

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF LEXINGTON, TEXAS, ADDING CHAPTER 21, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF LEXINGTON; ADOPTING COMPREHENSIVE ZONING REULGATION AND THE OFFICIAL ZONING MAP; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PROPER NOTICE AND MEETING.**

**WHEREAS**, the City of Lexington (“City”) is a Type A general-law municipality; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code Chapter 211, the City Council has the authority to adopt zoning regulations and boundaries as well as procedures for adopting and enforcing the zoning regulations and boundaries; and

**WHEREAS**, the City Secretary of the City directed that notices of public hearings be issued for the purpose of considering the adoption of the City’s zoning ordinance; and

**WHEREAS**, on xxxxxxxx, 2023 and xxxxxxxxxxxxxx, 2023, the City Council acting as the Zoning Commission held public hearings on the adoption of the zoning ordinance; and

**WHEREAS**, the zoning ordinance was recommended for adoption by the City Council acting as the Zoning Commission during its meeting on xxxxxxxx, 2023; and

**WHEREAS**, on xxxxxxxxxxxxxx, 2023 the City Council held a public hearing on the adoption of the zoning ordinance; and

**WHEREAS**, the City Council finds that all notice requirements have been met; and

**WHEREAS**, the City Council is of the opinion and finds that the adoption of this amendment to the City’s zoning ordinance will promote the public health, safety, or general welfare;

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lexington, Texas that:**

**I. AMENDMENTS**

Chapter 21, Zoning, of the Code of Ordinances of the City of Lexington, Texas is hereby added to read as follows:

**GENERAL PROVISIONS**

**21.01 Short title.**

§ 21.01.001 This ordinance shall be known and may be cited as “The City of Lexington Zoning

Ordinance.”

### **21.02 Authority and purpose.**

§ 21.02.001 This ordinance is adopted pursuant to Texas Local Government Code, Chapter 211.

§ 21.02.002 This ordinance is adopted for the purpose of promoting and protecting the health, safety, morals and general welfare of the residents, citizens, and inhabitants of the City of Lexington and for the protection and preservation of the small town character of Lexington, including historical places, places of cultural importance and places that reflect the predominant community values. This ordinance is further adopted to foster orderly and healthful development, good government, peace and order of the City and trade and commerce thereof, as may be necessary or proper to discharge the powers vested in the City of Lexington by the Constitution and laws of the State of Texas.

### **21.03 Newly annexed areas.**

§ 21.03.001 Zoning annexed areas. All territory annexed to the City hereafter shall be temporarily classified as District A - Agriculture, only until permanently zoned by the City Council. Temporary zoning shall remain in effect until such time as permanent zoning is adopted for the area. The procedure to be followed for adoption of permanent zoning shall be the same as is provided by law for the adoption of original zoning regulations.

§ 21.03.002 Permits in temporary zoned areas. In an area temporarily classified as District R - Residential, no permit for the construction of a building or use of land other than types of building or land use allowed in said district under the zoning ordinance shall be issued by the City.

§ 21.03.003 Unplatted property. The City shall not approve any plat or any subdivision within newly annexed areas until the area covered by the proposed plat shall have been permanently zoned by the City Council.

### **21.04 Zoning policies.**

§ 21.04.001 Purpose: The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance. They are as follows:

- (1) The City’s zoning should recognize and seek to preserve the small town attributes that make Lexington a special place for its citizens to live, work, and play.
- (2) The City’s zoning should be designed to facilitate the more efficient use of existing and future City services and utility systems.
- (3) The City’s zoning should be organized and as straight forward as possible to minimize use problems and enforcement problems.
- (4) The City’s zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.
- (5) The City’s zoning should ensure that adequate open space is preserved as residential and commercial development and redevelopment occur.
- (6) The City’s zoning should insure Lexington’s attractiveness for the future location of a variety of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.

- (7) The City’s zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community’s plan for the development and/or redevelopment of its neighborhoods.
- (8) The City’s zoning should protect existing and future residential neighborhoods from encroachment by incompatible uses.
- (9) The City’s zoning should assist in stabilizing property values by limiting or prohibiting the development of incompatible land uses or uses of land or structures which negatively impact adjoining properties.
- (10) The City’s zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.

### **21.05 Definitions and interpretation.**

§ 21.05.001 Interpretation. This ordinance shall be construed liberally to effect the purposes hereof. The rules of this section shall be observed except when the context clearly requires otherwise:

- (1) Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular.
- (2) The word “building” shall include the word “structure.”
- (3) The word “shall” is mandatory and not discretionary; the word “lot” includes the word “plot, parcel or tract”; the term “used for” includes the meaning “designed for” or “intended for.”
- (4) Words, phrases and terms not defined herein but defined in the building code of the City of Lexington shall be construed as defined in said code.
- (5) Words, phrases and terms not defined herein nor defined in the building code of the City of Lexington shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (6) The provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of building or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements the provision of this ordinance shall govern.

§ 21.05.002 Definitions. The following definitions shall apply in the interpretation and the enforcement of this ordinance:

Accessory dwelling unit (ADU): A room or suite of rooms or secondary single-family dwelling unit within an accessory structure that is clearly incidental to a principal use, excluding two-family and multifamily dwellings and is permitted only in conjunction with the main structure. A guest house, mother-in-law quarters or garage apartment are examples of accessory dwelling units.

Accessory structure or use: A subordinate structure located on the same lot as the main structure or a portion of the main structure, where the use of such structure is incidental and subordinate to the principal use.

All weather surface: A dust-free surface constructed of concrete, asphalt, brick or other commonly

accepted pavement which may be approved by the City.

Alley: An alley is a public right-of-way which affords a secondary means of access to abutting property.

Area, building: The area included within the surrounding exterior walls or exterior wall, exclusive of courts.

Area, gross floor: See “Floor area, gross.”

Area, net floor: See “Floor area, net.”

Architect: A duly registered and licensed architect.

Automobile (car) wash: A building or portion thereof containing facilities for coin-operated (or other payment options), self-service washing of automobiles. This may include production line methods with chain/belt conveyor, soap, wax, rinsing agents, blower/dryer, steam cleaning device, or other mechanical devices.

Automobile detail shop: A facility which provides for the cleaning, polishing and waxing of automobiles.

Automobile paint and body shops: A facility which includes, but may not be limited to, the painting of motor vehicles, body and/or fender repair and related temporary storage of automobiles for insurance purposes. Said facility may include automobile or vehicle storage as an accessory use on an all-weather surface area.

Automobile repair and service garage: A facility which provides for the major repair and maintenance of vehicles and the repair of motors, repair and/or installation of tail pipes and mufflers, brakes, radiators and electrical systems; provided that such facilities shall not be deemed to include the painting of motor vehicles, nor body and fender repair. Said facility may include automobile or vehicle storage as an accessory use on an all-weather surface area, provided the open storage is in compliance with this ordinance.

Automobile service station: Any building, structure or land used for sale of automobile fuel or motor oil, at retail direct to the customer, including the supplying of accessories, replacement parts and repair services essential to the normal operation of automobiles, but not including body or fender work, painting or major motor repairs. Said facility may also provide for the sale of food products as an accessory use for the convenience of customers.

Automobile/vehicular sales and rentals: An all-weather surface area other than a street or a building, used for display, sale or rental of new or used automobiles, trucks, trailers or motorcycles where no repair work is done, except minor reconditioning of said motor vehicles or trailers to be displayed, sold or rented on the premises. Such area shall not include salvaged parts, nor shall it include the storage of either new or used motor vehicles or trailers that are not on display or for sale or rent.

Automobile wrecking, junk or salvage yard: An automobile wrecking, junk or salvage yard is a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. Such yards by definition include an automobile wrecking lot upon which automobile parts are bought, sold, exchanged, stored, packed, disassembled or handled. Said yards do not include such uses conducted entirely within an enclosed building. Automobile wrecking, junk or salvage yards where permitted shall be designed in accordance with performance standards set forth in this ordinance.

Apartment: See “Dwelling unit.”

Apartment house: See “Dwelling, multifamily apartment.”

Awning: See “Marquee, canopy or awning.”

Basement or cellar: A basement or cellar is a space wholly or partly (at least fifty (50) percent) measured from floor to ceiling, below the average level of the ground surrounding the building. A basement or cellar is not counted when measuring the height of a building and a basement or cellar is not a story.

Bed and breakfast house: A bed and breakfast house is a single-family dwelling with ongoing occupancy by one family, where said family for compensation and by prearrangement, offer a temporary abiding place for the transient public who are lodged with or without meals, and there are no more than five (5) sleeping rooms for hire.

Block: A block is a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, airport boundaries, or corporate boundary lines or if said word is used as a term of measurement, it shall mean the distance along a side of a street or other right-of-way or boundary line, between two intersecting streets; or if the street is of a dead end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead end street. In cases where platting is incomplete or disconnected, the building official shall determine the outline of the block.

Block face: A block face is a side of a block facing upon a street, within which lots face the abutting street.

Board: The word board shall mean the board of adjustment established in this ordinance.

Boardinghouse: A boardinghouse is a building other than a hotel, motel, or apartment house, where for compensation and by prearrangement for a definite period, meals or where lodging and meals are provided for three (3) or more persons.

Brewery: A facility where ale, malt liquor and/or beer are manufactured and sold in accordance with a Texas Alcoholic Beverage Commission brewer’s permit and/or manufacturer’s license.

Brewpub: An establishment where malt liquor, ale, and/or beer are manufactured and sold in accordance with a Texas Alcoholic Beverage Commission brewpub license. The premises of a brewpub may include a drinking and/or eating establishment/area.

Bufferyard: Land required under the provisions of this ordinance to separate different classifications of land uses from each other. A bufferyard is in addition to the required front, side or rear yards where applicable. In new residential subdivisions or commercial business or industrial parks, bufferyards may be provided as common areas to the subdivision.

Build: The word build means to erect, convert, enlarge, reconstruct, or alter a building or structure.

Buildable width: The buildable width of a building site is the width of the building site left to be built upon after the required side yards are provided.

Building: A building is any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

Building, accessory: See “Accessory building or use.”

Building code: The building code contains regulations governing building design, construction and maintenance and for the purpose of this ordinance, the building code is the most current building code adopted by the City of Lexington.

Building height: Building height is the number of stories contained in a building and building height is the vertical distance from the grade to the highest finished roof surface in the case of flat roofs, or to a point at the average height of the highest roof having a pitch.

Building line: A building line is the line, established by law, beyond which the building shall not extend, except as specifically provided by law.

Building lot: A building lot is a lot of record or any lot held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk of Lee County.

Building, mixed: A mixed building is a building used partly for residential use and partly for community facility and/or commercial use. A mixed building is a commercial use.

Building official: The officer or other designated authority, or their duly authorized representative, charged with the administration and enforcement of the building code of the City of Lexington.

Building, principal: A principal building is a building in which the principal use of the lot on which it is located is conducted. All residential uses, except bona fide servants' quarters, are principal uses.

Building, residential: A residential building is a building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers.

Carport: A carport is a roofed structure open on at least two (2) sides when attached to a dwelling and open on three (3) sides when detached from a dwelling, covered with a roof supported by structural steel or wood columns or masonry piers of minimum size for structural safety. That portion of the roof extending beyond the said support structures is the roof extension.

Cellar: See "Basement."

City: The word "city" shall mean the City of Lexington, Texas.

Clinic: A clinic is the office of one or more medical doctors who may or may not have associated in the practice of their professions.

Commission, planning and zoning: The words "planning and zoning commission" shall mean the City Council of the City of Lexington, Texas.

Convenience store: A convenience store is a retail store designed to increase accessibility and reduce the time required for purchase of food products and other items providing for the incidental needs of customers. Convenience stores may include self-service sale of gasoline only as an activity incidental to the sale of food products and other items that are sold in the convenience store.

Council: The word "council" shall mean the City Council of the City of Lexington, Texas.

Court: A court is an open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard, or other permanent open space.

Day care facility: A home which cares for six (6) or less children including where applicable children of parents operating the day care facility that are under the age of sixteen with compensation received for the care of children apart from their parents, guardians or custodians for regular periods of time. For the purposes of this ordinance day care is a home occupation and is subject to the limitations of home occupations as set forth in this ordinance. Any child care institution that provides care for more than six (6) children is defined and identified as a "kindergarten or nursery school."

Development or to develop: A development includes the construction of a new building or any structure on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To "develop" is to create a development.

District: A district is a zoning district which is a part of the City wherein regulations of this ordinance are uniform.

Distillery: A facility established to manufacture distilled spirits and rectify, purify, and refine distilled spirits, mix liquor and bottle and package the finished products, and sell said products, in accordance with a Texas Alcoholic Beverage Commission distiller's and rectifier's permit.

Dwelling: A dwelling is a building or portion thereof designed and used exclusively for residential occupancy, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels, motels or lodging houses.

Dwelling, attached (townhouse): An attached dwelling (townhouse) is a single-family dwelling constructed in a series or group of attached units with property lines separating each unit, and it is one of a group of no less than three (3) and no more than eight (8) adjoining single-family dwelling units.

Dwelling, detached: A detached dwelling is one containing only one (1) single-family dwelling unit per building lot and does not meet the requirements for a party wall or walls pertaining to a single family attached (townhouse) dwelling unit. All single-family detached dwellings shall be a minimum of seven hundred fifty (750) square feet.

Dwelling, multifamily (apartment house): Any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential facilities.

Dwelling, single-family: A single-family dwelling is a building containing only one dwelling unit and/or occupied by only one family.

Dwelling, two-family: A two-family dwelling is a building containing two (2) dwelling units and/or occupied by two (2) families.

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

Family: Any number of individuals living as a single housekeeping unit, where the individuals constituting the family are related by blood, marriage, adoption, (excluding servants or other caretakers employed on the premises and living on the premises) with all of these terms to be construed liberally to include step-families and family structures created by law through marriage of household members. Foster children shall be considered children in the same sense as natural or adopted children. A family unit shall not include a single housekeeping unit in which more than two of the residents are unrelated as defined previously. The family unit is not designed or intended to include fraternities, sororities or other group living arrangements.

Family or group home: A community based residential home containing not more than six (6) disabled persons and two (2) supervisory personnel and which otherwise meets the requirements of the Community Homes for Disabled Persons Location Act, article 1011n, Texas Revised Civil Statutes Annotated.

Fence: Any construction or hedge greater than thirty (30) inches in height and of any material, the purpose of which is to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence. Dikes and retaining walls for the purpose of diverting water and retaining soil are not classified as a fence.

Floodplain: An area identified by the Federal Emergency Management Agency as possibly being flood prone, or below the immediate floodline (100-year floodplain.) The issuance of building

permits for construction of any structure within such floodplain is regulated by a specific ordinance governing the safeguards, preventive actions against flooding, types of uses permitted in the flood prone areas, etc.

Floor area, gross: The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky.

Floor area, net: The area actually occupied not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features.

Food truck park: A parcel of land where two or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.

Food truck site: Shall mean a developed property where a mobile kitchen operates as an accessory use to the primary active business located on the same site. Food truck sites shall not be permitted as an accessory use on property developed with a residential use.

Garage, apartment: See “Accessory dwelling unit (ADU)”.

Garage, commercial: A commercial garage is a parking structure or building or portion thereof offering parking spaces to the general public for compensation. (Also see “automobile repair and service garage” for an additional “garage” definition.)

Garage, private: A private garage is an accessory building to a residential or nonresidential building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.

Grocery store: A grocery store is a retail establishment primarily established for the purpose of selling meats, fruits, vegetables, bakery products, dairy products and similar items for human consumption for off-premises consumption only.

Health service: A health service is a charitable or government operated facility offering to the public medical examinations, diagnosis and limited treatment not for profit.

Height, building: See “Building height.”

High-density load service: Provision of electrical service where the requested load density, in the portion of the premises containing the load consuming equipment exceeds 250 kWh/ft<sup>2</sup>/year.

Hospital: A hospital is a legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.

Hotel: A hotel is an establishment offering lodging to the transient public for compensation. A hotel is distinguished from a motel in that access to the majority of the guest rooms is through a common entrance and lobby. A hotel is a nonresidential use.

Hotel, apartment: An apartment hotel is a hotel in which a majority of the dwelling units or guest rooms are occupied by permanent guests. Dwelling units or guest rooms may include kitchen or cooling facilities. An apartment hotel may contain public banquet halls, ballrooms or meeting rooms, restaurants and lounges accessible to the public only through the lobby and having no exterior display. An apartment hotel is a residential use.

Kindergarten and nursery school: A pre-school or day care center for more than six (6) children of pre-public school age which meets licensing requirements as established by the State of Texas, in which care and constructive endeavors such as object lessons and helpful games are provided and for which compensation is received. These terms do not include custody fixed by a court for children



related by blood or marriage within the third degree to the custodial person, day care as a home occupation, or churches and other religious or public institutions caring for children within an institutional building.

Landscaping: Plant material such as grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in conjunction with plant materials such as rock, pebbles, sand, walls or fences, used to improve the aesthetic appearance of open spaces with the City of Lexington, but excluding impervious surfaces, such as paving.

Loading space: A loading space is a space within the main building or an all-weather surface on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension as provided in city specifications that are maintained by the building official.

Lodginghouse: A lodginghouse is a residential building or portion thereof containing not more than five (5) guest lodging rooms which accommodate are used by not more than five (5) persons who are not members of the keeper's family. Lodging, but not meals, is provided for compensation.

Lot area: The lot area is the area of a horizontal plane intercepted by the vertical projections of the front, side, and rear lot lines of a building lot.

Lot area per dwelling unit: Lot area per dwelling unit is the lot area required for each dwelling unit located on a building lot.

Lot corner: A corner lot is a building lot situated at the intersection of two (2) streets, the interior angle of such intersection not to exceed one hundred thirty-five (135) degrees.

Lot depth: Lot depth is the mean horizontal distance between the front lot line and the rear lot line of a building lot measured within the lot boundary. In the event that a building lot has more than four sides and the lot is configured in such a way that there are reasonable questions as to either the "front" or the "rear" lot line, then the planning and zoning commission shall designate the lines that shall be the front and/or rear lot lines for the purpose of this ordinance.

Lot, interior: An interior lot is a building lot other than a corner lot.

Lot line: A lot line is a boundary of a building lot.

Lot line, front: A front lot line is that boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as the front lot line providing a front and rear yard are provided adjacent and opposite, respectively to the front lot line.

Lot line, rear: The rear lot line is that boundary of a building lot which is most distant from and is, or is most nearly, parallel to the front lot line.

Lot line, side: A side lot line is any boundary of a building lot which is not a front lot line or a rear lot line.

Lot of record: A lot of record is an area of land designated as a lot on a plat of a subdivision recorded pursuant to statutes of the State of Texas with the county clerk of Lee County.

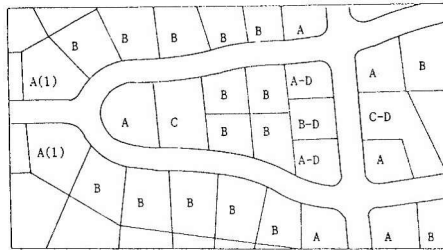
Lot types: The diagram below illustrates terminology used herein with reference to regular, corner, interior, reversed frontage and through lots.

In the diagram, A is a corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot (projected if rounded) meet at an interior angle of less than one hundred thirty-five (135) degrees. (See lots marked A(1) in the diagram.)

B is an interior lot, defined as a lot other than a corner lot, and abutting only one street. (Alleys shall not be considered as streets for purposes of this definition.)

C is a through lot, defined as a lot other than a corner lot, and with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double-frontage lots. (Alleys shall not be considered as streets for purposes of this definition.)

D is a reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angles less the one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be in a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D.)



Lot width: The lot width is the minimum distance measured in a straight line between the side lot lines of a building lot along a straight line, which shall be on the side of the building line opposite from the front lot line and one which must touch the building line at one point.

Maneuvering space: The space entirely on private property required for maneuvering vehicles in such a manner as to preclude the backing of any vehicle into any street right-of-way.

Manufactured home: A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is at least eight (8) body feet in width or at least forty (40) body feet in length, or, when erected on site, is at least three hundred twenty (320) square feet, and which 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 plumbing, heating, air conditioning, and electrical systems of the home. The term does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

Manufactured home park or subdivision: A parcel of land upon which two (2) or more manufactured homes are placed or located for purposes of occupancy.

Marquee, awning, or canopy: A marquee, awning or canopy is a rooflike structure of a permanent nature which projects from the wall of a building or overhangs a public way.

Mobile home: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is at least eight (8) body feet in width or at least forty (40) body feet in length, or, when erected on site, is at least three hundred twenty (320) square feet, and which 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 plumbing, heating, air conditioning, and electrical systems of the home. Mobile home structures are prohibited within the corporate limits of the City of Lexington.

Microdistillery or craft distillery: A small, often boutique-style distillery established to produce and sell beverage grade spirit alcohol in relatively small quantities, produced in single batches in accordance with a Texas Alcoholic Beverage Commission distiller's and rectifier's permit.

Modular home: A single-family dwelling unit which is constructed, in whole or in part, at a manufacturing facility and is intended for transport solely for the purpose of installation upon a permanent foundation. Modular homes must be certified as meeting both state and locally adopted building code requirements and are permitted to be located in any district in which the structure meets the minimum standards.

Motel or motor hotel: A motel or motor hotel is an establishment offering to the transient public the use of guest rooms or sleeping accommodations for compensation. Such an establishment consists of a group of attached or detached guest rooms or sleeping accommodations the majority of which have private and direct access from parking areas not through a common entrance and lobby. The establishment furnishes customary hotel services and may contain a restaurant, club, lounge, banquet hall and/or meeting rooms. A motel is a nonresidential use.

Motor freight terminal: A motor freight terminal is a building or area in which freight brought by motor truck is assembled and/or stored for shipping in interstate and intrastate commerce by motor truck. A motor freight terminal is a truck terminal.

Nonconforming structure (not occupied by a nonconforming use): Any structure not occupied in whole or in any part by a nonconforming use, which physically existed and which was lawfully erected prior to the enactment of this ordinance or any amendment hereto, which would no longer be a lawful structure after the adoption of this ordinance due solely to its inability to comply with technical requirements of said ordinance or said amendment that regulate yards, lot dimensions, lot coverage, floor area, on-site parking, or any structural condition. The board of adjustment has the authority to grant variances or special exceptions to any and all such technical requirements of this ordinance.

Nonconforming use (legally existing): Any actual use of land or structures which physically existed or was in operation prior to the enactment of this ordinance or any amendment hereto, which would no longer be a lawful operation after the adoption of said ordinance or amendment due solely to its inability to comply with the terms and conditions of said ordinance or amendment. Said nonconforming use of property or structure is subject to all applicable provisions of this ordinance, and therefore no authorization shall be granted by the board of adjustment to expand the structure or land occupied by a nonconforming use.

Noxious matter: Noxious matter is a material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being or comfort of humans.

Occupancy: The purpose for which a building, or part thereof, is used or intended to be used.

Occupancy, mixed: A building used for two or more occupancies classified in different occupancy groups.

Open storage: Open storage is the storage of any equipment, machinery, commodities, raw, semifinished materials, and building materials, not legally permitted as an accessory use to a residential use, which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level.

Owner: Any person, agent, firm or corporation having a legal or equitable interest in the property.

Parking space, off-street: An off street parking space is an all-weather surface area built entirely within the boundaries of a lot of record or building lot in accordance with applicable city standards, and used for vehicular storage and not as a street, and that is enclosed or unenclosed, and is sufficient in size to store one automobile. A parking space shall not occupy any public land.

Permit: An official document or certificate issued by the City authorizing performance of a specified

activity.

Private or parochial school: An institution of learning having a curriculum equivalent to public schools, providing care, training, education, custody or supervision for four or more children who are not related by blood, marriage or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility makes a charge for the service offered by it; provided however, that this does not include specialty schools, such as dancing, music, beauty, mechanical trade, swimming or commercial schools.

Public parks: A public park is any publicly owned park, playground, beach, parkway, or roadway within the jurisdiction and control of the city.

Public way (right-of-way): Any street, alley or other parcel of land open to the outside air, deeded, dedicated or otherwise permanently appropriated to the public for public use and having a clear and unobstructed width and height of not less than ten (10) feet (3048 mm).

Recreational vehicle or travel trailer: A vehicular, portable structure build on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer or recreational vehicle by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight (8) feet and a body length not exceeding state maximums.

Rest home or nursing, convalescent or assisted living facility: These facilities are long-term residential care facilities housed in a structure or collection of structures located on one campus that is used or occupied by persons recovering from illness or suffering from infirmities of old age or chronic illness. Generally, assisted living facilities provide care for persons needing less intense but ongoing care or assistance, which if provided, enable them to maintain a degree of independent living.

Retirement village: A residential development of two (2) acres or more consisting of dwelling units (single-family and/or multifamily) designed to accommodate the life styles of active senior citizens, and said development may have additional facilities on site for residential assisted living and/or nursing or convalescent care.

Screening device: A screening device shall consist of a barrier of stone, brick, pierced brick or block, uniformly colored wood, or other permanent material of equal character, density, and acceptable design, at least six (6) feet in height, where the solid area equals at least sixty-five (65) percent of the wall surface, including an entrance gate or gates. Such screening device shall be continuously maintained.

Screening hedge: A screening hedge shall consist of shrubs at least six (6) feet in height, installed in a sound workmanlike manner according to accepted planting procedures, with the quality and density of plant material sufficient to block vision, noise pollutants or other negative by products associated with the use that is hidden by the screening hedge. Such screening hedge shall be continuously maintained.

Server farm: Three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

Shopping center: A shopping center is a commercial development that provides facilities for a group of commercial establishments and that is managed as a unit.

Sign: A sign is a name, identification, image, description, display, or illustration which is affixed to, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution or business, which is visible from any street, right-of-way, public sidewalk, alley, park or other public property, institution, or business. A sign is not a display of official court or public office notices nor

is it a flag, emblem, or insignia of a nation, political unit, school, or religious group. A sign shall not include a sign located completely within an enclosed building.

Special exceptions: A type of relief that may be granted by the board of adjustment that applies to nonconforming structures, yards, buffer yards and parking requirements. The granting of said exceptions are subject to the standards and procedures as established in this ordinance. The board of adjustment may not grant special exceptions to use requirements or procedural requirements related to the granting of a special exception.

Story: A story is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A basement or cellar or underground parking is not a story.

Story, half (attic story): A half story (attic story) is any story situated wholly or partly in the roof, so designated, arranged or built as to be used for storage or habitation.

Street: A street is a public right-of-way or approved place, which affords a primary means of access to abutting property. A driveway or alley which serves only to give secondary vehicular access to a building lot or to an accessory parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance to a building shall not be considered a street.

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

Toxic materials: Toxic materials are those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

Trailer, house: See “Recreational vehicle or travel trailer.”

Use: The use of property is the purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of such activity with respect to the standards of this ordinance.

Use category: A general grouping of uses such as single-family residential, multifamily residential, retail, office, light industrial or heavy industrial within which particular uses may be categorized in order to have uniformly applicable area regulations for each group of uses within the zoning district to which they are assigned.

Use, principal: A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use.

Use, public: A use that is owned and/or operated by a governmental jurisdiction and is provided for the common good, education, health, safety or welfare of its citizens. A public use is not regulated by the zoning ordinance, but in order to guide intragovernmental and intergovernmental planning and coordination, the zoning districts with attributes best suited to accommodate public uses should be considered.

Variance: A type of relief that may be granted by the board of adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in this ordinance. The board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

Veterinary or animal clinic: A veterinary or animal clinic is a building in which small animals receive medical care from a licensed veterinarian and his assistants and in which no outdoor kennel or exercise runway is located closer than fifty (50) feet to any “R” district or residential use.

Yard: A yard is an open space on the same platted lot or building lot with a building, unoccupied and

unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the building site and the lot line shall be used. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such building is located.

Yard, front: A front yard is a yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than steps, planter boxes, unenclosed porches or that portion of a carport that extends beyond the structural columns or piers that support the carport.

Yard, rear: A rear yard is a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies, or unenclosed porches.

Yard, side: A side yard is a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building or projections thereof except steps and the side lot line.

Zoning district map: The zoning district map is the official map or maps incorporated into this ordinance as a part hereof by reference thereto.

Zoning Administrator: The Zoning Administrator is designated by the Mayor of the City and is responsible for duties pertaining to the enforcement of the zoning ordinance and other applicable ordinances of the City of Lexington.

## **DISTRICT REGULATIONS**

### **21.06 Establishment of districts.**

§ 21.06.001 For the purposes of this ordinance, the City is hereby divided into eight (8) districts as follows:

District R. Residential

District MH. Manufactured Home Residential

District C. Commercial

District I. Institutional

District P. Public Use

District PR. Parks & Recreation

District A. Agricultural

District B. Cemetery

### **21.07 Zoning map adopted.**

§ 21.07.001 The official zoning map of the City of Lexington, incorporated herein by reference, is hereby designated and established as a part of this ordinance and shall be filed with the city secretary of the City of Lexington and shall bear the signatures of the city secretary and the mayor.

### **21.08 Interpretation of official zoning district map.**

The boundaries of the various districts as enumerated in § 21.06.001 are hereby established as identified on said map. In interpreting the official zoning map, the following rules shall apply:

§ 21.08.001 The district boundaries are the centerlines of either streets, alleys, other rights-of-way or waterways unless otherwise shown, and where the district designated on the official zoning map is bounded approximately by a street, alley or waterway, the centerline of said street, alley or other rights-of way shall be construed to be the boundary of the district.

§ 21.08.002 Where the district boundaries do not coincide with the location of streets, alleys, other rights-of-way or waterways but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

§ 21.08.003 If unsubdivided property, the district boundary lines on the official zoning map shall be determined by use of the scale appearing on the map.

§ 21.08.004 Any property on the official zoning district map which does not have a zoning district designation shall be temporarily classified as an Agricultural District. The procedure to be followed for adoption of permanent zoning shall be as provided by law for the adoption of any zoning amendment.

§ 21.08.005 Where boundaries are indicated as approximately following city limits, they shall be construed as following city limits.

### **21.09 District boundary uncertainty.**

§ 21.09.001 Where uncertainty exists with respect to the boundaries of any of the various districts as shown on the official zoning district map, the conflict shall be resolved by utilizing the appeal power of the board of adjustment as set forth in this ordinance.

### **21.10 Compliance with regulations.**

Except as hereinafter specifically provided:

§ 21.10.001 No land shall be used except for a purpose permitted in the district in which it is located.

§ 21.10.002 No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.

§ 21.10.003 No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building is located.

§ 21.10.004 No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.

§ 21.10.005 No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the off-street parking and loading regulations of the district in which such building is located.

§ 21.10.006 The minimum yards, parking spaces, and open spaces, including lot area per family dwelling unit, required by this ordinance of each and every building existing at the time of passage of this ordinance or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this ordinance for the district in which such lot is located.

§ 21.10.007 A special event as defined in Chapter 91 of this Code may be permitted in any district, subject to the permitting requirements in that Chapter.

### **21.11 Conditional uses.**

#### § 21.11.001

A. Nature of Conditional Use. A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of standards and conditions. This Sec. 21.11 sets forth the standards used to evaluate proposed conditional uses and the procedures for approving Conditional Use Permit (CUP) applications.

B. Permit Required. No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within a zoning district until a conditional use permit is issued in accordance with the provisions of this Sec. 21.11. An application for a conditional use permit shall be accompanied by a site plan. The site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in this ordinance.

§ 21.11.002 The following general rules apply to all conditional uses: 1) The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved; 2) Approval of a conditional use permit shall authorize only the particular use for which the CUP is issued; 3) No use authorized by a conditional use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new conditional use permit in accordance with the procedures set forth in this Sec. 21.11; 4) Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by this zoning ordinance, the City's Code of Ordinances, or any permits required by regional, State and Federal agencies.

#### § 21.11.003 Application for Conditional Use Permit:

A. Application Requirements. An application for a conditional use permit may be submitted by the property owner or by the property owner's designated representative to the City. The application shall be accompanied by a site plan. If a zoning amendment is required to authorize the use or as application is pending, the application for a conditional use permit shall not be considered complete unless accompanied by a copy of the approved zoning ordinance or amendment.

B. Subdivision Approval. If the proposed use requires a division of land, an application for subdivision approval shall be submitted in conjunction with the application for a conditional use permit. Approval of the conditional use permit shall not become effective until final approval of the subdivision application; provided that if the land is to be divided in phases, the approval of the conditional use permit shall take effect upon final approval of the phase of the subdivision containing



the property on which the conditional use is to be located.

§ 21.11.004 Procedures for Conditional Use Permits:

A. Planning & Zoning Commission Recommendation. The Planning and Zoning Commission shall conduct a public hearing in order to formulate its recommendations to the City Council on the conditional use permit application. Following the public hearing, the Planning and Zoning Commission shall recommend approval, approval subject to modification, or denial of the proposal to the City Council. If the appropriateness of the use cannot be assured at the location, the Planning and Zoning Commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

B. City Council Action. The City Council shall be the final decision-maker on applications for conditional use permits. Following a public hearing and in consideration of the Planning and Zoning Commission's recommendations, the City Council shall approve, modify or deny the proposal for a conditional use permit. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

§ 21.11.005 Standards:

A. Factors for Consideration. When considering applications for a conditional use permit, the Planning and Zoning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning and Zoning Commission and the City Council shall specifically consider the extent to which:

1. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
2. The proposed use meets all supplemental standards specifically applicable to the use as established by the City;
3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
  - a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
  - b. Off-street parking areas, loading areas, and pavement type;
  - c. Refuse and service areas;
  - d. Utilities with reference to location, availability, and compatibility;
  - e. Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - f. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the

district;

g. Required yards and open space;

h. Height and bulk of structures;

i. Hours of operation;

j. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;

k. Provision for pedestrian access/amenities/areas;

l. Impervious coverage percentage; and

m. Concentration of, or distance from, similar uses.

4. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

B. Conditions. In approving the application, the Commission may recommend and the City Council shall impose such conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this Sec. 21.11. Any conditions imposed shall be set forth in the action approving the conditional use and shall be incorporated into or noted on the site plan for final approval. The Zoning Administrator shall verify that the plan incorporates all conditions, and shall sign the plan to indicate final approval. The City shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto.

§ 21.11.006 Amendment. No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this ordinance, and the conditional use permit and approved site plan are amended accordingly.

## **21.12 Accessory uses and structures.**

§21.12.001 Authorization. Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district, provided that all accessory structures or uses shall meet the development regulations for the zoning district in which the structure or use is located.

§21.12.002 Accessory structures, location and regulation:

- (1) All detached accessory structures in any residential district shall be located behind the closest point of the primary structure to the front property line and shall have a side and rear yard of not less than five (5) feet.
- (2) On a building lot having an area of less than one (1) acre no accessory structure shall exceed the height of the principal structure to which it is an accessory. Notwithstanding the provisions of this section an amateur radio tower designed in conformance with FCC regulations shall be permitted as an accessory use to a maximum height of sixty (60) feet. This section shall not apply to accessory dwelling units.
- (3) All accessory structures or uses shall be subordinate to and supportive of the principal use and structure.
- (4) Additional standards pertaining to accessory dwelling units (ADUs):

- (A) Should the primary use be a single-family dwelling, the property owner's primary residence shall be the single-family dwelling or ADU.
- (B) An ADU must be designed and constructed keeping with the general architecture and building material of the principal structure.
- (C) An attached ADU shall be subject to the regulations affecting the principal structure. A detached ADU shall have side yards of not less than the required side yard for the principal structure and rear yards of not less than ten (10) feet.
- (D) One (1) on-site parking space, located to the side or rear of the primary structure, shall be provided for the ADU in addition to the required parking for the principal structure.
- (E) The maximum habitable area of an ADU is limited to either one-half (1/2) of the habitable area of the principal structure, or one thousand (1,000) square feet, whichever is smaller.
- (F) ADUs shall not be a HUD-code manufactured home or mobile home.

### **21.13 Performance standards.**

§21.13.001 Compliance required. No land, structures or uses in any district of the City of Lexington shall create any dangerous, injurious, noxious, or otherwise objectionable fire, noise or vibration, air pollution, odorous matter, fire and explosive hazard material, toxic and noxious matter, vibration, open storage and glare in such an amount as to adversely affect the surrounding area or adjoining premises. In the event of conflict between any of the specific provisions or sections of this ordinance with regulations of the Environmental Protection Agency, the Occupational Health and Safety Administration and the Texas Commission on Environmental Quality, then the most restrictive provisions shall be deemed controlling. Permitted uses as set forth in this ordinance shall be undertaken and maintained only upon the condition that they conform to the regulations of this section.

### **21.14 Home occupations.**

§ 21.14.001 Authorization. A home occupation shall be permitted in any residential dwelling unit, provided that it is clearly incidental and subordinate to the use of the premises for dwelling purposes and in conformance with the provisions below.

§ 21.14.002 Purpose. To insure the protection of the residential character of the neighborhood and to insure that home occupations shall not interfere with the use of surrounding homes as places of residence regulations are imposed on the operation of home occupations. Permitted home occupations shall include customary home occupations such as the office of a milliner, dressmaker, musician or artist, provided that such uses are located in the dwelling used by such a person as his or her private residence, and provided that no assistant not a member of the family residing on the premises is employed, and no window display or sign is used to advertise the same. Additional specific examples of permitted home occupations include, but are not limited to:

- (1) Dressmaking, sewing, and tailoring;
- (2) Painting, sculpturing, or writing;
- (3) Telephone answering services;
- (4) Home crafts such as model making, rug weaving, lapidary work, etc.;
- (5) Tutoring, limited to three (3) students at a time;
- (6) Computer programming;
- (7) Office, professional or service;
- (8) A home occupation day care facility shall be allowed for a maximum of three (3) children. A home occupation state licensed day care facility may have more than three (3) children with a

maximum of twelve (12) children with the approval of a conditional use permit. Existing state licensed home day care facilities with twelve (12) or less children, that are in operation at the time of the effective date of this section, may remain to operate as an existing nonconforming use;

- (9) Services performed by a beautician licensed by the State of Texas.

§ 21.14.003 Limitations on home occupations. A home occupation is a permitted use in a residential neighborhood only if less than fifty (50) percent of the floor space is allocated to the home occupation, is used by a resident of the home where the home occupation is located and is not described as a prohibited activity as provided below. However, no home occupations including those described above shall be permitted that does any of the following:

- (1) Changes the outside appearance of the dwelling;
- (2) Is visible from the street;
- (3) Generates traffic, parking, sewage, electrical, or water use in excess of what is normal in the residential neighborhood;
- (4) Results in the off-street or on-street parking of more than two (2) vehicles at any one time not owned by members of the occupant family;
- (5) Creates a hazard to persons or property;
- (6) Results in electrical interference;
- (7) Is a nuisance;
- (8) Results in the outside storage or display of anything;
- (9) Includes employment within the home or on the premises of persons other than members of the occupant family;
- (10) Displays signs or advertising of any type on premises, except as follows:
  - (A) Word of mouth by telephone or face to face.
  - (B) Free listing in the telephone directories and business journals and directories.
  - (C) Business cards and stationery.

§ 21.14.004 Prohibited home occupations. The following are specifically prohibited as home occupations:

- (1) Barber, beauty, and other personal service, unless the provision of such services is conducted within the limitations of a home occupation in section 21.15.003;
- (2) Animal hospitals, stables, or kennels;
- (3) Dance studios, schools;
- (4) Mortuaries;
- (5) Private clubs;
- (6) Repair shops;
- (7) Restaurants;
- (8) Automobile paint or repair shops;
- (9) Doctor, dentist, veterinarian, or other medically related office;
- (10) Rooming/boarding/lodging house.

## **ZONING DISTRICT REGULATIONS**

### **21.15 District R. Residential District**

§ 21.15.001 Purpose. The R, Residential District is intended to provide for development of detached single family housing with lot areas of not less than 13,068 square feet and. Its purpose is to provide for quality housing in the City, which is protected from excessive noise, illumination, odors, visual clutter and other influences that are generally objectionable or not conducive to family living.

§ 21.15.002 Authorized uses. Those uses listed for the Residential District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.15.003 District development standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	13,068 square feet
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Yard Requirements**

Minimum Front Yard	25 feet
Minimum Side Yard (interior)	10 feet
Minimum Side Yard (street side)	15 feet
Minimum Rear Yard	25 feet

**C. Structure Standards**

Maximum Height	35 feet
Minimum Living Area for Dwelling	1,200 square feet

**D. Minimum Off-Street Parking**

2 enclosed parking spaces; garage must be side or rear entry

**E. Driveway Requirements**

Permanently hard-topped with a durable surface.

**21.16 District MH. Manufactured Home Residential District**

§ 21.16.001 Purpose. The MH, Manufactured Home Residential District is intended to provide locations for manufactured homes, manufactured home parks and manufactured home subdivisions in an area protected from excessive noise, illumination, odors, visual clutter and other influences that are generally objectionable or not conducive to family living.

§ 21.16.002 Authorized uses. Those uses listed for the MH, Manufactured Home Residential District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.16.003 District development standards.

**A. Lot Dimension Requirements**

Minimum Site Area	As required by this Code.
Minimum Lot Area	13,068 square feet
Minimum Lot Width	75 feet
Minimum Lot Depth	125 feet

**B. Yard Requirements**

Minimum Front Yard	25 feet
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Minimum Side Yard (interior)	10 feet
Minimum Side Yard (street side)	15 feet
Minimum Rear Yard	10 feet

**C. Structure Standards**

Maximum Height	35 feet
Minimum Living Area for Dwelling	N/A

**D. Minimum Off-Street Parking**

2 parking spaces

**E. Accessory Buildings**

Minimum Setback – Lot Lines	5 feet
Minimum Setback – Habitable Structures	10 feet

**21.17 District C. Commercial District**

§ 21.17.001 Purpose. The C, Commercial District is intended to accommodate development of all retail and wholesale activities, such as commercial sales and service uses, other contracting services, storage and warehouse services, automotive and transportation related services and activities dealing with services to other businesses and vehicular related activities; as well as for light industrial and light manufacturing uses such as assembling and fabrication, warehousing, wholesaling and service operations that do not depend upon frequent customer or client visits. Developments of this type are often incompatible with residential development due to heavy traffic generation, hours of operation, noise emissions, or other incompatible features.

§ 21.17.002 Authorized uses. Those uses listed for the Commercial District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.17.003 District development standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	13,068 square feet
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Yard Requirements**

Minimum Front Yard	10 feet
Minimum Side Yard (interior)	10 feet
Minimum Side Yard (street side)	10 feet
Minimum Rear Yard	10 feet

**C. Structure Standards**

Maximum Height	52 feet
Area of Structure	N/A

**D. Minimum Off-Street Parking**

The number of parking spaces required by the International Building Code adopted by the City plus 5 additional spaces

**E. Driveway Requirements**

Driveway must be 100% reinforced concrete

**21.18 District I. Institutional**

§ 21.18.001. Purpose. The I, Institutional District is intended to accommodate non-commercial and non-governmental activities of public life, such as education, religious worship, and healthcare. Developments of this type are often near to both residential and commercial districts because they are integrated into public life.

§ 21.18.002. Authorized Uses. Those uses listed for the Institutional District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.18.003. District Development Standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	15,000 square feet
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Setback Requirements**

Minimum from Front Lot Line	25 feet
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**C. Structure Standards**

Maximum Height	45 feet
Stories	N/A

**D. Minimum Off-Street Parking**

A ratio of not less than one parking space per each 200 square feet of gross floor area.

**21.19 District P. Public Use**

§ 21.19.001. Purpose. The P, Public Use District is intended to provide space for governmental functions and operations at all levels (ex. state, federal).

§ 21.19.002. Authorized Uses. No land, building, or structure shall be used, and no building or structure shall be hereafter constructed or altered except for one or more of the following uses:

- (1) Governmental facilities;
- (2) Police facilities;
- (3) Fire stations;
- (4) Utilities, including: cellular towers, electrical stations, transformer stations, water and wastewater facilities, and other similar facilities; and
- (5) Those additional uses listed for the Public Use District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.19.002. District Development Standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	15,000 square feet
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Setback Requirements**

Minimum from Front Lot Line	25 feet
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**C. Structure Standards**

Maximum Height	45 feet
Stories	N/A

**D. Minimum Off-Street Parking**

A ratio of not less than one parking space per each 200 square feet of gross floor area.

**21.20 District PR. Parks & Recreation District**

§ 21.20.001. Purpose. The PR, Parks & Recreation District is established to provide areas for community parks and recreational areas.

§ 21.20.002. Authorized Uses. No land, building, or structure shall be used, and no building or structure shall be hereafter constructed or altered except for one or more of the following uses:

- (1) Athletic fields and sports facilities such as baseball, football and soccer fields and other sports-related facilities;
- (2) Picnic areas;
- (3) Playgrounds;
- (4) Recreational centers;
- (5) Swimming pools;
- (6) Accessory uses customarily incidental to any of the foregoing permitted uses;
- (7) Concession stands;
- (8) Those additional uses listed for the Public Use District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.20.002. District Development Standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	15,000 square feet
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Setback Requirements**



Minimum from Lot Line	30 feet
<b>C. Structure Standards</b>	
Maximum Height	30 feet
Stories	2 maximum
<b>D. Minimum Off-Street Parking</b>	A ratio of not less than one parking space per each 200 square feet of gross floor and field area.

**21.21 District A. Agricultural District**

§ 21.12.001 Purpose. The A, Agricultural District is established to provide for compatible land, building and structure uses primarily oriented to agricultural farming and ranching, and extremely low density residential purposes. The Agricultural District may also serve as (1) open space for the protection and enhancement of scenic areas, and vistas; and (2) low density development where unusual or problematic soils, topographic conditions or sensitive ecological features are present that would normally not be conducive or appropriate to more intensive forms and patterns of urbanization.

§ 21.21.002 Authorized uses.

Those uses listed for the Agricultural District in the Use Chart as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in this ordinance.

§ 21.21.003 District development standards.

<b>A. Lot Dimension Requirements</b>	
Minimum Lot Area	N/A
Minimum Lot Width	N/A
Minimum Lot Depth	N/A
<b>B. Yard Requirements</b>	
Minimum Front Yard	40 feet
Minimum Side Yard (interior)	40 feet
Minimum Side Yard (street side)	40 feet
Minimum Rear Yard	40 feet
<b>C. Structure Standards</b>	
Maximum Height	52 feet
Area of Structure	N/A
<b>D. Minimum Off-Street Parking</b>	The number of parking spaces required by the International Building Code adopted by the City.
<b>E. Driveway Requirements</b>	N/A

**21.22 District B. Cemetery District**

§ 21.22.001 Purpose. The B, Cemetery District is established to provide for compatible land, building and structure uses primarily used or intended to be used for interment; and specifically includes a graveyard, burial park, mausoleum, or any other area containing one or more graves. Developments of this type are often near to residential or agricultural districts because they are intended for quiet, non-frequent use.

§ 21.22.002 Authorized uses.

Cemeteries as defined by Tex. Health & Safety Code Ann. § 711.001.

§ 21.22.003 District development standards.

**A. Lot Dimension Requirements**

Minimum Lot Area	Must have adequate space for at least ten (10) internments by entombment, burial, or placement in a niche.
Minimum Lot Width	N/A
Minimum Lot Depth	N/A

**B. Structure Standards**

Maximum Height	1 story
Area of Structure	N/A

**C. Fencing Standards**

Permanent fence surrounding lot, with gated access to the lot.

**21.23 – 21.25 Reserved for Future Use.**

**AMENDMENTS TO THE ZONING ORDINANCE**

**21.26 Types of amendments.**

Zoning amendments of any type are not intended to relieve particular hardships or to confer special privileges or rights on any person but are intended to provide a legal mechanism to further the public interest in accordance with a comprehensive planning process that recognizes that from time to time there may be a need for changes in zoning to accommodate changed circumstances and conditions that affect the City of Lexington.

§ 21.26.001 Amendments enumerated. Types of amendments that may be approved following the procedures established herein are as follows:

- (1) Amendments to the zoning text.
- (2) Amendments to the official zoning district map.

§ 21.26.002 Standards applicable to types of amendments. Amendments to the written text or the official zoning district map should be consistent with the purposes, goals, objectives and standards of the City of Lexington and zoning policies as set out in this ordinance.

### **21.27 Application for an amendment to the written text or the official zoning district map.**

§21.27.001 Any person or group of persons desiring to petition for an amendment to the written text of this zoning ordinance or the official zoning district map shall be required to file an application in writing with the Zoning Administrator, accompanied by a nonrefundable fee, in an amount established by the City, to defray the cost of notification and processing the application. The application shall include but not necessarily be limited to the following:

- (1) The applicant or applicants name(s) and address(es):
- (2) A specific description of the amendment to the zoning text or zoning map that is proposed.
- (3) A statement of the need or justification for said amendment, including its consistency with the zoning policies and purposes set forth in the zoning ordinance.
- (4) In the event that the proposed amendment is to the official zoning district map:
  - (A) The legal description of the property that is to be reclassified and the proposed boundaries of said property.
  - (B) The signed consent of the property owner or owners whose property is proposed to be reclassified.
  - (C) The applicant's interest in the subject property if the applicant is not a property owner of all or a portion of the subject property to be reclassified.
  - (D) The names and addresses of all property owners required to be notified in accordance with the Texas Local Government Code and this ordinance.
  - (E) The present zoning classification and existing uses of the property proposed to be reclassified.
- (5) Such other information or documentation as the City Council may deem necessary.

### **21.28 Call of public hearings.**

A public hearing or hearings shall be held by the City Council and the Planning and Zoning Commission before adopting any proposed amendment.

§ 21.28.001 Joint hearings. The City Council may elect to hold a joint public hearing pertaining to any amendment proposed under the provisions of this ordinance.

§ 21.28.002 Separate hearings. In the event that the City Council does not elect to call such a joint public hearing, then the Planning and Zoning Commission shall hold a separate public hearing thereon. In either event after consideration of the citizens heard at the public hearing, the Planning and Zoning Commission shall prepare a written report and recommendation to the City Council regarding the proposed amendment. In the event the City Council has not held a joint public hearing prior to receiving the Planning and Zoning Commission's report and recommendation, then the City Council shall in turn hold a public hearing prior to taking final action to approve or disapprove the proposed amendment.

### **21.29 Public hearings.**

Notice of all public hearings concerning proposed amendments to the municipal zoning ordinance or map shall be given in accordance with this section and applicable state law.

§21.29.001 Content. The public hearing notice shall set a time and place for the public hearing on the proposed amendment to the zoning ordinance. A summary statement of the proposal under consideration and identification of the body conducting the hearing shall be provided in the public hearing notice.

§ 21.29.002 Publication of hearing notice:

- (1) The planning and zoning commission. Notice of public hearings before the Planning and Zoning Commission shall be given by publication in a paper of general circulation in the City of Lexington, and such hearings shall not occur sooner than ten (10) days from the date of publication. If the proposed change involves an amendment to the classification or boundary of a zoning district, then written notice of all public hearings before the Planning and Zoning Commission shall be sent to the owners of real property lying within two hundred (200) feet of the property that is subject to the proposed change, and such notice shall be given, not less than ten (10) days before the date set for the hearing, to each owner as indicated by the most recently approved municipal tax roll. Such notice may be served by depositing same, properly addressed and postage paid in the United States mail.
- (2) City council. Notice of public hearings before the City Council shall be given by publication in a paper of general circulation in the City of Lexington, and such hearings shall not occur sooner than fifteen (15) days from the date of publication.

**21.30 Conduct of public hearings.**

§ 21.30.001 Rights of all persons. Any person may appear at a public hearing and submit evidence or testimony either individually or as an agent for any organization.

§ 21.30.002 Continuance of hearing:

- (1) The body conducting the hearing may on its own motion or the request of any person, continue the hearing to a fixed date, time and place.
- (2) An applicant shall have the right to request and be granted one continuance without a statement of grounds or reasons if such continuance is requested prior to the publication and mailing of notice to adjoining property owners as provided by the terms and conditions of this ordinance. However, all subsequent continuances shall be granted at the discretion of the body conducting the hearing, upon good cause shown.
- (3) Any person or applicant requesting and being granted a continuance shall be required to pay all costs and expenses as required by law.
- (4) The Planning and Zoning Commission or City Council may continue a public hearing to a subsequent meeting if they identify additional information or testimony that they need pertaining to the case before them. Said public hearing once properly opened, if continued to a specific date certain, shall be noticed by posting a proper agenda at least seventy-two (72) hours prior to the date set for continuance.

**21.31 Action by City Council.**

§ 21.31.001 Action under protest:

- (1) In the event of a protest against a proposed amendment, signed by owners of at least twenty (20) percent of the property either of the area of the lots included in such a proposed change or the area extending two hundred (200) feet therefrom or in the event that the Planning and Zoning Commission has recommended against the amendment, City Council shall not amend any provision of this ordinance except by the favorable vote of three-fourths of all of the members of the City Council.
- (2) In computing the percentage of land area of the property either of the area of the lots included in such a proposed change or the area extending two hundred (200) feet therefrom, the areas of

streets and alleys shall be included in the computation of total land area from which the percent of protesting property owners is derived.

§ 21.31.002 Time of action. The City Council and the Planning and Zoning Commission shall act expeditiously in all matters pertaining to applications for zoning amendments under the provisions of this ordinance in consideration of the interests of the citizens of the City of Lexington.

§21.31.003 Final action by the City Council. The City Council may subject to the requirements of this ordinance and the Texas Local Government Code, upon receipt and acceptance of the report and recommendation of the Planning and Zoning Commission and the appropriate public hearing(s), enact ordinances amending this ordinance, including the official zoning district map.

## **STANDARDS AND PROCEDURES FOR GRANTING VARIANCES AND SPECIAL EXCEPTIONS**

### **21.32 Authority.**

The board of adjustment shall have the authority to grant relief in the form of variances and special exceptions to the provisions of this zoning ordinance, subject to the standards and procedures as established herein.

### **21.33 Purpose of variances and special exceptions.**

The purpose of this is to establish procedures and standards for relief where owing to special conditions, the literal enforcement of the regulations of the zoning ordinance will result in unnecessary hardship, provided that the grant of such relief will not be contrary to the public interest and provided further that the spirit and intent of the zoning ordinance will be preserved by the relief granted under the terms and conditions herein provided.

### **21.34 Eligible applicants.**

To apply for a variance or special exception under the provisions of this ordinance, the applicant must be an owner of the property to be affected by the variance or must have a contractual interest in the property to be affected by the variance or special exception.

### **21.35 Application.**

The application for a variance or special exception shall be filed with the City Secretary according to rules of procedure adopted from time to time by the board of adjustment and shall be accompanied by a nonrefundable fee as prescribed in such rules of procedure to defray administrative costs.

### **21.36 Action of the board.**

The board of adjustment shall fix a reasonable time for the hearing on a requested variance or special exception pursuant to the procedures set out in this ordinance.

## VARIANCES

### 21.37 Limitations.

§21.37.001 The board of adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.
- (2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and wellbeing of the neighborhood in which the subject property is located.
- (3) The literal enforcement of the ordinance would work on unnecessary hardship.
- (4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.
- (5) The need for the variance was not created by the applicant.
- (6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.
- (7) The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the zoning ordinance.

### 21.38 Conditions.

The board of adjustment may establish conditions in the written order granting a variance to safeguard the character of the area and to protect adjacent property owners.

### 21.39 Prohibitions.

The board of adjustment shall not consider or grant use variances.

## SPECIAL EXCEPTIONS

### 21.40 Limitations.

§21.40.001 Authority. The board of adjustment shall have the authority to grant special exceptions in accordance with the procedures and standards herein provided to permit:

- (1) The reconstruction of a nonconforming structure, if said structure is totally or partially damaged or destroyed, provided that said permit is applied for within six (6) months from the date of damage. If a permit has not been automatically issued within six (6) months from the date of damage, the board of adjustment may grant a permit for repair or replacement to the previous building parameters after a public hearing and having due regard for the property right of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming structure and the purposes of this ordinance.

- (2) The extension or enlargement of a nonconforming structure, provided that the structure or portion thereof being extended or enlarged is not for the purpose of a nonconforming use.
- (3) To deviate yard requirements in the following circumstances:
  - a. An exception from the front yard requirements where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard setbacks shall for any building hereinafter constructed be the required minimum front yard setback.
  - b. An exception from the rear yard requirements where the actual rear yard setback of any four (4) or more lots in the same block do not meet the applicable rear yard requirements of these regulations.
  - c. The board of adjustment shall be empowered to grant special exceptions allowing a waiver or reduction of up to ten (10) percent in any required yard where it is shown that the encroachment into the required yard occurred unintentionally during the construction of the building and the encroachment was inadvertent and not a part of a deliberate plan to violate the terms and conditions of the zoning ordinance.
- (4) To waive or reduce off-street parking and loading requirements when the board finds that the same are unnecessary for the proposed use of the building or structure for which the special exception request applies.
- (5) To permit any nonconformity which is nonconforming solely because of inability to comply with regulations governing screening or landscaping, subject to conditions which may be imposed by the board.

## **NONCONFORMING USES**

### **21.41 Nonconforming Uses and Structures.**

§ 21.41.001 Authority to Continue. The lawful use of land existing upon the effective date of this ordinance may be continued, although such use does not conform to the provisions hereof. Such use may be extended throughout such portions of the buildings as are arranged or designed for such use.

A nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. If such nonconforming building is voluntarily removed, the future use of such premises shall be in conformity with the provisions of this ordinance.

§ 21.41.002 Purpose. The purpose of this Sec. 21.41 is as follows:

- (1) To declare that nonconforming uses are incompatible uses within the zoning districts in which they are located, therefore the intent is not to encourage their continuation.
- (2) To establish the limitations whereby nonconforming uses may continue until the same are removed.
- (3) To establish the circumstances whereby the board of adjustment may require the discontinuance of nonconformities.

§ 21.41.003 Nonconforming Use Status. The following uses are legally existing nonconforming uses:

- (1) Any existing use or structure that is not in conformance with the regulations of the zoning district in which it is located but was actually in existence or in operation at the time of the adoption of this zoning ordinance is a nonconforming use if it was legal when originally created or placed in operation.
- (2) Any existing use or structure that is not in conformance with the regulations of the zoning district in which it is located but was legally existing at the time of the adoption of any amendment to the

zoning text or map, applicable to the district in which it is located, is a nonconforming use.

- (3) Any existing use or structure that is not in conformance with the regulations of the zoning district in which it is located at the time of annexation of the area in which said use is located is a nonconforming use.

§ 21.41.004 Change of Ownership. The status of nonconforming uses is not affected by ownership and/or occupancy change, subject to Sec. 21.42.001.

§ 21.41.005 Limitations to Continuing Nonconforming Uses. Limitations to continuing a nonconforming use are as follows:

- (1) Routine repairs and alterations may be made to a building occupied by a legally existing nonconforming use, provided that no structural alterations or extensions shall be made unless the building is changed to a conforming use.
- (2) A building occupied by a legally existing nonconforming use may be rebuilt in case of obsolescence or total or partial destruction by fire or other causes. The building inspector shall issue a permit for reconstruction as built at the time of damage, provided that said permit is applied for within six (6) months from the date of the damage. If a permit has not been automatically issued within six (6) months from the date of the damage, the board of adjustment may grant a permit for repair or replacement to the previous building parameters after a public hearing and having due regard for the property right of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this ordinance. No permit issued by the building official or granted by the board of adjustment under the authority of this section shall approve an increase in the floor area to be occupied by the nonconforming use.
- (3) No expansion or enlargement of a nonconforming structure occupied by a permitted use shall be permitted, except that no permit other than a building permit is required to expand a nonconforming single-family dwelling; provided that (1) said residential expansion does not increase the nonconforming attributes of the structure, (2) said dwelling is nonconforming by virtue of its lot size, front, side or rear yard setbacks and (3) said dwelling is located in a district in which said structure is a permitted use.
- (4) No occupancy of additional land shall be permitted by a nonconforming use.
- (5) No nonconforming structure or structure housing a nonconforming use shall be moved unless moved into a zoning district into which it is in conformance with the regulations.
- (6) A nonconforming use if changed to a conforming use or a more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.
- (7) In the event that a nonconforming use of a building or premises is voluntarily discontinued for a period of one (1) year, a presumption shall exist that the owner has abandoned the nonconforming use and thereafter the use of the same shall thereafter conform to the provisions of the district in which it is located.
- (8) No nonconforming accessory use or structure shall continue after the principal structure or use shall have ceased or terminated unless such structure or use shall thereafter conform to the provisions of the zoning district in which it is located.



## APPEALS

### **21.42 Authority.**

The board of adjustments shall have the authority to hear and decide appeals from any decision, determination or interpretation by any administrative official with respect to the provisions of the zoning ordinance, subject to the standards and procedures hereinafter set forth.

### **21.43 Application.**

An application for an appeal may be initiated by any person aggrieved or by any officer, department, board or bureau of the City of Lexington affected by any decision of the building official. Such appeal shall be filed with the City Secretary according to rules of procedure adopted from time to time by the board and shall be accompanied by a fee as prescribed in such rules of procedure to defray administrative costs.

### **21.44 Procedures.**

A notice of appeal in prescribed form must be filed with the City Secretary, within fifteen (15) days of such decision, determination or interpretation. The filing of such notice of appeal will require the building official or other City department to forward to the board any and all records concerning the subject matter of the appeal. Failure to file such appeal shall constitute a waiver of any rights under this ordinance to appeal any interpretation or determination made by such administrative official.

### **21.45 Effect of filing an appeal.**

Filing a notice of appeal shall stay any proceedings in furtherance of the action appealed.

### **21.46 Action of the board of adjustment.**

The failure of the board to act within a reasonable time shall not deprive it of jurisdiction of the matter. The board may reverse, affirm in whole or in part, or may modify the decision, determination or interpretation appealed as provided in this ordinance.

### **21.47 Appeals from the board of adjustment.**

In accordance with the Texas Local Government Code, any person or persons jointly or severally aggrieved by any decision of the board of adjustment may appeal the decision of the board to a court of competent jurisdiction as prescribed by the Texas Local Government Code.

## ENFORCEMENT AND APPLICATION

### **21.48 Administrative official.**

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator.

### **21.49 Violations and penalties.**

§ 21.49.001 Any person, firm, corporation or entity who shall violate or assists in the violation of any of the provisions of this zoning ordinance or who shall fail to comply therewith or with any of the requirements thereof, or who shall commence to erect or alter any building or use in violation of any detailed statement of plan submitted or approved thereunder, shall for each and every violation or noncompliance be guilty of a misdemeanor and upon conviction shall be fined not more than two thousand dollars (\$2,000.00) and each day such violation shall be permitted to exist shall constitute a separate offense.

§ 21.49.002 In order to enforce the provisions of this ordinance, the city attorney is authorized to institute any civil action in the appropriate court upon the prior approval of the city council.

### **21.50 Inspection of premises.**

§ 21.50.001 The building inspector, Zoning Administrator, or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

§ 21.50.002 Whenever any construction work is being done contrary to the provisions of this ordinance, the building inspector may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building inspector to proceed with the work.

### **21.51 Requirements for building permit.**

§ 21.51.001 All applications for building permits shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing:

- (1) The actual shape and dimensions of the lot to be built upon.
- (2) The exact sizes and locations on the lot of the buildings and accessory buildings then existing.
- (3) The lines within which the proposed building and structure shall be erected or altered.
- (4) The existing and intended use of each building or part of building.
- (5) The number of families or dwelling units the building is designed to accommodate.
- (6) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance, or if provisions of Sections 8 and 9 have been complied with.

One copy of such plot plans will be returned to the owner when such plans have been approved. An inspection of as long as two (2) weeks may be required for inspection of plans before a permit is issued. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started.

### **21.52 Existing permits and private agreements.**

§ 21.52.001 This ordinance is not intended to abrogate or annul any permits issued before the effective date of this ordinance or any easement, covenant or any other private agreement.

### **21.53 Preserving rights in pending litigation and violations under existing ordinances.**

By the passage of this ordinance no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded with in all respects as if such prior ordinance had not been repealed.

### **21.54 Certificates of occupancy.**

§ 21.54.001 Requirements for certificates of occupancy. Certificates of occupancy shall be required for any of the following:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of a different classification.
- (3) Occupancy and use of vacant land, except agricultural use.
- (4) Change in the use of land to a use of a different classification.
- (5) Any change in the use of a nonconforming use.

No such occupancy, use or change of use, shall take place until a certificate of occupancy therefor shall have been issued by the inspector of buildings.

§ 21.54.002 Procedure for new or altered buildings. Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Said certificate shall be issued within three (3) days after a written request for the same has been made to said building inspector or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this ordinance and all other applicable ordinances and regulations of the City.

§ 21.54.003 Contents. Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the building inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

§ 21.54.004 Temporary certificate. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the building inspector for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations, of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this ordinance.

### **21.55 Fees.**

The City Council shall adopt zoning fees which shall be on file with the City Secretary.

### **21.56 Use chart.**

## II. REPEALER

All provisions of the ordinances of the City of Lexington in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Lexington, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

## III. SEVERABILITY

It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

## IV. EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

## V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED THIS THE xx DAY OF JULY, 2023.**

\_\_\_\_\_  
Hon. Allen Retzlaff, Mayor  
City of Lexington, Texas

ATTEST:

\_\_\_\_\_  
Tina Biehle, City Secretary