Jody Weaver
3. Announcement by Mayor that City Council will retire into closed session:
  - To discuss Personnel matters in accordance with Title 5, Section 551.074 of the Texas Government Code (to discuss the appointment, employment, evaluation, duties and responsibilities, reassignment, discipline, or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: [Municipal Court Judge]). Presenter is Mayor Whitlow
4. Return to Open Session and take any action deemed necessary with regard to matters in closed session. Presenter is Mayor Whitlow

**V. ADJOURN SPECIAL MEETING****CITY COUNCIL WORKSHOP****VI. CALL TO ORDER****VII. COMMENTS FROM THE PUBLIC**

*(Limited to 3 minutes per individual unless permission to speak longer is received in advance. You may make public comments as you would at a meeting by logging on with your computer and using "Join Zoom Meeting" information on first page of this agenda).*

**VIII. ITEMS FOR DISCUSSION - Council will discuss the following items**

1. Review and discuss Zoning Ordinance. Presenter is Derrick Smith

**IX. ADJOURN WORKSHOP**

**CERTIFICATION OF POSTING NOTICE**

This is to certify that the above notice of a Special and Workshop meeting of The City Council of The City of Port Lavaca, scheduled for **Monday, July 21, 2025**, beginning at 5:30 p.m., was posted at city hall, easily accessible to the public, as of **5:00 p.m. Thursday, July 17, 2025**.

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**Lorena Perez-Diaz**, *Assistant City Secretary*

**ADA NOTICE**

The Port Lavaca City Hall and Council Chambers are wheelchair accessible. Access to the building is available at the primary north entrance facing Mahan Street. Special parking spaces are located in the Mahan Street parking area. In compliance with the Americans with Disabilities Act, the City of Port Lavaca will provide for reasonable accommodations for persons attending meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact City Secretary Mandy Grant at (361) 552-9793 Ext. 230 for assistance.

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# COMMUNICATION

**SUBJECT:** Receive presentation from Pettit & Ayala Consulting regarding the use of Tax Increment Financing and the creation of a Tax Increment Reinvestment Zone (TIRZ) as an economic development tool for the City of Port Lavaca. Presenter is David Pettit

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## INFORMATION:



## COMMUNICATION

**SUBJECT:** Consider approval of the Professional Services Proposal of Pettit & Ayala to provide professional economic development services to the City, including, but not limited to services relating to creation of a Tax Increment Reinvestment Zone (TIRZ). Presenter is Jody Weaver

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## INFORMATION:



April 16, 2025

JoAnna P. "Jody" Weaver, P.E.  
City Manager  
City of Port Lavaca  
202 North Virginia  
Port Lavaca, TX 77979

**RE: Professional Services Proposal**

Dear Ms. Weaver:

Pettit & Ayala Consulting ("PAC") is pleased to provide this proposal for economic development professional services relating to the potential creation of a Tax Increment Reinvestment Zone ("TIRZ") in the City of Port Lavaca, Texas ("City").

### **The Project**

It is our understanding that the City is interested in potentially creating a TIRZ district with the purpose of facilitating development and funding infrastructure.

### **The Assignment**

Our work under this proposal would be to provide professional economic development services related to economic development within the City, to include but not be limited to, professional economic development services relating to creating a TIRZ.

### **The Team**

We propose working in a team organized as follows:

- You will be our point of contact and will provide overall direction to our team. You may also include other members of City staff with which we will meet regularly to review our progress and to get input and direction on our work.
- At this time, we do not anticipate the need for any additional consultants beyond the Key Staff listed below, however we have consultants available to assist with any related items if so needed.

### **TIRZ Statutory Requirements**

Chapter 311 of the Texas Tax Code outlines the various procedures for creating or amending a TIRZ. The designation TIRZ ordinance is approved by the governing body of the municipality and establishes four key elements, including:

- Boundary;
- Term;
- TIRZ Board; and
- Preliminary project and financing plan.

Before adopting an ordinance designating or amending the reinvestment zone, the governing body of the municipality must hold a public hearing on the creation of the zone and publish notice of the hearing not later than the seventh day before the public hearing. A final project and financing plan is subsequently approved by the TIRZ Board and then by the governing body of the municipality.

## **TIRZ Scope of Services**

Based on our conversations and our experience of previous projects, we propose the following scope of services for the creation of a TIRZ. Our proposed scope of services is divided into separate tasks, each providing a description of the work to be performed and the key products resulting from the task.

### **Task 1**

#### **District Review**

- Our first step would be to collect and analyze available information in the proposed TIRZ. This includes available development data; existing planning documents such as the comprehensive plan, land use plan, thoroughfare plan; physical information such as existing zoning and land use, existing and planned infrastructure, and topography; and property data such as ownership and tax values.

### **Task 2**

#### **Data Collection and Analysis**

- Based upon parcel data provided by the City, PAC would provide a geographic information system (GIS) database of existing values for land and improvements, ownership data, and current land use information. The database and maps will provide the baseline data for the analysis. Key products of this task would include a TIRZ database and accompanying maps in digital and hard copy formats.

### **Task 3**

#### **Taxable Value Analysis**

- A multi-year historic taxable value review of similar developments would be conducted to establish conservative assumptions of future taxable value for each parcel in the proposed zone. We would also develop projections for future land uses, and timing of proposed developments. This task will be the basis for developing a spreadsheet model of potential TIRZ increments, given a reasonable range of development assumptions and taxable values. Key products of this task would include a spreadsheet model on a parcel-by-parcel basis with projections based upon the historical taxable value review, development projections and reasonable timing expectations.

### **Task 4**

#### **Develop TIRZ Cash Flow Model**

- Based on the anticipated land uses and projections, PAC would develop a draft financing cash flow model (and supporting spreadsheets) for a 15, 20, and 30-year time period. This model will allow the City, consultants and others to underwrite the proposed developments and test various scenarios for the eventual financing plan. Key products of this task would include excel spreadsheets of TIRZ Cash Flow Models with macros established for growth and development assumptions.

### **Task 5**

#### **Prepare TIRZ Project and Financing Plan**

- PAC would then develop the Finance Plan, Project Plans, and Detailed Description of the TIRZ, and other exhibits required for local government review and approval per the state legislative requirements. This work includes the written, graphic, and PowerPoint materials and exhibits, as well as support of the process. Backup materials such as spreadsheets and databases will also be products that support the plans. Key products would include a preliminary TIRZ Project and Financing Plan comprised of a legal description of the zone, proposed TIRZ projects, estimated project costs, term of the zone and a tax increment analysis.

### **Task 6**

#### **TIRZ Documentation Support**

- PAC will provide assistance with drafting necessary documents for creating the TIRZ including: 1) public hearing notices; 2) resolutions; 3) ordinances; and 4) participation agreements. This can be a time-consuming process for City staff, however PAC's extensive experience in drafting these documents should help streamline the preparation of materials necessary for City Council consideration. This task would also include assistance in creating and appointing the appropriate TIRZ board per the TIRZ creation ordinance.



## Fee for Services

### TIRZ Scope of Services

- Our fee for services would be a lump sum fee of \$40,000 for the creation of the TIRZ district. Fees would be charged monthly, subject to on-going progress on the work effort.

Reimbursable expenses would be charged to include out-of-pocket expenses incurred in the interest of the projects at actual costs.

### Term of Agreement

It is anticipated that the services covered in the proposal will be completed within twelve (12) months of the date services begin. This Agreement will terminate upon the earlier of completion of services or twelve (12) months from the date of this Agreement. Additionally, Client may terminate this Agreement for any reason upon thirty (30) days written notice to PAC and PAC will cease any and all work upon receipt of such notice, unless otherwise directed in the notice. In the event of a termination as described above, Client shall be responsible for the payment of the fees and expenses incurred by PAC pursuant to this agreement through the date of such termination.

### Changes of Scope and Additional Services

Minor additions to our scope will be treated as Additional Services. Work on Additional Services will not begin until authorized in writing by the Client.

### Additional Services and Rates for Hourly Services

Additional Services shall be billed on an hourly not to exceed basis unless a fixed fee or other method of compensation is mutually agreed upon. Our current hourly rates are:

<u>Classification</u>	<u>Hourly Billing Rate</u>
David Pettit	\$375.00
Natalie Moore	\$300.00
Project Specialist	\$120.00
Planning Intern	\$100.00
Administrative	\$80.00

These rates apply for the current calendar year and are subject to revision on January 1, when they may be revised to reflect changes in staff salaries over the preceding year.

### Reimbursables

We propose to be reimbursed for out-of-pocket expenses incurred in the interest of the project at our actual cost. Reimbursable expenses include: our direct consultants and their expenses (to be reimbursed, all consultants and their bids must be approved in writing, in advance by the client); reproduction; long distance communication; document printing and delivery; document graphics and binding; delivery, postage and handling; travel time; special materials; photography; etc. (Reasonable backup will be available upon request.)

### Invoices and Payments

Payment for services rendered is due within thirty (30) days of Client's next monthly billing cycle following receipt of invoice. In the event any invoices remain unpaid 45 days after the invoice date, we suspend work until we have been paid in full all amounts due for services and expenses. Amounts unpaid for more than 30 days after the due date may accrue interest at 10% per annum.

### **Suspension and Termination**

If the project is suspended or abandoned, PAC will be compensated for all services billed prior to receipt of written notice by the Client. Services that are not billed or completed between billing periods and receipt of written notice will be reimbursed at PAC's standard hourly rates.

If the scope or schedule of the project should change beyond that to be reasonably expected due to the program changes, schedule or other reason, at their option, PAC may re-negotiate the aforementioned fees and scope of work. Any renegotiation of scope or fee will be in writing and subject to the signing of both parties.

### **Certifications**

Guarantees and Warranties: We will not be required to execute any document that would result in our certifying, guaranteeing or warranting the existence of conditions whose existence we cannot ascertain.

### **Authorization to Proceed**

Thank you again for this opportunity to work with you. Your signature below and the return of one copy to us for our file will confirm your approval and authorize us to proceed.

### **Insurance**

PAC will provide proof of professional liability insurance (including errors and omissions) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate and excess/umbrella liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate to client. Additionally, PAC shall carry the following insurance coverages:

(a) Worker's compensation insurance at the statutory limits and employer's liability insurance, with minimum limits of \$1,000,000.00/\$1,000,000.00/\$1,000,000.00; and

(b) Comprehensive general liability insurance, with minimum limits of \$1,000,000.00 each occurrence and \$4,000,000.00 in aggregate; and

(c) Comprehensive automobile liability insurance, with minimum limits of \$1,000,000.00 combined single limit each occurrence; and

PAC has previously provided, or concurrently with the execution of this agreement is providing, to Client a certificate of insurance issued to Client evidencing the foregoing insurance coverages and evidencing that Client and Client's lender, if any, are additional insured parties with respect to the insurance policies referred to in the foregoing subparagraphs (b) and (c).

### **Notices**

Any notice required or permitted to be given to either party shall be deemed to be received by such party (a) three (3) days after deposit in the United States Registered or Certified Mail, Return Receipt Requested, or (b) one (1) business day after deposit with a nationally recognized overnight delivery service for next day delivery, or (c) upon personal delivery to the party to whom addressed provided that a receipt of such delivery is obtained, or (d) on the next business day after transmission by telecopy provided that a confirmation copy is concurrently deposited in United States Certified or Registered Mail, Return Receipt Requested, in any case addressed to the parties at the following addresses:

If to Client:

City of Port Lavaca  
202 North Virginia  
Port Lavaca, TX 77979  
Attention: JoAnna P. "Jody" Weaver, P.E., City Manager  
Email: [jweaver@portlavaca.org](mailto:jweaver@portlavaca.org)

If to PAC:

Pettit & Ayala Consulting  
306 West Seventh Street, Suite 602  
Ft. Worth, TX 76102  
Attention: David Pettit  
Email: [dpettit@pettitayala.com](mailto:dpettit@pettitayala.com)

or to the parties at such other addresses or telecopy numbers as they may designate by notice to the other party as herein provided.

**SUMMARY**

I hope this accurately outlines the professional services you anticipated. If you have any questions or concerns, please do not hesitate to contact me at 817.439.9421.

Thank you for considering Pettit & Ayala Consulting.

Sincerely,



David Pettit  
Partner

If this agreement meets with your approval, please sign and return one executed copy to our office as notice to proceed.

**AGREED TO AND ACCEPTED BY:**

City of Port Lavaca, Texas

By: \_\_\_\_\_

Date: \_\_\_\_\_

# COMMUNICATION

**SUBJECT:** Announcement by Mayor that City Council will retire into closed session:

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## **INFORMATION:**

- To discuss Personnel matters in accordance with Title 5, Section 551.074 of the Texas Government Code (to discuss the appointment, employment, evaluation, duties and responsibilities, reassignment, discipline, or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: [Municipal Court Judge]). Presenter is Mayor Whitlow



# COMMUNICATION

**SUBJECT:** Return to Open Session and take any action deemed necessary with regard to matters in closed session. Presenter is Mayor Whitlow

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## INFORMATION:



# COMMUNICATION

SUBJECT: Review and discuss Zoning Ordinance. Presenter is Derrick Smith

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## INFORMATION:



**ORDINANCE #G-6-25**

AN ORDINANCE OF THE CITY OF PORT LAVACA AMENDING THE ORDINANCE CODIFIED AND DESCRIBED IN THE CITY OF PORT LAVACA'S CODE OF ORDINANCES AS PART II, ADDITION OF NEW CHAPTER 56 ZONING; PROVIDING FOR PURPOSE OF ORDINANCE, PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT LAVACA, TEXAS:

**Section 1. Purpose.**

The attached Exhibit A document identifies a new Chapter 56 of the City of Port Lavaca's Code of Ordinances. Text that remains unchanged will be in black-colored letters, text that is new will be identified by red-colored underlined letters and all text to be deleted will be identified as blue-colored letters with strikethroughs.

**Section 2. Severability.**

It is specifically declared to be the intention of the City Council that sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment of decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any unconstitutional or invalid phrase, clause, sentence, paragraph or sections.

**Section 3. Repeal.**

All ordinances or parts of ordinances conflicting with or not consistent with the provisions of this article are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency or conflict, and in all respects, this article shall be cumulative of all other ordinances of the City of Port Lavaca regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this article shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

**Section 4. Effective Date**

THAT this ordinance shall become effective on the date of its passage.

FIRST READING this 9<sup>th</sup> day of June, 2025

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Jack Whitlow, Mayor

SECOND AND FINAL READING this 14<sup>th</sup> day of July, 2025

\_\_\_\_\_  
Jack Whitlow, Mayor

APPROVED AND ADOPTED this 14<sup>th</sup> day of July, 2025.

\_\_\_\_\_  
Jack Whitlow, Mayor

ATTEST:

\_\_\_\_\_  
Mandy Grant, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

RECORD OF VOTE

	First Reading	Second and Final	Passed and Approved
Councilman Aguirre	Aye	Aye	Aye
Councilman Dent	Aye	Aye	Aye
Councilman Tippet	Aye	Aye	Aye
Councilwoman Padron	Aye	Aye	Aye
Councilwoman Bland-Stewart	Aye	Aye	Aye
Councilman Burke	Aye	Aye	Aye

Record of approval by City Council: City Council Minute Records, Volume 3I, Page \_\_\_\_.

**Exhibit A****Chapter 56 – ZONING****ARTICLE I. - GENERAL PROVISIONS****Sec. 56-1. - Short title.**

This ordinance shall be known and may be cited as the "City of Port Lavaca Zoning Ordinance" or "this Ordinance".

**Sec. 56-2. - Jurisdiction.**

This Ordinance applies to all land within the regular municipal boundaries of Port Lavaca.

**Sec. 56-3. - Purpose.**

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Port Lavaca. More specifically, this ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with the comprehensive plan to achieve objectives that include, but are not limited to, the following:

Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with the Port Lavaca Comprehensive Plan.

Protect the character and the established pattern of the Land Use District in each area;

Prevent or minimize future land use incompatibilities and conflicts among different land uses;

Maintain property values by stabilizing expectations and ensuring predictability in development;

Establish a process that effectively and fairly applies the regulations and standards of this Ordinance and respects the rights of property owners and the interests of citizens;

To enhance the scenic beauty, aesthetics of the planning jurisdiction; and

Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality

**Sec. 56-4. - Definitions.**

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

*Accessory building* means:

- 1) In a residential district, a subordinate building that is attached to or detached from the main building on the same lot or parcel of land, without separate utilities, not used for commercial purposes, and not rented which serves a purpose that is customarily associated with the principal use. Examples of accessory buildings include a washroom, a storage room for domestic storage only, and a space for one or more automobiles,
- 2) In other districts, a subordinate building, the use of which is incidental to and used only in conjunction with the main building on the same lot or parcel of land.

*Accessory use* means a use subordinate to the principal use of a building or lot and serving a purpose customarily incidental to the principal use.

*Administrative Officer* means the official appointed by the city manager to administrate and enforce this chapter.

*Agent of owner* means any person who can show certified written proof that he is acting for the property owner.

*Apartment* means a room or suite of rooms in an apartment house arranged, designed or occupied as a residence by a single family, individual or group of individuals.

*Apartment house* means any multiple-family dwelling or building, or portion thereof, that is designed, built, rented, leased, let or hired out to be occupied as three or more apartments or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities.

*Beginning of construction* means the incorporation of labor and material within the foundation of the building.

*Building* means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, property, or business activity, and includes any structure used or intended to be used for supporting or sheltering a use or occupancy. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building.

*Building line* means a line parallel or approximately parallel to a lot line or street line and beyond which buildings may not be erected.

*Building, main*, means a building in which is conducted the principal use of the site on which it is located. In any residential district, any and all dwellings shall be deemed to be main buildings on the site on which they are located.

*Clinic, medical*, means an institution or station for the examination and treatment of ill and afflicted out-patients.

*Convalescent home* means any structure used for or occupied by persons recovering from illness or suffering from the infirmities of old age.

*Court* means an open, unoccupied and unobstructed space, other than a yard, on the same lot with the building or group of buildings.

*Coverage of a lot* means the ratio of gross floor area of the first floor of a building or a group of buildings on the same lot to the area of the lot, expressed as a percentage.

*Day nursery* means a place where children are left for care between the hours of 7:00 a.m. and 6:00 p.m.

*Detached structure* means any building, accessory building or structure that is not physically attached to any other building or structure by any means.

*District* or *zoning district* means a portion of the territory of the city within which certain uniform resolutions and requirements or various combinations thereof apply under the provisions of this chapter.

*Dwelling* means a building which contains at least one dwelling unit, and used exclusively for residential purposes, but not including tents, trailers, recreational vehicles, or mobile homes.

*Dwelling, duplex*, means a dwelling designed for and used by two families, each having its own dwelling unit.

*Dwelling, multiple-family*, means a dwelling designed for and used by three or more families, each having its own dwelling unit.

*Dwelling, single-family*, means a dwelling designed for and used exclusively by one family.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation, and in full compliance with the city's minimum housing standards.

*Family* means a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit and in which not more than four individuals are unrelated by blood.

*Floor area of a building* means the sum of the gross horizontal areas of the several floors of a building, measured from the centerlines of exterior walls or from the centerline of walls separating two buildings in square feet.

*Frontage* means the total length of the line or curve of a lot boundary that is coterminous with a street right-of-way line. For corner lots, frontage may be calculated for each street.

*Grade, existing*, means the average level of the original surface of the ground adjacent to the exterior walls of the building.

*Home Occupation* means an activity carried on only by a resident member of a family, as an accessory use, meeting these conditions:

- 1) Only one non-illuminated sign no larger than four square feet in area is used.
- 2) Nothing is done to make the building appear in any way as anything but a dwelling.

*Hotel/motel* means a building or group of buildings, including either separate units or a row or rows of units that contain living or sleeping accommodations primarily for transient occupancy, and have individual entrances.

*Lot* includes the terms "plot" and "parcel" and means one piece, parcel or tract of land that collectively meets all the following requirements:

- 1) Is located in a single block;
- 2) Has frontage on an accepted and improved public street;
- 3) Is occupied or utilized or designated by its owner or developer to be occupied, developed or utilized as a unit for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter; and
- 4) A plat of which has been recorded in the office of the county clerk.

*Lot, area of*, means the net area of the lot and shall not include portions of streets and alleys.

*Lot depth* means the mean horizontal distance between the front lot line and rear lot line of a zoning lot.

*Lot line* means a boundary of a lot.

*Lot line, front*, means the street right-of-way line at the front of a lot.

*Lot line, rear*, means the lot line opposite and most distant from the front.

*Lot line, side*, means a lot line which is not a front lot line or rear lot line. A side lot line separating a lot from a thoroughfare other than an alley is an exterior side lot line as opposed to an interior side lot line.

*Lot width* means the mean horizontal distance between the side lot lines of a lot.

*Manufactured home* means a HUD-Code manufactured home or a mobile home and collectively means and refers to both.

*Manufactured home, HUD-Code*, means a structure constructed on or after June 15, 1976, according to the rules of the federal department of housing and urban development transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected onsite, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

*Manufactured home park* means a tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to contain five or more sites available for long-term lease or rent to the public for the placement of manufactured homes, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter.

*Mobile home* means a structure that was constructed before June 15, 1976, transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected in site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

*Nursing home* means any premises where more than three persons are lodged and furnished with meals and nursing care.

*Open space* means an area included in any side, rear or front yard or any other unoccupied space on a lot that is open and unobstructed to the sky.

*Recreational vehicle* means a vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven which is designed as a temporary living accommodation for recreational, camping, and travel use, and which includes, but is not limited to, travel trailers, truck-campers, camping trailers, and self-propelled motor homes. Except as provided in Chapter 12, for use in conjunction with a temporary event or business activity otherwise allowed, and not to exceed 30 days, or parked on a lot with an otherwise conforming residence or business, and located on the lot for not longer than 14 days, the use of a recreational vehicle as a dwelling, other than within a recreational vehicle park, is prohibited.

*Recreational vehicle park* means any parcel or tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to provide two or more camping unit sites that are offered for the use of the public by rent or lease, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter. Recreational vehicle park sites are designed and intended to accommodate recreational vehicles only.

*Setback line* means that line which is parallel to and the minimum allowable horizontal distance from a given point or line or reference, such as a lot line, to the minimum required building line.

*Sexually oriented business* means any business that includes a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

*Sign* means any structure or part thereof, or any device attached to, painted on or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device.

*Sign, area of*, means the total exterior surface computed in square feet of a sign having but one exposed exterior surface; the aggregate exposed exterior surface computed in square feet of a sign having more than one such surface.

*Story* means that portion of a building included between the surface of any floor and the ceiling next above it.

*Street* means any thoroughfare other than an alley.

*Street line* means a dividing line between a street right-of-way and an abutting lot, tract, or parcel of land.



*Structural alteration* means any change in the structural members of a building, such as walls, columns, beams, or girders.

*Structure* means anything constructed, the use of that required permanent location on the ground or attachment to something having a permanent location on the ground.

*Townhouse* means a single-family dwelling constructed in a series or group of attached units with property lines separating each unit.

*Townhouse, private yard*, means an area of open space within a townhouse but which is unoccupied and unobstructed by any portion of a structure.

*Trailer (including automobile trailer and trailer coach)* means any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade, or occupation or use as a selling, or advertising device, or use for storage or conveyance of tools, equipment, and machinery and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

*Used and occupied* include the phrase "intended, designed or arranged to be used or occupied."

*Yard* means an open, unoccupied space other than a court on the lot in which a building is situated that is unobstructed from the ground to the sky.

*Yard, front*, means an open, unoccupied space on a lot facing a street and extending across the front of a lot between the side yards and being the minimum horizontal distance between the street line and the main building.

*Yard, rear*, means an open space unoccupied and unobstructed extending across the rear of a lot from one side lot line to the other side lot line and being the minimum horizontal distance between the rear lot line and the main building.

*Yard, required front*, means an open space extending the full width of a lot between the front line and the front setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

*Yard, required rear*, means an open space extending the full width of the lot between the rear lot line and the rear setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in the chapter.

*Yard, required side*, means an open space extending from the minimum front yard setback line to the minimum rear yard setback line between the side yard setback line and the nearest side

lot line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

*Yard, side*, means an open, unoccupied space on the same lot with a building, situated between the building and side line of the lot, and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

*Zoning map, official*, means the zoning map or maps of the city attested together with all amendments subsequently adopted.

#### **Sec. 56-5. – Provisions of Chapter Declared to be Minimum Standards; Conflicts.**

In interpreting and applying the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the public safety, health, environment, convenience, comfort, morals, prosperity and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or laws, including private deed restrictions and covenants, the more restrictive or that imposing the higher standards shall govern; however, the City shall have no obligation to review or enforce private deed restrictions or covenants.

#### **Sec. 56-6. – Official Zoning Map.**

- A. *Adoption by reference; certification required.* The City Council has divided the city into zones or districts as shown on the official zoning map that, together with all explanatory matter thereon, is adopted by reference into this section. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map of the city referred to in the official City Code."
- B. *Changes to map.* No changes of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change is a violation of this chapter. If authorized changes are made in district boundaries or other matter portrayed on the official zoning map in accordance with the provisions of this chapter, such changes shall be made on the official zoning map promptly after the amendment has been approved by the City Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon this official zoning map. The entry shall be signed by the mayor and attested by the city clerk.
- C. *Original map controlling over copies in the event of conflicts.* Regardless of the existence of purported copies of the official zoning map that may from time to time be made or

published, the official zoning map, located in the office of the city clerk, shall be the final authority as the current zoning status of land, building and other structures in the city.

- D. *Adoption of new zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original, this chapter or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map previously adopted by the city."

#### **Sec. 56-7. - Compliance With These Regulations.**

- A. No land shall be used except for a purpose permitted in the district in which it is located.
- B. No building shall be erected, reconstructed, moved or structurally altered or used for any purpose other than permitted in the district in which such building is located.

#### **Sec. 56-8. - Effective Date.**

The effective date of this Ordinance shall **be TBD**

#### **Sec. 56-9. - Severability.**

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

#### **Sec. 56-10. - Transitional Provisions.**

- A. *Previously Approved Plats.* Nothing in this Ordinance shall limit or modify the rights of any person to complete any subdivision project which has received prior plat approval under existing subdivision regulations in place at that time. Such project should otherwise meet at least one (1) of the following criteria:

1. Any subdivision created by plat and recorded before the effective date of this Ordinance and has remained undeveloped.

2. Plats that were recorded before the effective date of this Ordinance and development has commenced and is continuing in good faith.

3. A. complete application for preliminary plat and/or conceptual plan approval filed with the City prior to adoption of this Ordinance and any plat currently under review by the City before adoption of this Ordinance.

B. Expired Plats. Expired plats shall conform to current City regulations and construction standards.

C. Nothing in this Ordinance shall limit or modify the rights of any person to continue a use approved by City Council prior to the effective date of this Ordinance, subject to any and all of the conditions specified in such approval

**Sec. 56-11---56-21. – Reserved.**

## **ARTICLE II. - ZONING DISTRICTS AND USES**

**Sec. 56-22. - Division into zones and districts; plat; vacation of streets or alleys.**

A. Zoning districts and regulations as herein set forth are established. The city is hereby divided into two types of zones:

1. R districts (Residential)
2. C districts (Commercial/Industrial)

B. The residential zones are further divided into the following specific districts:

1. R-1 Single-Family District
2. R-2 Two-Family District
3. R-3 Multi-Family District – Low Density

C. The commercial zones are further divided into the following specific districts:

1. B-1—Business.
2. I-1, I-2—Industrial.

- D. The various districts include the following tracts, blocks, or parcels of land, as designated on the official zoning map and made a part hereof for any and all purposes.
- E. Whenever the council vacates a street or alley, the adjacent districts shall extend to the centerline of the vacation.

**Sec. 56.23. - Minimum standards.**

- 1. Use of premises and all buildings in the city shall be in accordance with the minimum standards herein established.
- 2. Yards, parking spaces, or lot areas required for one building cannot be used for another building; nor can the size of a lot be reduced below the requirements of this chapter.

**Sec. 56-24. - Permitted uses.**

Premises in the city shall be used for the following purposes:

- A. Property in the R1, R2 and R3 districts may be used only for:
  - 1. Single-family dwellings, specifically excluding manufactured homes.
  - 2. Accessory building for storage residential only and meeting all requirements of this chapter.
  - 3. Public parks and utilities.
  - 4. Any public building erected or used by the city, county, state or federal government.
  - 5. Schools; kindergarten, elementary, high, college and universities, public or denominational.
  - 6. Home occupations.
    - (a) Home occupations are limited to any occupation that is customarily carried on at a place of residence that does not involve a structural change in the dwelling unit or in a building accessory to the dwelling unit, that does not require the employment of help other than members of the immediate household. The occupation cannot store material, inventory, or product outside or result in fumes, odors or noises that create a nuisance. There is no sign other than one sign (non-illuminated), no larger than one square foot in area. The following uses shall not be permitted as home occupations unless approved as specific use permits:

- (i) Any office in which chattels, goods, wares, or merchandise are commercially created, exchanged, or sold on site.
- (ii) Barbershops or beauty shops; beauty schools.
- (iii) Commercial stables or kennels.
- (iv) Medical offices for the treatment of patients.
- (v) Commercial automobile repairs, motor vehicle repair of more than one vehicle.
- (vi) Small engine repair.
- (vii) Childcare of more than six children under 14 years of age.

B. In the R2 district, there may also be duplexes.

C. In the R3 district, there may also be:

- 1. triplexes and tiny homes;
- 2. apartments, condominiums, townhouses, or other group dwellings with provisions for adequate light, air, open space and landscaped areas;
- 3. Move-in area. Buildings from other areas may be moved into this district so long as the building passes the building code and is a conforming use for the area.

D. Property in the commercial districts may be used for any legal business, as long as the uses are not obnoxious or offensive due to emission of noise, odor, dust, gas, vibration, or those requiring special permission as outlined in subsection (F) of this section.

E. In the commercial districts, there may be any of the uses defined in this section except that:

- 1. There may be no building for residential use and no trailers, except quarters for security personnel.
- 2. A junkyard must be surrounded by a solid fence at least six feet high located within the building lines, and the junk shall not be piled higher than the fence.

F. The following uses must be given council approval before a building or occupancy permit is issued:

- a. Acid manufacturing, cement, lime, gypsum, dairy products processing and manufacturing, explosives manufacturing or storage, fat rendering, fertilizer manufacturing, gas manufacturing, garbage, reduction or dumping, glue manufacturing, petroleum or its products, refining of or smelting of tin, copper, zinc or iron ores, stockyards or slaughter of animals or stables, and other items as council may approve by resolution.
- b. Before granting such special approval, the council shall refer the application to the fire chief, building inspector and the planning and zoning commission for investigation and report. If no report is received within 45 days, the council may act on the application.

**Sec. 56-25. - Nonconforming uses.**

- A. Nonconforming uses are those lawful uses of premises that do not conform with the requirements of this chapter on the effective date of the ordinance from which this chapter is derived or any governing amendment thereto and may be continued after the adoption of the ordinance from which this chapter is derived, subject to the provisions hereof.
- B. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not be used except in conformance with the regulations of the district in which it is located.
- C. A nonconforming use cannot be enlarged, extended, reconstructed or structurally altered unless changed to a conforming use.
- D. Nonconforming light industrial uses in the commercial districts may be rebuilt, reconstructed, structurally altered or enlarged if the enlargements do not total more than a 50 percent increase in cubical contents of buildings existing on the date of the passage of the ordinance from which this chapter is derived.
- E. If a nonconforming use is damaged or destroyed to an extent of more than 50 percent of its fair market value by a fire, explosion, flooding, or act of God, then any restoration must be for a permitted use.
- F. Passage of the ordinance from which this chapter is derived in no way legalizes any illegal uses existing at the time of its adoption.
- H. If any person entitled to possession and use of any property subject to any nonconforming use shall sell, convey or divest themselves of their interest in such property subsequent to the adoption of the ordinance from which this chapter is derived, then such property will not qualify under the nonconforming use provisions of this chapter.

- I. Where a lot is in a commercial district and is next to a residential district, the side or rear yard required in the residential district must be provided along the boundary line.
- J. In the commercial districts there may be more than one commercial or industrial building on a lot, provided that the required yards are maintained around the group of buildings.
- K. Those parts of existing buildings that violate yard regulations may be repaired and remodeled but not reconstructed or structurally altered, unless such reconstruction or structural alteration is approved by the Zoning Board of Adjustments.
- M. Churches, public buildings and institutions, when located in or abutting an R1, R2, or R3 district, shall provide front and rear yards of 25 feet and side yards of ten feet.

**Sec. 56-26. - Accessory buildings.**

Accessory buildings shall be located in accordance with the following rules:

- A. Accessory buildings located in a rear yard may not occupy more than 50 percent of the rear yard.
- B. Any accessory building closer than five feet to the main building shall be considered as part of the main unit and shall have a side and rear yard as required for the main building.
- C. An accessory building more than five feet from a main building may be erected within five feet of a side or rear lot line but must be located at least 50 feet from the front street line.

**Sec. 56-27 --- 56-37. – Reserved.**

**ARTICLE III. – ADMINISTRATIVE AND ENFORCEMENT**

**DIVISION 1. – GENERALLY**

**Sec. 56-38. – Administrative Officer**

- A. *Designated Officer.* The City Manager shall appoint the Administrative Officer of this Ordinance.
- B. *Powers and Duties.* The Administrative Officer or a designated person shall be responsible for the following powers and duties with regard to this Ordinance:
  - 1. Review and final action on pre-development permits, building permits, certificates of occupancy, and written interpretations of this Ordinance.



2. Review and make recommendations to the Planning and Zoning Commission on specific use permits, planned unit developments, subdivisions, text amendments to this Ordinance, and map amendments or re-zonings
3. The Administrative Officer may consult with the City Engineer, Building Official, Fire Chief, Public Works Director, Planner, Economic Development Director for the purpose of reviewing land development plans.
4. If the Administrative Officer finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, including the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
5. Any other powers and duties as may be assigned by the City Manager.

#### **Sec. 56-39. - Complaints Regarding Violations.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Officer. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

#### **Sec. 56-40. - Violations and penalties.**

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements shall be guilty of a Class C misdemeanor.
- B. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and shall be guilty of a Class C misdemeanor.
- C. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **Sec. 56-41 --- 56-51. – Reserved.**

### **DIVISION 2. – SPECIFIC USE PERMITS**

#### **Sec. 56-52. - Uses that may be subject of specific use permits.**

The city council of the city may, after public hearing and proper notice to all parties affected, and after recommendation from the planning and zoning commission containing such

requirements and safeguards as are deemed necessary to protect adjoining property, authorized by ordinance the location of any of the following in the following specified districts:

- A. Airport, landing field or heliport in any district.
- B. Cemetery or mausoleum.
- C. Drive-in theater in any district, minimum lot size ten acres.
- D. Hospital, convalescent home, nursing home, retirement center, maternity home, boarding house, or similar uses in any district; or on a minimum of five acres, penal or correctional institution, jail, prison, substance abuse facility, social rehabilitation facility, halfway house, psychiatric care facility, or similar uses in any district.
- E. Veterinarian, Animal Hospital and Kennels
- F. Institutions of a religious or philanthropic nature in any district.
- G. Recreational Vehicle Parks