



# Weatherford Planning and Zoning Board

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## AGENDA REPORT

**Meeting Date:** March 10, 2010

**Agenda Item:**

**Staff Contact:** Troy Anderson, Planner

**E-mail:** [tanderson@weatherfordtx.gov](mailto:tanderson@weatherfordtx.gov)

**Phone:** 817-598-4106

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**SUBJECT:** Request for recommendation of approval of a Municipal Cope Amendment to Title XII of the Weatherford Municipal Code pertaining to the City's zoning code.

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### **BACKGROUND/DISCUSSION**

Over the past year, staff has been working with Larry Reichart of Springbrook in a comprehensive review, analysis and revision of the current zoning regulations for the City of Weatherford. As a result of those efforts, staff has prepared a revised zoning ordinance for consideration.

### **ANALYSIS**

As part of the review process, staff has asked Mr. Reichart to present a short summary of the process and thought that has gone into the revision of the zoning ordinances. In addition, staff will present a summary of the process required for public hearing, receipt of public input, review and recommendation by the Planning and Zoning Board, and approval by City Council.

On February 23, 2010, staff presented the draft ordinance to City Council and the Planning & Zoning Board in a joint work session and received a vote of support to proceed with the public hearing process and to obtain the input of the community before presenting a final draft to Council.

### **STAFF RECOMMENDATION**

Staff recommends approval of the request.

### **ATTACHMENTS**

- Draft Ordinance



## CITY OF WEATHERFORD ZONING ORDINANCE #

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### Title XII ZONING ORDINANCE

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## Chapter 1. Enacting Provisions

### Sec. 12-1-1. Enacting clause.

THIS ORDINANCE IS HEREBY ENACTED AND ADOPTED AS THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF WEATHERFORD, TEXAS. THE PREVIOUS ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2003-48, ADOPTED ON THE 28th DAY OF OCTOBER, 2003, TOGETHER WITH ALL AMENDMENTS THERETO, IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE TO READ AS FOLLOWS:

### Sec. 12-1-2. Title and purpose.

This Ordinance shall be known and may be cited as the City of Weatherford's "Zoning Ordinance".

As authorized by Chapter 211 of the Texas Local Government Code, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

### Sec. 12-1-3. Zoning district map.

- (a) The city is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the zoning district map of the city, which may also be cited as the "zoning map", said map being adopted as a part of this Ordinance as fully as if the same were set forth herein in detail.
- (b) One (1) original of the zoning district map shall be filed in the office of the City Secretary and labeled as "Official Zoning Map of the City of Weatherford, Texas." This copy shall be the official zoning district map. In case of any question, this copy, together with amending ordinances, shall be controlling.
- (c) A copy of the official zoning district map shall be placed in the office of the City Manager (or his/her designee). The map copy shall be used for reference and shall be maintained up-to-date. Reproductions for informational purposes may only be made of the official zoning district map or this copy.

### Sec. 12-1-4. Zoning district boundaries.

The zoning district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the zoning district map, the following rules shall apply:

- (a) Boundaries shown as approximately following platted lot lines shall be construed as following such lot lines.
- (b) Boundaries shown as approximately following city limits shall be construed as following such city limits.

(c) Boundaries shown as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

(d) Boundaries shown as parallel to, or extensions of, features described in this Subsection shall be so construed. Distances not specifically indicated on the zoning district map shall be determined by the scale of the map.

(e) Whenever any street, alley or other public way is vacated by official action of the City Council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or public way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(f) Where physical features on the ground are at variance with information shown on the zoning district map, or if there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of this Subsection, then the Board of Adjustment shall interpret the zoning district boundaries.

(g) If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as "AG" (Agricultural) in the same manner as provided for newly annexed territory.

(h) Zoning changes which are still valid and which were made between the effective date of the previous Zoning Ordinance (Ordinance No. 2003-48, as amended), adopted on October 28, 2003, and the effective date of this Ordinance are indicated in approximate locations on the zoning district map. For exact legal descriptions, refer to the adopting ordinances for each particular zoning change.

#### Sec. 12-1-5. Compliance required and application of regulations.

(a) All land, buildings, structures or appurtenances thereon located within the City of Weatherford, Texas which are hereafter occupied, used, constructed, erected, removed, placed, demolished, and/or converted shall be occupied, used, erected, altered, removed, placed, demolished and/or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties as per this Ordinance. All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise.

(b) No uses shall be allowed which are prohibited by state or federal law or which operate in excess of state or federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas State Department of Health (TSDH), Texas Board on Environmental Quality (TCEQ), Federal Aviation Administration (FAA), Federal Communications Board (FCC), or any other applicable state or federal agency, as the case may be.

(c) No lot upon which a building has been erected shall later be so reduced in area that the setbacks, yards and/or open spaces shall be smaller than those required by this Ordinance, nor shall a part of a yard or other open space required by this Ordinance for any building/lot be included as a part of a yard or other open space similarly required for another building/lot.

#### Sec. 12-1-6. Definitions.

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also

include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. For any term or use not defined herein, Webster's Dictionary (latest edition) shall be used.

*Accessory dwelling.* A separate living unit, detached from the primary structure, complete with kitchen, bathroom and sleeping facilities.

*Accessory structure.* A structure located on the same premise that is customarily incidental, detached and subordinate to the primary structure or use.

*Accessory use.* A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s).

*Agriculture.* The use of any tract of land for the production of animal or vegetable life; uses include, but are not limited to, the pasturing, grazing, and watering of livestock and the cropping, cultivation, and harvesting of plants.

*Airport or landing field.* A place where aircraft can land and take off generally equipped with hangars, facilities for aircraft refueling and repair, and various accommodations for passengers.

*Alley.* A minor right-of-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

*Amusement services.* A commercial facility that includes, but is not limited to, bowling alleys, movie theatres, music halls, indoor skating rinks, video arcades, pool and billiard halls, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges, dance schools or classes and shooting arcades.

*Appliance repair.* The servicing of a piece of equipment, usually operated electrically, especially for use in the home or for performance of domestic chores, such as a refrigerator, washing machine, or toaster.

*Applicant.* The owner of record of a property, the agent or lessee thereof with the approval of the owner of record in a notarized form, or a person holding a bona fide contract to purchase the property with approval of the property owner.

*Art gallery or museum.* An institution for the collection, display and/or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public.

*Assisted living facility.* An establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides personal care services pursuant to Chapter 247, Texas Health and Safety Code.

*Bed and breakfast/boarding house.* A dwelling arranged or used for lodging for compensation, with or without meals.

*Building.* Any structure used or intended for supporting or sheltering any use or occupancy.

*Building height.* The vertical distance from grade plane to the average height of the highest roof surface.

*Building line.* The line established by law, beyond which a building shall not extend, except as specifically provided by law.

*Building, main or primary.* A building in which the principal use of the lot on which it is situated is conducted. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

*Building official.* The officer or other designated authority charged with the administration and enforcement of the Building Code.

*Building permit.* Written authorization as required by the current Building Code, issued by the Building Official, for the erection, construction, reconstruction, alteration, repair, conversion, demolition, moving or maintenance of any building, structure or improvement to a given lot or tract of land or portion thereof, and which allows construction to proceed in accordance with construction documents approved by the Building Official.

*Camp grounds.* An area of non-residentially zoned land on which accommodations for temporary occupation are located or may be placed. This includes, but is not limited to tents and recreational vehicles.

*Car wash.* A place or business equipped for washing cars and other motor vehicles.

*Carport.* A structure that is open on a minimum of two sides and designed or used to shelter not more than three vehicles and not to exceed 24 feet on its longest dimension. Also called "covered parking area."

*Cemetery or mausoleum.* A place that is used or intended to be used for interment, and includes a graveyard, burial park, or mausoleum pursuant to Chapter 711, Texas Health and Safety Code.

*Cemetery, pet.* Same as cemetery except intended for interment of dead animals.

*Certificate of occupancy.* An official certificate issued by the city through the building official which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is issued.

*Child care facility.* A facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

*Church/Place of worship.* An institution that people regularly attend to participate in or hold religious services, meetings, or other activities. This term does not carry a secular connotation and includes the buildings or other locations in which the religious services of any denomination are held.

*City council.* The governing body of the City of Weatherford, Texas.

*Civic center.* A building or group of buildings containing administrative offices for the operations of local government that is 1) owned and operated by the city of Weatherford and 2) used predominantly for office and meeting space for local government and/or community activities.

*Community home.* A community-based residential home pursuant to Chapter 123, Texas Human Resource Code.

*Community service.* A facility that is designed for the benefit of the public or its institutions including but not limited to community centers, libraries, post offices, governmental agencies, etc.

*Comprehensive plan.* Document adopted by the city that consists of graphic and textual policies which govern the future development of the city and which consists of various components governing specific geographic areas and functions and services of the city.

*Continuing care facility.* A place in which a person provides continuing care to an individual pursuant to Chapter 246, Texas Health and Safety Code.

*Convalescent and nursing homes and related institutions.* An establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry pursuant to Chapter 242, Texas Health and Safety Code.

*Country club (private).* A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

*Court.* An open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

*Density.* The total number of residential buildings allowed upon a given tract of land usually expressed in total number of units per gross acres or net acre.

*Detached.* Having no physical connection above the top of the floor line of the first floor with any other building or structure.

*Dwelling.* Any building or portion thereof, which is designed or used exclusively for residential purposes.

*Dwelling, multifamily.* A building or portion of a building having suitable accommodations for three or more families, living independently of each other, who may or may not have joint uses of utilities, halls, yards, etc. This term includes premises occupied more or less permanently for residential purposes in which rooms are occupied in apartments, suites or groups, such as apartments, dormitories, lodgings, roominghouses, and all the dwellings similarly occupied.

*Dwelling, one-family.* A detached building used exclusively for residential purposes having suitable accommodations for only one family.

*Dwelling, two-family.* A detached building used exclusively for residential purposes and designed for or occupied by two families living independently of each other.

*Easement.* A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

*Educational facilities.* Public and private primary, secondary and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the Texas Education Agency; and such federally funded educational programs for preschool children as the Head Start Program.

*Entertainment.* Includes shows, plays, skits, musical revues, children's theater, dance productions, public dance, musical concerts, opera and the production or provision of sights or sounds or visual or auditory sensations which are designed to or may divert, entertain or otherwise appeal to members of the public who are admitted to a place of entertainment, which is produced by any means, including radio, television, video reproduction, piano, orchestra or band or any other musical instrument, slide or movie projector, spotlights, or interruptible or flashing light devices and decoration.

*Exhibition hall.* A large civic building or group of buildings designed for conventions, industrial shows, and the like, having large unobstructed exhibit areas and often including conference rooms, hotel accommodations, restaurants, and other facilities.

*Exploration and extraction.* Searching and removal of minerals by geological, geophysical, geochemical or other techniques including sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.

*Fair grounds/rodeo grounds or exhibition area.* An area or space either outside or within a building for the display of topic-specific goods or information.

*Family.* One or more persons related by blood, marriage, or adoption; or a group not to exceed four persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit.

*Family home.* A home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker pursuant to Chapter 42, Texas Human Resources Code.

*Flood plain.* Any land area susceptible to being inundated by flood waters from any source. (See also, Special Flood Hazard)

*Fraternal organization, lodge, civic club, or union.* An organized group having a restricted membership and specific purpose related to the welfare of the members such as Elks, Masons, Knights of Columbus, or a labor union.

*Funeral home.* A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

*Golf course.* An area improved with trees, greens, fairways, hazards, and which may include clubhouses.

*Heavy manufacturing.* A use engaged in the basic processing and manufacturing of materials, or products predominantly from extracted raw materials or a use engaged in the storage of or manufacturing processes using flammable or explosive materials or storage of processes that potentially involve hazardous or commonly recognized offensive conditions.

*Heliport.* An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

*Helistop.* The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

*Home occupation.* An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes.

*Hospital.* An establishment that offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy and regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent pursuant to Chapter 241, Texas Health and Safety Code.

*Hotel.* A building containing guest rooms, rented for less than thirty (30) days and designed to be used for sleeping purposes, which provides a common entrance, lobby, halls and stairways.

*HUD-code manufactured home.* A structure 1) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development 2) built on a permanent chassis 3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities 4) transportable in one or more sections 5) in the traveling mode, is at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet 6) includes the plumbing, heating, air conditioning, and electrical systems of the home, and 7) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g) pursuant to Chapter 1201, Texas Occupations Code.

*Industrial, manufacturing.* Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

*Industrialized housing.* A structure or building module as defined, under the jurisdiction and control of the Texas Department of Labor and Standards and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Article 5221f V.A.C.S.); nor does it include building modules incorporating concrete or masonry as the primary structural component.

*Kiosk.* A small, free-standing, one-story accessory structure having a maximum floor area of 100 square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

*Landscaping.* Grass, trees, shrubs, vines, ground cover or flowers planted and maintained to enhance appearance of a development. Landscaping may include non-botanical features, such as walks, fountains, reflecting pools, art works, rain gardens and stormwater management features.

*Light manufacturing.* Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

*Lot.* A platted (as specified in Chapter 212 of the Texas Local Government Code) parcel of land that is occupied or intended to be occupied by one main building (or a group of main buildings) and any accessory building(s), which includes such parking, landscaping and open space as are required by this Ordinance or other laws and/or ordinances, and also which has its principal frontage upon a public street.

*Lot area.* The total area, measured on a horizontal plane, included within lot lines.

*Lot, corner.* A lot which has at least two adjacent sides abutting for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

*Lot depth.* The mean horizontal distance between the front and rear lot lines.

*Lot, double frontage.* A lot having frontage upon two non-intersecting streets, as distinguished from a corner lot.

*Lot, flag.* A lot having access to a street by means of a parcel of land generally having a depth greater than its frontage, but not less than 35 feet. Flag, or panhandle, lots are typically discouraged.

*Lot, interior.* A lot other than a corner lot.

*Lot frontage.* That dimension of a lot or portion of a lot abutting onto a street, excluding the side dimension of a corner lot.

*Lot lines or property lines.* The lines bounding a lot as defined herein.

*Lot of record.* A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Parker County.

*Lot width.* The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line. ~~[(See Illustration 14).]~~

*Manufactured housing.* Means a HUD-code manufactured home or a mobile home.

*Market (public).* Markets located on public property, where independent merchants can sell their products to the public. Typical products sold at public markets include fresh produce, various other food items and crafted goods.

*Micro brewery (onsite mfg. & sales).* A combination retail, wholesale and manufacturing business that brews and serves beer and/or food.

*Mini-warehouse/self-storage.* Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

*Mobile home.* A structure 1) constructed before June 15, 1976 2) built on a permanent chassis 3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities 4) transportable in one or more sections 5) in the traveling mode, is at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet, and 6) includes the plumbing, heating, air conditioning, and electrical systems of the home pursuant to Chapter 1201, Texas Occupations Code.

*Mobile home park (also trailer park or rv park).* A parcel of land not less than three acres nor greater than 35 acres which is designed, improved, or intended to be used for short- or long-term occupancy by mobile homes/trailers and/or recreational vehicles (including travel trailers) in designated spaces. Facility may include a residence for the owner/manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

*Model home.* A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

*Motel.* A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

*Motor vehicle.* Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, vans, trucks, motorcycles and buses.

*Motor vehicle rental.* A business primarily engaged in the rental of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

*Motor vehicle repair.* Any person or business which, for compensation, engages in the activity of repairing, replacing, reconditioning, adjusting, analyzing, diagnosing or altering the operational condition of motor vehicles that are owned by other persons.

*Motor vehicle sales.* A business primarily engaged in the sale of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

*Motor vehicle salvage.* A business which purchases, salvages and sells used parts from inoperable vehicles.

*Motor vehicle service.* Businesses primarily engaged in both selling and installing such automotive parts as mufflers and brakes.

*Occupancy.* The use or intended use of the land or buildings by proprietors or tenants.

*Offices.* A room or group of rooms used for the provision of executive, management and/or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

*Off-street parking.* Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main use or within 150 feet of such lot or tract, and located within the same zoning district as the main use or in an adjacent parking district.

*Outdoor Recreation.* An area designed for active outdoor recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, campgrounds, golf courses, tennis courts and swimming pools.

*Parcel.* Any unplatted tract of land, or any portion of an unplatted tract of land (also see "Tract").

*Park/playground.* An area of land set aside for public or private use, as a piece of land with few or no buildings within or adjoining a town, maintained for recreational and ornamental purposes.

*Pawn shop.* An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales of primarily used (i.e., pre-owned) items is also allowed, provided that the sale of such items complies with local, state and federal regulations.

*Plat.* A plan showing the subdivision of land, creating building lots or tracts, showing all essential dimensions and other information in compliance with the subdivision standards of the City of Weatherford, and which is approved by the City of Weatherford and recorded in the plat records of Parker County.

*Premises.* Land together with any buildings or structures situated thereon.

*Professional service.* Work performed which is commonly identified as a profession, and which may be licensed by the State of Texas.

*Public garage/parking structure.* A surface lot, parking structure or other facility owned, operated or maintained by the city, to provide parking to the general public.

*Recycling kiosk.* A small uninhabited structure (120 square feet maximum) or temporary container (e.g., "igloo" or dumpster-type container) which provides a self-service location for the depositing of recyclable materials such as aluminum cans (e.g., "can banks"), glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers.

*Restaurant or cafeteria.* An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, which may include a drive-through window(s)-or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

*Retail.* An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

*Sand, gravel or stone extraction and/or storage.* The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

*School (K through 12).* An institution for the instruction of children or people under college age.

*School, other.* Any institution for the instruction of people not considered a “school (k through 12)”.

*Seasonal uses.* Seasonal uses include the sales of items such as Christmas trees, pumpkins, snow cones, fresh produce, and other items which are typically only available at certain times of the year.

*Sexually oriented business.* Businesses engaged in activities as specified in this Ordinance.

*Special Flood Hazard.* An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

*Stable (commercial).* A stable used for the rental of stall space or for the sale or rental of livestock.

*Story.* That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

*Street.* Any dedicated public thoroughfare that affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is greater than 60 feet.

*Street intersection.* Any street that joins another street at an angle, whether or not it crosses the other.

*Taxidermist.* An establishment that provides the services of preparing, stuffing, and mounting the skins of dead animals for exhibition in a lifelike state.

*Telemarketing agency.* An establishment that solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

*Temporary field office or construction yard or office.* A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits for one year, or for a specific time and location as determined, may be issued by the building official and shall be subject to review and renewal for reasonable cause.

*Tract.* A single parcel or lot.

*Use.* The purpose for which land or buildings are or may be occupied in a zoning district.

*Utilities (public).* Any facility or structure which provides services to the general public including but not limited to electric, gas, telephone, water, and television cable systems either publicly or privately owned.

*Variance.* An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the board of adjustment of the City of Weatherford can grant a variance.

*Veterinarian clinic.* An establishment where animals are admitted for examination and medical treatment.

*City.* The City of Weatherford, Texas.

*Warehouse/Office.* A facility which has the combined uses of office and showroom or warehouse for the primary purpose of wholesale trade, display and distribution of products.

*Yard.* An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

*Yard, front.* A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

*Yard, rear.* The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

*Yard, side.* The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

*Zoning district.* A classification applied to any certain land area within the city stipulating the limitations and requirements of land usage and development.

*Zoning district map.* The official map upon which the boundaries of the various zoning districts are drawn and which is an integral part of the Zoning Ordinance.

## Chapter 2. Zoning Procedures and Administration

### Sec. 12-2-1. Zoning upon annexation.

(a) As soon as practical following annexation the City Manager (or his/her designee) or property owners of the annexed area, shall initiate proceedings to establish zoning on the newly annexed territory, thereupon the City Manager (or his/her designee) shall commence public notification and other standard procedures for zoning amendments as set forth in this Ordinance. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.), however zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the City Council.

(b) The initial zoning of a land parcel, whether it is interim in nature, by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in this Ordinance and all other applicable state laws.

(c) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

(d) Within an area unzoned:

(1) No permit for the construction of a building or use of land shall be issued by the Building Official (or his/her designee).

(2) If plans and preparations for developing a property were already in progress prior to annexation of the property into the City of Weatherford, then the City Council may authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:

a. An application for a building permit for the proposed building or use must be made to the Building Official of the City of Weatherford (or his/her designee) within three (3) months (i.e., within ninety (90) calendar days) after annexation of the property into the city; and

b. The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the city.

In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the City Council shall take into consideration the appropriate land use for the area as shown on the City's Future Land Use Plan. Upon approval by the City Council, the City Manager (or his/her designee) shall notify the Building Official (or his/her designee) of such approval.

#### Sec. 12-2-2. Nonconforming uses and structures.

(a) Nonconforming uses. Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance or amendments to this ordinance, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.

(3) If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

(b) Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard, site location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

(3) Should structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(c) Nonconforming uses of structures and land in combination. If lawful use of structure and land in combination exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following:

(1) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any legal nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such a building.

(3) If no structural alterations are made, any legal nonconforming use of a structure and land may as a special exception be changed to another nonconforming use provided that the board of adjustment, either by general rule or by making finding in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such a change, the board of adjustment may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.

(4) Any structure and land in combination, in which a legal nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(5) When a legal nonconforming use of a structure and land in combination is discontinued or abandoned for six consecutive months, they shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(6) Where legal nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the legal nonconforming status of the land. "Destruction" for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

(d) Repairs and maintenance.

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.

(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored or rebuilt, except in conformity with the regulations of the district in which it is located.

(3) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 12-2-3. Amendments to Zoning Ordinance and districts, administrative procedures, and enforcement.

(a) Declaration of policy and review criteria:

(1) The city declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- a. To correct any error in the regulations or map;
- b. To recognize changed or changing conditions or circumstances in a particular locality;
- c. To recognize changes in technology, the style of living, or manner of conducting business; or
- d. To change the property to uses in accordance with the city's adopted comprehensive plan.

(2) In making a determination regarding a requested zoning change, the Planning and Zoning Board and the City Council shall consider the following factors:

- a. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;
- b. Whether the proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;
- c. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;
- d. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;
- e. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved; and
- f. Any other factors that will substantially affect the public health, safety, morals, or general welfare.

(b) Authority to amend Ordinance:

(1) The City Council may from time to time, after receiving a recommendation thereon by the Planning and Zoning Board and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the zoning map. Any amendment to the Zoning Ordinance text or to zoning district boundaries may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Board or the City Manager (or his/her designee), or may be requested by the owner of real property (or his/her authorized representative).

(2) No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Weatherford, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning

request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes have been paid.

(c) Application:

(1) Each application for zoning, zoning change, zoning amendment, or for a text amendment to a provision(s) of this Zoning Ordinance, shall be made in writing on an application form available in the offices of Planning & Development. The application shall be delivered to the offices of Planning & Development at least thirty (30) days prior to a regularly scheduled meeting of the Planning and Zoning Board, as set forth by City Council minute order. Supplemental documentation shall be provided as set forth in the application on file in the offices of Planning & Development.

(2) All zoning requests involving real property (including zoning change and zoning amendment requests) shall be accompanied by a notarized statement verifying land ownership and, if applicable, evidence of land owner's agent authority to file the zoning change request.

(3) Zoning applications which do not include all required information and materials (as outlined above and per other city development review policies) will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a Planning and Zoning Board agenda until the proper information is provided to city staff.

(d) Notice of Board hearing:

For zoning requests involving real property (including zoning change and zoning amendment requests), the Planning and Zoning Board shall hold at least one (1) public hearing on each zoning application, as per applicable state law (Texas Local Government Code Chapter 211, as amended).

(e) Failure to appear:

Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Board or the City Council for more than one hearing without an approved delay by the City Manager (or his/her designee) shall constitute sufficient grounds for the Planning and Zoning Board or the City Council to table or deny the application unless the city is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing.

(f) Planning and Zoning Board consideration and recommendation:

(1) The Planning and Zoning Board shall function in accordance with this Ordinance and with applicable provisions in the City's Code of Ordinances.

(2) The Board shall hold a public hearing on a zoning request (including zoning change and zoning amendment requests, and also including a proposed text amendment to the Zoning Ordinance) as per applicable state law (Texas Local Government Code Chapter 211, as amended).

(g) City Council consideration:

(1) Every zoning application which is recommended for approval (or approval with conditions) by the Planning and Zoning Board shall be automatically forwarded (along with the Board's favorable recommendation) to the City Council for setting and holding of a second public hearing thereon following appropriate public hearing notification as prescribed above.

An application that is recommended by the Planning and Zoning Board for disapproval shall not be forwarded to the City Council unless the applicant files a written appeal with the City Manager (or his/her designee) within ten (10) calendar days after the Board's decision.

(2) After a public hearing is held before the City Council regarding the zoning application, the City Council shall take action as deemed appropriate.

If the City Council denies the request, then no other zoning application may be filed for all or part of the subject tract of land (or for that portion of the Zoning Ordinance, in the case of a text amendment request submitted by a property owner or citizen) for a waiting period of one (1) year following the denial. In the instance that the request was initiated by the city and involved a proposed amendment to the text of the Zoning Ordinance, then there is no waiting period before the request can be reconsidered.

The City Council may, at its option, waive the one-year waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

(3) Notice of the City Council public hearing for a zoning, zoning change, zoning amendment or Zoning Ordinance text amendment request shall be given as per applicable state law (Texas Local Government Code Chapter 211, as amended).

(4) For zoning requests involving real property (including zoning change and zoning amendment requests), a favorable vote of three-fourths (3/4) of all members of the City Council shall be required to approve any change in zoning when written objections are received in accordance with the provisions of Section 211.006 of the Texas Local Government Code (commonly referred to as the "20 percent rule").

(5) The City Council may hold a joint public hearing on a zoning, zoning change, zoning amendment or Zoning Ordinance text amendment request along with the Planning and Zoning Board, but the City Council shall not take action on the request until it has received a final recommendation from the Board. Notification for the City Council's public hearing may be accomplished simultaneously with the public notification given for the public hearing to be held before the Planning and Zoning Board (this is sometimes referred to as "double notification").

(h) Administration and enforcement:

(1) A designated City of Weatherford official, such as the Director of Planning and Development, shall be authorized by the City Council to administer and enforce the provisions of this Ordinance. If such designated official finds upon his/her own personal observation, or upon receipt of a complaint, that the provisions of this Ordinance are being violated, he/she shall immediately investigate and, when necessary, give written notice to the person(s) responsible to cease or correct such violation(s) immediately. Notice may be delivered in person or by certified mail to the violator(s) or to any person owning or leasing a property where the violation is occurring. The designated city official, or his/her authorized representative, shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Ordinance.

(2) Whenever any building or construction work is being done contrary to the provisions of this Ordinance, the designated city official (or his/her authorized representative) shall have the authority to order the work stopped by notice in writing served on the property owner or the