

**CITY OF HIGHLAND HAVEN**

**ORDINANCE #074 (Revision 5)**

**February 16, 2016**

**AN ORDINANCE OF THE CITY OF HIGHLAND HAVEN, TEXAS AMENDING ORDINANCES TO PROVIDE DEFINITIONS GENERALLY APPLICABLE TO ALL ORDINANCES AND PROVIDING AN EFFECTIVE DATE.**

**Whereas**, the Board of aldermen of the City of Highland Haven, Texas (herein “City”) has determined that certain definitions, penalties, and other provisions should be applicable to all ordinances of the City for purposes of providing more certainty and clarity; and

**Whereas**, the Board of Aldermen finds that the definitions portion of Ordinance #043 should be transferred to a separate stand alone Ordinance;

**Whereas**, a definition for a Major Remodel and Demolition is needed;

**Whereas**, the definition of Walls and Privacy Fence are modified and definitions of Decorative Fence, Enclosure and Screening Device are added in revision 2;

**Whereas**, definitions for Cove, Cove Centerline and Extended Side Property Lines are needed, duplicate building and centerline definitions are removed and clarifies sidewalks in structure definition;

**Whereas**, definitions for At-large, Noncommercial Purpose of Cause, Ordinance, Park Fund, Peddler, Playscape, Plugging, TDLR and Waive are needed and clarify hard-surface pad definition.

**NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HIGHLAND HAVEN, TEXAS THAT:**

**Section 1. FINDINGS** - The foregoing recitals are hereby found to be true and correct and are hereby adopted by the Board of Aldermen and made a part hereof for all purposes as findings of fact.

**Section 2. DEFINITIONS** - The following definitions shall apply to all ordinances and resolutions passed by the Board: The words and terms listed in the following Glossary provide a common definition of certain words and terms used in all other Highland Haven Ordinances. Over the years Ordinances have been written independently, at different times, and by different people. The result is that different terms or words have often been used that have the same meaning but may cause confusion or misunderstanding when reading two or more different

ordinances. Ordinance #074 provides a common standard definition for similar terms and words used in all Highland Haven ordinances.

For purposes of these ordinances, the terms, phrases, words, and their derivations shall have the normal, reasonable, and usually understood meanings, unless the context of a given ordinance clearly indicates a special or specialized meaning is intended. The City of Highland Haven is the arbitrator of all definitions. The City of Highland Haven operates within a larger world of regulation, including but not limited to: Lower Colorado River Authority, FEMA (Flood Plain Management), International Building Code IBC, State of Texas and others. Some of these definitions are specifically amended by these ordinances. Where any conflict arises the more restrictive of the definitions applies.

## **Glossary of Terms**

**Abutting lot.** A lot immediately adjacent to another lot.

**Acceptable Minimum - CATV.** When referring to service and reception as defined as both the standards adopted under 47CFR Section 76.605 and as a minimum, a clear, crisp, snow-free picture with static free volume of an acceptable level, on each and every channel being provided to that customer per their particular selected package of service.

**Access lines.** Any local line provided by **Telephone Company** to a customer in the City which provides access to the public switched network, including all single line residence lines, party line residence lines, single line business lines, multi-line business lines, key lines, ISDN lines, COCT lines, semi-public pay telephone lines, and Centrex trunks, Centranet trunks and PABX trunks or their equivalents which are assigned to locations inside the corporate limits of the **City**.

**Access.** A way of approaching or entering a property.

**Accessory structure.** [amend IBC definition to read] - - Any secondary building or structure (excluding waterfront facilities) located on an improved lot with the existence of a single-family residence. Water well enclosures up to 36 square feet of floor space and domestic pet housing up to 18 square feet of floor space will not be considered an accessory structure (out-building).

**Accessory use** means a use that is incidental and subordinate to the principal use of the parcel of land on which the accessory use occurs.

**Acreage.** Any defined tract of land, including that underneath the waters of dredged canals and Lake LBJ but excluding that designated as road and street right-of-way, which is not platted as a numbered lot within the corporate limits of the City of Highland Haven.

**Addition.** Any new construction or modification to an existing structure which alters use or increases square footage.

**Adjacent.** Abutting and directly connected to or bordering.

**Agricultural land.** Those defined tracts of land located within zoning District C of the City of Highland Haven.

**Aldermen.** See Board of Aldermen.

**All terrain vehicle (ATV).** See ATV

**Alley.** A minor right-of-way, dedicated to public use, which gives 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.

**Alluvial fan flooding.** Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**Animal.** All mammals other than human beings, fish, fowl, reptiles, or any other living creatures.

**Apex.** A point on alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Appeal – Floodplain.** Means a request for a review of the Floodplain Administrator's interpretation of any provision of the floodplain ordinance.

**Applicant.** A person applying for plan approval under an Ordinance.

**Approval.** The final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the Planning and Zoning Commission and then the BOA is the date of BOA approval.

**Approved.** Approved refers to approval by the Board of Aldermen or their designee or Mayor as the results of investigation and tests conducted on the behalf of the Board of Aldermen or the City, or by reason of accepted principles or tests by nationally recognized originations.

**Approved agency.** [amend IBC definition to read] - - An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the Board of Aldermen.

**Architectural rendering.** A perspective drawing depicting an architect's conception of the finished structure.

**Area of shallow flooding.** Means a designated AO, AH zone on the Flood Insurance Rate Map (FIRM). The with base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard** means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, A0, A1-A30, AE, A99, AH, V1-V30, VE or V.

**Area of special flood-related erosion hazard** is the land within a community, which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

**Arterial street.** A street designed to provide a connection between major arterial streets.

**At Large.** Not restrained as required by the provisions of Ordinance #36.

**ATV (All terrain vehicle).** A three (3) or four (4) wheel all terrain vehicular unit that is self-propelled and generally used for recreation or work and which is not eligible to be licensed or registered for use on public roads.

**Automotive vehicle.** A general term for a four (4) wheeled vehicular unit or a two (2) wheeled vehicular unit primarily used to transport people, goods, or material and is not licensed for any commercial or recreational purposes by the State of Texas. The term includes pick-up trucks.

**Base flood.** Means a flood that has a one percent (1%) chance of being equaled or exceeded in any given year (also called the "100-year flood").

**Basement** means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

**Basic service - CATV.** The standard base service as defined by the Cable Act.

**Block.** A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof.

**Board.** See Board of Aldermen.

**Board of Aldermen - BOA.** Board of Aldermen of Highland Haven, Texas, also BOA.

**Boat trailer.** A vehicular unit without its own motive power; designed to transport a recreational vessel for recreation and vacation use and which is eligible to be licensed or registered and insured for highway use.

**Bond.** Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the BOA.

**Breakaway walls** are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally

high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions: 1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood, and 2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

**Buffer.** A barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

**Building.** See **Structure**.

**Building Line or Setback Line.** A line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building line and the corresponding lot line.

**Building Official.** [amend IBC definition to read] The person, designee or committee charged by the Mayor with administration and enforcement of the building permit ordinance.

**Building Permit.** A permit issued by the City of Highland Haven which is required prior to commencing construction or reconstruction of any structure or any other construction activity required by the building permit ordinance.

**Building, existing.** See **existing construction and manufactured home.** [amend IBC definition to read] A clause that precludes this ordinance from being applied retroactively. Pertains to existing single-family residences, waterfront facilities, permanently installed outbuildings, and other permanently installed structures constructed prior to November 20, 1997.

**Burn barrel.** A metal container utilized to burn household waste, other than garbage, and/or lawn and tree trimmings.

**Burn pile.** A collection of lawn and tree trimmings for the purpose of burning.

**Burnet County Ground Water Conservation District.** A county district, with taxing and rule making authority, established to control ground water use, water wells and associated matters.

**Cable Act.** The Cable Television Consumer Protection Act of 1992 on such future amendments or legislation as supersedes it.

**Cable TV systems.** Any non-broadcast facility consisting of a set of closed transmission paths and associated signal reception, transmission and control equipment, that is designated or

designed to distribute to subscribers audio, video and other forms of electronic or electrical signals.

**Camping trailer.** Folding or collapsible vehicular structure, without its own power, designed as a temporary living quarters for travel, camping, recreational, and vacation use, and eligible to be licensed or registered and insured for highway use. See also Travel Trailer.

**Centerline** - The centerline of a cove/canal/channel is half of the distance from the waters edge, bulkhead or seawall to the closest waters edge, bulkhead or seawall on the opposite shore.

**Certificate of Non-Compliance** – Document issued by the city after incorporation to permit non-compliant structures that existed prior to March 1, 1996.

**Certificate of Occupancy.** Certificate issued by the City of Highland Haven after construction is complete.

**Certified Site Survey.** A plat (minimum size 8 1/2" X 11") certified by a surveyor licensed in the State of Texas, showing boundaries, set-backs, easements, and all existing and proposed improvements, with dimensions and lot elevations.

**City.** The CITY of Highland Haven, Texas.

**City Administrator.** The chief administrative officer of the City of Highland Haven, Texas or his/her designated representative. The Mayor is the chief administrative officer of the city.

**City Council.** Highland Haven City Council; sometimes rendered as “the Council” is the same as Board of Aldermen. Highland Haven does not have a City Council but has a Board of Aldermen as defined by the Texas Local Government Code.

**City Engineer.** The City Engineer for the City or his/her designated representative.

**City Limits.** The incorporated boundaries of the City.

**City Staff.** Officers, employees and agents of the City assigned and designated from time to time by the Mayor, including but not limited to the City Engineer, to review and/or comment and report on development plans.

**City Standard Details and Specifications.** A library of City approved drawings, codes, agency regulations and technical data representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenances.

**Collector Street.** A street that collects traffic from local streets and serves as the most direct route to a major or minor arterial street.

**Commercial vehicle.** A vehicle designed for or used for commercial purposes. Trucks in excess of a rated capacity of one (1) ton and trailers in excess a 16 foot cargo bed length and/or 4

foot enclosed cargo bed height, excluding watercraft trailers, or vehicles designed for transport of more than 8 persons are deemed to be commercial.

**Commercial/industrial land.** A zoning classification for property used in the manufacture, storage, distribution, or sale of goods and services. (Excludes agricultural land). Property utilizing structures and/or rental space for financial profit or community service as its primary aim.

**Commission.** The Planning and Zoning Commission of the City.

**Concept plan.** A generalized plan that meets the requirements of an Ordinance and that indicates the boundaries of a tract or tracts under common ownership, identifies the purpose of the proposed development and the proposed land use, general lot or parcel layout, community use or public areas, and street alignments.

**Conforming.** A building, structure or use that is permitted by the City of Highland Haven zoning or other ordinances.

**Construction.** Considered to be started when the ground cover is disturbed and/or when fill material is moved to or from the site.

**Construction equipment.** Wheeled and tracked vehicles utilized in the clearing and preparation of land for development and or utilized in the construction of buildings and related structures.

**Construction plans.** The maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a building permit or a planned unit development.

**Contiguous.** Adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

**Corner lot.** A lot located at the intersection of and abutting on two (2) or more streets.

**County Appraisal District.** The Burnet Central Appraisal District.

**County.** Burnet County, Texas.

**Cove** – Any area of Lake LBJ located between a canal entrance and open water where the distance from shore to shore is 150 feet or less.

**Critical feature – Flood Protection.** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Crossfall.** The transverse slope as related to a given longitudinal slope and measured by the rise to run ratio.

**Crosswalk.** A strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

**Cul-de-sac.** A minor street having one (1) end open to vehicular traffic and having one (1) closed end terminated by a permanent turnaround.

**Decorative Fence.** Split rail, picket, wrought iron not more than three feet high including post but not chain link or solid wood privacy fence.

**Dedication.** The grant of an interest in property for public use.

**Demolition.** Total removal of any existing structure or removal of any exterior wall(s) of a structure.

**Design storm.** A probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

**Developed area.** That portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

**Developer.** The legal owner of land to be improved and/or subdivided or his/her/authorized representative.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Development plan.** A scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project.

**Distribution system - Water.** Consists of, but is not limited to, all lines from the “water plant” to all sale meters or deliver points, line valves, fire hydrants, structures and appurtenances, and all associated items which may be located in the City Rights-of-Way. A distribution system is also considered a facility.

**Double Frontage Lot.** A lot which runs through a block from street to street and which abuts two (2) or more streets.

**Drainage structure.** Anything located on the ground that controls, directs or conducts surface or storm waters, including, but not limited to, culverts, pipes, troughs and ditches.

**Drainage way.** See Waterway.

**Drain field.** Private sewage facility, disposal area, trench or bed utilized for final wastewater disposal.

**Dredged canal.** Man-made water way. The beginning point of each dredged canal is indicated on the Highland Haven subdivision plats filed in the plat book of Burnet County, Texas.

**Driveway approach.** That portion of the street right of way between the lot line and the edge of the street surface.

**Driveway.** The surface connecting a drive approach with a parking space, parking lot, loading dock, carport or garage.

**Drop line - Electrical.** The line that the Grantee uses to provide service from the main or trunk line to the customer's service connection.

**Dwelling.** [amend IBC definition to read] - - See BUILDING or SINGLE FAMILY RESIDENCE,

**Dwelling Unit.** A residential unit designed to accommodate one (1) household.

**Easement.** A grant by the property owner of the use of a strip of land for stated purposes.

**Electric bicycle.** A bicycle equipped with electric power driven motor devices.

**Electric personal assistive mobility device.** A self-balancing, two non-tandem wheeled vehicle, designed for transportation of one person, propelled by an electric propulsion system.

**Elevated building.** A no basement building (1) built, in the case of a building in Zones A1 -30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**Elevation certificate.** Form OMB 1660-0008

**Elevation reference mark** means a point of vertical ground elevation reference to be shown on the FIRM for comparison to the BFE. ERMs shall be referenced to the National Geodetic Vertical Datum (NGVD) or the North American Vertical Datum (NAVD).

**Enclosure.** A structure erected or constructed to provide concealment of appliances such as, but not limited to, air conditioning units, propane or butane tanks, water wells, etc. This could also include shrubs, bushes or other vegetation planted in such a manner as to create a hedge for the purpose of enclosing an area off from view.

**Encroachment** means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.

**Environment.** The aggregate of social and physical conditions that influence the life of the individual and/or community.

**Equipment.** Any machinery used for building, construction, landscaping, plumbing, septic system installation, etc.

**Escrow funds.** A deposit of cash or other approved security with the local government or approved bank or other financial institution in-lieu of a performance or maintenance bond.

**ETJ limits.** See Extra-territorial jurisdiction (ETJ) limits.

**Existing construction.** For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**Existing manufactured home** means a manufactured home for which the construction of facilities for servicing the lot on which the manufactured home are to be affixed (including, at a minimum, the installation of utilities, and either final site grading or the pouring of concrete pad) was completed before the effective date of the floodplain management regulations adopted by a community.

**Extended side lot line.** The property lines extending out into the waters of Lake LBJ as delineated and described for the acreage that was deeded /conveyed to each specific property owner by the warranty deed(s) on file with the Burnet County Clerk at the Burnet County Court House.

**Extra-territorial jurisdiction (ETJ) limits.** Limits of the City's extra-territorial jurisdiction as granted under Chapter 43, Local Government Code.

**Facilities - Telephone.** All Telephone Company duct spaces, manholes, poles, conduits, underground and overhead passageways, and other equipment, structures and appurtenances and all associated Transmission Media, which are located in the City Rights-of-Way.

**Family.** [amend IBC definition to read] - - The body of persons who live in one house or under one head, including parents, children, servants, etc., connected by blood or relationship by inclination and/or companionship.

**Fences.** Fencing that encloses a yard or any portion thereof or any fencing along a property line or within the boundaries of any lot or lots.

**Filing Date - Plats.** With respect to plats and plans, the date of their first public hearing before the Commission regarding such plat or plan; provided that, with respect to the required BOA approval of Concept Plans, the Filing Date for such BOA approval shall be the date of the first public hearing by the BOA.

**Final Plat.** A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

**FIRM.** See Flood Insurance Rate Map.

**Flood Boundary and Floodway Map (FBFM)** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

**Flood Hazard Boundary Map** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

**Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

**Flood plain.** Channel of a waterway and the adjacent land area subject to inundation during the design storm.

**Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet flood proofing.)

**Flood protection system.** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes

hurricane, tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood, flooding, or flood water means:** 1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and 2. The condition resulting from flood-related erosion.

**Floodplain Administrator** is the individual appointed to administer and enforce the floodplain management regulations.

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain management regulations** . Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power that control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof that provide standards for preventing and reducing flood loss and damage.

**Floodplain or flood-prone area.** Any land area susceptible to being inundated by water from any source - see "Flooding".

**Flood-proofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (**Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet flood proofing.**)

**Flood-related erosion means** the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusually and unforeseeable event which results in flooding.

**Flood-related erosion area management means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.**

**Flood-related erosion area or Flood-related erosion prone area** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “Regulatory Floodway”.

**Floodway fringe** is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

**Form – Building Permit.** Form used by City of Highland Haven, Texas as an application for a building permit.

**Franchise - Utility.** The rights granted pursuant to this ordinance to construct, own and operate a cable television system along the public ways within the CITY or within specified areas of the CITY.

**Fraud and Victimization** as related to floodplain management, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**Front yard.** An open, unoccupied space (between side lines of the lot) situated between the building lines and the street right-of-way.

**Frontage.** That side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

**Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities.

**Gator, “Mule”, or similar vehicle.** A much larger version of golf cart but designed for the purpose of transporting cargo. Does not qualify as a “neighborhood electric vehicle” or as a golf cart.

**Gazebo.** A roofed structure constructed with five or more sides which are open. Also constructed with flooring.

**Go-cart.** A low profile motorized three or four-wheeled device with a deck designed to accommodate a sitting operator.

**Golf cart.** Electric or gasoline engine vehicles designed to transport two passengers and golf bags. Includes similar sized vehicles for two passengers but with bag carrier replaced with small cargo bed.

**Governing body** is the local governing unit, i.e. county or municipality that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

**Grade.** The slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

**Grading.** Any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

**Grandfather.** See “Pre-existing”.

**Grantee.** A person or business entity or its lawful successor or assignee that has been granted a franchise by the CITY. But this also includes any contractors, subcontractors or contract employees serving the GRANTEE.

**Grantor.** The CITY of Highland Haven, Texas.

**Gross Revenue - Cable.** Any and all revenues actually received either directly or indirectly from all sources except copyright fees, by the GRANTEE from its cable systems operations within the CITY, including but not limited to, all income without any offsetting of expenses, parts or depreciation which may be derived from subscribers receiving goods, equipment, service; revenues from service installation and repair, advertising, marketing and sales of programming, air time and other services within the CITY or aired within the CITY; home shopping sales made within the CITY; any and all revenue received by GRANTEE for services which, even if unrelated to cable systems, are provided by the GRANTEE within the CITY limits; provided however, such revenues are not intended to include income, credits or revenues attributed to the operation of the cable system within the CITY which arise from real property transactions by the GRANTEE; taxes paid a subscriber to the GRANTEE; interest other than interest charged subscribers of the cable system or advertisers for service provided and delivered by the cable system within the CITY, or dividends on investments received by the GRANTEE unrelated to the delivery of cable services within the CITY; or net uncollectible debts.

**Harboring.** The keeping, raising, using, possessing, under the control or attempted control of, or having on the property of the resident within the city limits of The City of any animal or animals.

**Hardship – Elevation Variance.** as related to **Variances**, means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Aldermen requires that the variance be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Hard-surfaced pad.** An area of the yard that is completely covered with concrete, asphalt or paving blocks at a single-family residence, designed to support parking of automotive vehicles, trailers, and/or recreational vehicles. Paving blocks shall be installed per the manufactures/distributors recommendations for compacting the base and construction of the border footings.

**Hedges.** Any vegetation planted in a continuous row or rows in such a manner as to create a barrier to passage.

**HHPOA.** Highland Haven Property Owners Association, Inc.

**HHWS.** Highland Haven Water System

**Highest adjacent grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Highland Utilities.** A private water company.

**Improved lot.** Any lot will be considered to be an improved lot if it meets one or more of the following criteria: (a) A residence has been constructed on the lot; or (b) The lot has been landscaped, terraced or altered in such a manner as to change the natural condition and cause it to stand out among adjacent unimproved lots; or (c) The lot is used to hold a residential septic drain field; or (d) A waterfront facility has been constructed on the lot.

**Improvements - Public.** Any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

**Individual On-Site Wastewater System or Private Sewage Facility.** All systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three (3) units: the generating unit (the residence, institution, etc.), treatment unit, and the disposal unit (the drain field that may be an absorption trench or bed, or an evapotranspiration bed). A Private Sewage Facility may include a septic tank, seepage tile sewage disposal system or any other on-lot sewage treatment device approved and installed in accordance with all local, state and federal laws and regulations.

**Industrial.** Non-residential use of any site involved in manufacturing and/or external storage of goods; any site generating significant negative externalities, such as noise, dust, glare, etc. and/or any site where hazardous materials are stored and/or generated.

**Institutional land.** A zoning classification for property utilized for municipal structures and activities, schools, churches, utilities, and other structures and activities used for the common good of municipal residents.

**Interior lot.** A lot other than a corner lot and, bounded by a street on only one (1) side.

**Kennel - Operator.** Any person or persons engaged in the commercial business of breeding, buying, selling, or boarding any animal or animals, excluding any person who is a passive or occasional breeder of not more than one (1) litter or brood per calendar year.

**Lake LBJ mud #2.** A Municipal Utility District authorized by the State of Texas for, but not limited to, sewerage treatment and the disposal of waste water. LBJ MUD #2 has been dissolved.

**Landscape development.** Trees, shrubs, ground cover, vines or grass installed in planting areas.

**Lawn maintenance equipment.** Motorized riding lawn mowers and tractors with or without attached vegetation shredding devices.

**LBJ.** Lake Lyndon Baines Johnson

**Legal lot.** Either a lot recorded in the Official County Records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1972.

**Legally platted lot.** A lot that is part of a subdivision approved by the City and recorded in the Official County Records.

**Letter of Credit.** A letter from a bank or other reputable creditor acceptable to the City that guarantees to the City that upon failure of the sub-divider to fulfill any improvement requirements that at the City's request, funds will be provided to the City to complete the specified improvements.

**Levee.** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee system.** A flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Line of building.** That most external point or portion of a building, whether roof eaves, overhang, column, outside appliance or wall, which extends nearest a front, rear or side lot line and which will be used to determine the set-back distance of the building to the front, rear or side lot line.

**Local health district.** The Burnet County Health District.

**Local street.** A street designed for the sole purpose of providing access.

**Lot.** Any segregated or defined tract or parcel of land including, but not limited to, any subdivision lot, or re-plat thereof, filed and of record in Burnet County, Texas. A waterfront lot

and the tract of land between back lot line down to and underneath the waters of a dredged canal or Lake LBJ, deeded to lot owners by HHPOA, is considered one lot.

**Lot improvement.** As used herein includes, but is not limited to, all dirt work, any construction and/or relocation of any type building or facility. Any change in lot surface.

**Lower Colorado River Authority (LCRA).** The Texas state agency controlling Lake LBJ.

**Lowest floor** means the lowest floor of the lowest enclosed area, including basement (See “Basement” definition). 1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided that it conforms to applicable non-elevation design requirements, including, but not limited to: a. The wet flood-proofing standard in section 5.1 C.3. b. The anchoring standards in section 5.1 a.; c. The construction materials and methods standards in section 5.1 b; and d. The standards for utilities in section 5.2. 2. For residential structures, all sub-grade-enclosed areas are prohibited as they are considered to be basements (see “Basement” definition. This prohibition includes below—grade garages and storage areas.

**Major remodel:** Includes, but not limited to - Any change to the structure of a SFR that results in removal of weight-bearing wall(s), enlargement of the slab footprint to add living space (heated/air conditioned), an increase in the height of the ceiling, the addition of a second story, or the enclosure of a garage into livable (heated/air conditioned) space.

**Manufactured home** means a structure, transportable in one or more sections, which is built off site on a permanent chassis and is designed for use with a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**Manufactured housing.** A building or structure originally manufactured as a residence designed for a permanent foundation and meeting the requirements of Texas Manufactured Housing Code or Texas Modular Code.

**Market value** shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation that has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

**Masonry construction.** Brick and brick veneer, native stone and stone veneer, or stucco. Does not include concrete (cement), hardi-board, or hollow blocks.

**Master plan – Comprehensive Plan.** The overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for means land intensities; land subdivision; circulation; and community facilities, utilities and services; and, if none, means professional urban planning and engineering practices.

**Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mechanical work.** Building cooling and heating design and installation.

**Minor street.** A local street designed primarily for access to abutting residential properties. A minor street does not include a street designed or required to be designed for through traffic.

**Mobile home.** A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width and forty (40) body feet or more in length or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a residence with or without a permanent foundation when connected to utilities, and does not meet the requirements of Texas Manufactured Housing Code or Texas Modular Code.

**Moped.** - A motorized bicycle with pedals

**Motor assisted scooter.** A self propelled two or more wheeled device equipped with a gas engine not exceeding 40 cubic centimeters or an electric motor, a deck designed to allow a person to stand or sit on while operating the device, and a satisfactory braking system.

**Motor home.** A motorized vehicle designed for or equipped with sleeping, cooking, and/or toilet facilities, and which is eligible to be licensed or registered and insured for public roadway use. Truck campers and vans with either cooking or toilet facilities are deemed to be motor homes.

**Motorcycle.** A two wheeled motor vehicle equipped with a gas engine exceeding 40 cubic centimeters, a deck allowing a person to stand or sit on while operating the device, and a satisfactory braking system.

**Motorized mobility device.** A motorized chair device designed for transport of the physically handicapped.

**Multi-family residence.** Buildings designed for occupancy by more than a single family. Multi-family residences, including but not limited to apartments, duplexes and condominiums, are considered multi-family residences.

**Municipal court.** That court created by law in each city, town, or village in the State of Texas, L.G.C. §29.002

**Natural channel.** The topography of a waterway prior to construction, installation of improvements or any re-grading.

**Natural drainage.** A storm water runoff conveyance system not altered by development.

**Neighborhood electric vehicle.** A vehicle resembling a golf cart, but larger - usually capable of carrying four passengers.

**Neighborhood.** The area of the City characterized by residential land uses that is bounded by physical (such as river, major street, back of access) and/or political features (such as voting districts, subdivision boundaries).

**Neighborhood Park.** Parcel of land, within a subdivision, dedicated solely for recreational uses.

**New construction,** for the purpose of determining insurance rates, this term defines structures for which the “start construction” commenced on or after the effective date of the initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New manufactured home** means a manufactured home for which the construction for servicing the lot on which the manufactured home is to be affixed (including at a minimum, the installation of utilities and either final site grading or the foundation) is completed on or after the effective date of floodplain management regulations adopted by this community.

**Noncommercial Purpose or Cause.** A purpose or cause not created, existing, or espoused for the generation of profit or the remuneration of individuals, including, but not limited to, the religious or charitable solicitation of contributions, seeking political support or contributions, the promotion of civil causes, the promotion of conservation of resources or animals, advocating a philosophy or religion, or minors conducting fundraising activities, who represent an organization for the benefit of youths, including but not limited to Boy Scouts, Girl Scouts, little league groups and school groups.

**Non-conforming.** A building or structure, or use thereof, built after 1/1/1975 that is not permitted by the zoning ordinance or any amendment thereto.

**Normal edge of water.** The edge of water when lake LBJ is filled to its normal level of 825 feet above sea level.

**North American Vertical Datum (NAVD)** as corrected in 1988, is a vertical control used as a reference for establishing elevations. If a datum other than NAVD 88 is used, then use the

datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion.

**Obstruction – Related to Flooding.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**Occupant.** Any person who rents, leases or appears to reside, rent, or lease a building structure or property through custody of the premises or who has the legal right to possession of such premises.

**Official county records.** The Official Records of Burnet County, Texas.

**Off-site improvements.** Any required improvement that lies outside of the property being developed.

**Off-water lot.** Any lot not adjacent to Lake LBJ or to one of the dredged canals.

**One hundred (100) year flood** means that flood that has a one percent (1%) chance of being equaled or exceeded in any given year (also called the Base flood). Base flood is the term used throughout this ordinance.

**On-site wastewater disposal facilities.** Known also as SEPTIC SYSTEMS and as ON-SITE SEWERAGE FACILITIES. The terms "On-Site Waste Water Disposal Facilities" and "On-Site Sewerage Facilities" shall be synonymous and interchangeable with the term "Septic System" and is defined as: All systems and methods used for the disposal of sewage. On-site sewerage facilities are usually composed of three units: the generating unit, the treatment unit, and the disposal unit. The term ON-SITE also means that each residence will have its own individual septic system.

**On-water lot.** Any lot adjacent to Lake LBJ or with direct access to Lake LBJ because of its location on one of the dredged canals.

**Operation.** The physical control and manipulation of the various devices necessary to initiate and maintain movement of a vehicle or watercraft.

**Operator.** The person in control of vehicle or watercraft movement.

**Ordinance.** A government/municipal statute, law, or regulation.

**Out-building.** Any secondary building or structure (excluding waterfront facilities) located on an improved lot with the existence of a single-family residence. Water well enclosures up to 36

square feet of floor space and domestic pet housing up to 18 square feet of floor space will not be considered an out-building.

**Outdoor burning.** Any open fire utilized to consume grass cuttings, leaves, weeds, flowers, and tree limbs. EXCEPTION: Outdoor cooking using an appliance designed for such purpose.

**Outside appliance.** An appliance normally used for heating or cooling of the single-family residence or a detached building. An outside appliance is also an LP tank.

**Overland drainage.** Storm water runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

**Owner.** Any person who holds any interest in the legal title of a building, structure or property or has the legal right of possession thereof. Any person who is the registered owner/proprietor of a motor vehicle, recreational vehicle, motorcycle, trailer, and all vehicles as described under the definition “play vehicles”. Any person or persons, partnerships, corporation or any entity keeping or harboring an animal or animals. In the case of a dog(s) or cat(s), the owner may also be deemed to be the person(s) who provides care and maintenance.

**Parent tract.** Tract or lot as described by deed or plat, which includes one (1) or more lots that are being subdivided.

**Park Fund.** A special fund established by the City to retain monies paid by developers in accordance with the payment in-lieu of park land dedication provisions of these regulations and to be used for the purpose of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

**Parked.** A term used to describe a vehicle put in place for a temporary period. Being at any residence or in any location for less than eight (8) hours during any twenty-four (24) hour period.

**Pavilion.** A free standing roofed open-sided structure.

**Peddler.** Any person, whether a resident of this city or not, who sells or offers for sale for immediate delivery any goods, merchandise, or products, whether at one or more fixed locations or by carrying goods, merchandise from house to house, business to business, street to street, or upon public property; a merchant shall be considered temporarily in business unless it is the intention of such a merchant to establish a permanent business. Transfer or payment at the time of sale is immaterial. The word “peddler” shall include the terms “solicitor” and “commercial solicitor”. This term shall not include individuals connected with a noncommercial purpose or cause.

**Pergola.** A structure with open roof of cross beams and rafters supported on posts or columns.

**Permanently installed.** Placed and bolted or otherwise fixed to a concrete, block or pier and beam foundation.

**Permitted occupation in district (a), single family residential.** An occupation, customarily carried on in a single-family residential district and a single family residence as an incidental, but not the principal use thereof, by a member(s) of the family residing on the premises, without outside help, without structural alterations in the building or any of its rooms, without the installation of any machinery or equipment other than that customary to normal household operations, without the use of any signs or advertisements, and which occupation does not cause additional traffic in the street nor involve the storage or display of any merchandise, and which occupation does not include professional child care, beauty schools, beauty shops, barbershops, carpenter's, electrician's or plumbing shops, radio shops, auto repairing or painting, furniture repairing, sign painting or real estate offices, but not limited to those so enumerated, and which is not detrimental or injurious to the adjoining property or to any other property in the City of Highland Haven.

**Person.** An individual human, partnership, co-partnership firm, company, limited liability partnership, or other partnership or other such company, joint venture, joint stock company, trust estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

**Personal vehicle.** Vehicles designed for non-commercial use. Personal vehicles used for a dual commercial purpose but having all the appearance of a personal vehicle, excluding side panel signs, are deemed to be personal.

**Pet.** Any domestic house pet such as but not limited to a dog or cat.

**Planned development district.** See Planned Unit Development.

**Planned Unit Development.** An area of land under an agreement between the governing body of a municipality and the owner of the land subject to the agreement. The land area will be within the jurisdiction of the governing body and include any land area within the extra-territorial jurisdiction of the governing body. The land area is designated as a zoning district that permits development of at least three acres under a single ownership pursuant to an approved master plan. It is a development of land under unified control, planned and developed as a whole in a single development operation or a programmed phasing of developments, including streets, utilities, lots or building sites, structures, open spaces and other improvements. This district may permit mixed uses of land (e.g. industrial,

**Planning and Zoning Commission.** A group of people established and appointed by a city or governing body to write, review, and amend zoning ordinances and/or definitions contained in an ordinance that are to be presented and considered by the governing body for implementation and/or adoption. Also may provide advice to the City as may be appropriate.**Play vehicles.** Wheeled vehicles, motor assisted or not, which do not fit in other vehicle categories. Includes, but is not limited to those defined by TXDOT.

**Playscape.** Residential playground equipment for children; may contain one or more swing seats, monkey bars, swing rings, slide, and rock climbing wall. Any structure permanently anchored to the

ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

**Plugging.** Terminology used to define the closing/sealing of a water well as specified in the requirements by the TDLR.

**Pocket Rockets.** Mini-motorcycles.

**Pre-existing,** also commonly known as grandfathered. If not a health or safety hazard, where an item existed before an applicable ordinance was enacted, it may be permitted to remain. This is ONLY applicable to structures, unless specifically allowed in a variance. See Certificate of Non-compliance, 1996 city incorporation variances.

**Preliminary plan.** A map of a proposed land subdivision showing the character and proposed layout of the property in sufficient detail to indicate the suitability of the proposed subdivision of land.

**Primary structure.** A structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

**Privacy fence.** An opaque (not transparent or translucent) fence or screen no more than six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

**Property.** Any real estate, including residence as defined herein, owned, rented or otherwise occupied by any person within the city limits of The City.

**Public highway.** A federal highway, state highway, county road, or municipal street open to use by the public.

**Public.** With respect to land and interests in land within the City limits, the City; and, with respect to land and interests in land within the ETJ limits, the general public.

**Public rights-of-way.** All present and future public streets, avenues, highways, alleys, bridges, viaducts, public thoroughfares, public utility easements, public ways, public grounds, and without limitation by the foregoing enumeration, other public property within the city limits of the City. As used herein, the term “rights-of-way does not include facilities dedicated to the provision of electrical power to citizens of the City to the extent that the City may own or franchise the power utility providing power in the city. A public right-of-way does not include the airways above a public right-of-way See also Right-of-Way.

**PUBLIC NUISANCE** – Maintenance of property in such a manner that has a significant adverse impact on public health or safety or which detracts from the overall appearance of the neighborhood to such an extent as to reduce the value of surrounding properties.

**Public safety and nuisance – Floodplain Management.** **Variations** means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Public use.** Places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to schools and government buildings.

**Raw water.** Water in its natural state as collected and before filtration or chemical treatment.

**Rear yard.** A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

**Recreational vehicle** means a vehicle that is 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light-duty truck; and 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Includes motor homes, travel trailers, golf carts, play toys, watercraft trailer with or without a watercraft.

**Regulatory floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Remedy a violation – Floodplain Management.** Means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

**Repetitive loss** means flood-related damages sustained by a structure on two occasions during a ten year period, for which the cost of repair, at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**Required Yard.** The open space between a lot line and the buildable area within which no structure shall be located.

**Reserve strip.** A narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and

which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited unless their control is given to the City.

**Residence.** A place, premises, dwelling, house or other place where a person resides.

**Residential land.** Those defined tracts of land, not designated by platted lot number located with zoning Districts A and D of the City of Highland Haven.

**Responsible Party or Responsible Person.** The owner or occupant, including the person in custody of the building, property, or structure, and any person performing work upon the property which is not in compliance with the ordinances of the City.

**Restraint.** Any fence, leash, chain, cord or other suitable material, all of which shall be in good repair and of such quality as to prohibit its being broken or breached by the animal by which it is restrained. Devices commonly referred to as “invisible fences” shall be considered restraints provided they are in good repair, in proper working order and provided that applicable training has been completed.

**Reverse frontage lot.** A double frontage lot that is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

**Right-of-way.** The term will mean and include the entire width between property lines of any road, street, way, thoroughfare, bridge, dredged canal, and public beach or park in this city, not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic and/or over which the city has legislative jurisdiction under its policing power.

The surface, air space above the surface, and the area below the surface of any public street, alley, bridge, tunnel, park, parkways, or other public right of ways including public utility easements or rights of way and any temporary or permanent fixture or improvements located thereon now or hereafter held by the City which shall entitle the CITY and a GRANTEE the use thereof for the purpose of installing and maintaining a GRANTEE’s use of that space for a provided service.

The usage of the “term right of way” for land platting purposes shall mean that every right-of-way hereinafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right of way is established. See also Public Right of Way.

Right of Way also means the area between the lot line and the street pavement.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Same ownership.** Ownership by the same person, family, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his/her/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Screening Device.** A structure erected or constructed to provide privacy or concealment of a specific area such as, but not limited to, a spa, deck, swimming pool, etc. This could also include shrubs, bushes or other vegetation planted in such a manner as to create a hedge for the purpose of screening an area off from view.

**Secondary structure.** Any structure that is subordinate and incidental to the primary structure; and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

**Septic system.** — See **On-site wastewater disposal facilities.**

**Setback or building line.** A line or lines designating the interior limit of the area of a lot between said line and the corresponding line within which area structures may not be erected. The building lines generally provide the boundaries of the buildable area of any given lot.

**Sheet flow area.** - see **Area of shallow flooding.**

**Side yard.** A space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

**Single family.** The body of persons who live in one house or under one head, including parents, children, servants, etc., connected by blood or relationship by inclination and/or companionship.

**Single family residence.** A detached main building having accommodations for a single family, but not including any form of temporary or permanent mobile home, trailer or other vehicle, whether on wheels or not. Only one single-family residence may be constructed on one lot. In the event one residence is constructed on more than one lot, the combined property is to be considered as one lot for this purpose only. A single-family residence will have only one kitchen facility.

**Slope.** The vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

**Special flood hazard area (SFHA)** means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

**Start of Construction** includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction,

repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Stock trailer.** A vehicular unit without its own motive power designed primarily to transport livestock, which in combination with the towing vehicle, is eligible to be licensed or registered and insured for highway use.

**Stored.** A term used to describe a vehicle put in place for a non-temporary period. A vehicle not public highway ready due to lack of proper registration, safety inspection expiration, or being mechanically inoperative for a period exceeding 14 days is deemed to be stored.

**Street line.** That line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

**Street.** Any public or private right-of-way which affords the primary means of vehicular access to abutting property.

**Street side yard.** The side yard of a corner lot abutting the street right-of-way.

**Street yard.** A space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

**Structural integrity.** The ability of a structure to maintain stability against normal forces experienced by said structure.

**Structure** means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home. It also includes anything constructed or erected which requires location on the ground or attached to something located on the ground or in Lake LBJ within 50 feet of the shore line, including, but not limited to, buildings of all types, advertising signs, and walls. The following are excluded from this definition: flower beds; sidewalks; swing sets, and arbors provided their height is eight feet or less as measured from the ground surface; curbing six (6) inches or less in height and fences.

**Sub-divider.** Any person, developer, firm, partnership, corporation or other entity, acting as a unit subdividing or proposing to subdivide land as herein defined.

**Subdivision.** The division or re-division of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, renter, occupant, person or entity.

**Subscriber - Cable.** Any person who receives monthly cable television service provided by the GRANTEE.

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

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This includes structures, which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. See also Market Value.

**Telecommunications or telecommunications services.** All services of any nature, offered for sale by the **Telephone Company** to subscribers in the **City**, which services are delivered to such subscribers by transmission, between or among points not specified by the **Telephone Company**, of information, voice or otherwise, not chosen, created, or offered for distribution by the **Telephone Company**, transmitted without change in form or content of the information as sent and received, which transmission is offered for sale by the **Telephone Company** in the **City**, which services are provided in whole or part in the **City** to any customers of any type whatsoever. "Telecommunications" and "Telecommunications Services" do not include such services as cable services, as that term is defined in the Cable Communications Policy Act of 1984 (47 U.S.C.A. §521, *et seq.*, amended) or as recognized by the Federal Communications Commission or any other service wherein content is selected for distribution by the **Telephone Company**.

**Telephone Company - Franchised.** Verizon.

**Texas Department of Licensing and Regulation (TDLR).** A State of Texas agency.

**Texas Commission on Environmental Quality (TCEQ).** A State of Texas agency.

**Texas Natural Resources Conservation Commission (TNRCC).** State regulatory agency succeeded by TCEQ.

**Townhouse.** [amend IBC definition to read] A single-family dwelling constructed in a row of attached units separated by property lines and with open space on at least two sides. A townhouse is not permitted in Single Family Residence District A.

**Traffic impact analysis (TIA).** A study of the impacts of a development on the City's transportation system.

**Trailer.** A vehicular unit without its own motive power designed for transportation of all type of motor vehicles, goods, or materials and which has a cargo bed that is longer than 12 feet, which in combination with the towing vehicle, may be eligible to be licensed or registered and insured for highway use. All tandem axle trailers, despite cargo bed length, will be considered commercial trailers. All trailers with an overall height above the ground greater than forty-two inches will be considered commercial trailers.

**Transmission media - Telephone.** All **Telephone Company** cables, fibers, wires or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, video, or data or other purposes, which are physically located in the **City Rights-of-Way**.

**Travel trailer.** A rigid vehicular structure, without its own motive power, designed as a temporary dwelling for travel and generally used for camping, recreation, and vacation; eligible to be licensed or registered and insured for highway use; and when equipped for the road, has a body width of not more than eight (8) feet. See also Camping Trailer.

**Truck.** A vehicular unit with its own motive power designed to transport goods and materials within its own cargo bed space and/or designed to tow a trailer for the transport of goods and material.

**Truck camper.** A portable structure, without its own motive power, designed to be transported on a power vehicle as a temporary dwelling for travel and generally used for camping, recreational, and vacation, and which in combination with the carrying vehicle, is eligible to be licensed or registered and insured for highway use.

**Trunk line or main line – Telephone/Cable.** The larger lines from which service lines will branch.

**U.S. Army Corps of Engineers (USACE).** A Federal agency with permitting authority for United States waterways, including Lake LBJ. Many regulations delegated to LCRA. See blanket permits.

**Unimproved lot.** Any lot not meeting the criteria of an improved lot will be considered to be an unimproved lot.

**Urbanization.** The process of constructing public improvements required to support suburban or urban land use.

**Utility trailer.** A single axle vehicular unit without its own motive power, designed for or used for transportation of all type of motor vehicles, goods, or materials and which has a cargo bed of less than 12 feet in length and a total height above ground of less than forty-two inches and which may be eligible to be licensed or registered and insured for highway use. Also see Trailer.

**Vaccination.** For an animal or animals, vaccination against rabies or any other vaccination(s) required by the laws of the State of Texas.

**Van.** A four wheeled motorized vehicular unit, distinct from the automobile by an enclosed cargo compartment behind the front seat or seating for additional passengers. Vans of greater than one ton rated capacity or seating for more than the driver plus seven passengers are deemed to be commercial vehicles.

**Variance** means a grant of relief from the requirements of an ordinance that permits construction in a manner that would otherwise be prohibited by the ordinance.

**Vehicle.** A device, motorized or not, designed for the transport of people, cargo, or both.

**Vicious and/or dangerous animal.** **1** Any animal, domestic (breeds such as pit bull dogs) or wild, known to attack with or without provocation any person where such person may lawfully be at any time. **2** Any animal that bites, scratches, or otherwise injures a human resulting in the requirement for medical treatment regardless of how minor or major such medical treatment may be, and regardless of whether or not such treatment is administered by a licensed professional or by a layman. **3** Any domestic, wild or feral animal, which by species or nature is vicious or dangerous to humans. It is presumed that any species of animal, as defined herein, for which either Federal law or any law of the State of Texas requires a permit, is a dangerous animal.

**Violation - Floodplain** means the failure of a structure or other development to be fully compliant with the community's floodplain management Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Highland Haven Zoning Ordinance No. 43 (7, 2009) is presumed to be in violation until such time as that documentation is provided.

**Waive.** To forgo or relinquish a specific requirement.

**Walls.** Consists of brick or rock but not concrete or cinder block.

**Water plant.** Consists of, but not limited, to storage tanks, distribution line pressure equipment, transfer pumps, raw water treating chemicals and related raw water treating equipment, building and testing laboratory which may be located in the **City Rights-of-Way**. A water plant is also considered a facility.

**Water supply system.** Consists of, but not limited to all water wells used as a source of raw water supply, all lines transporting water into the city storage plant, and all line valves, which are located in the **City Rights-of-Way**. A water supply system is also considered a facility.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Water.** Public drinking water as defined by the appropriate agency of the State of Texas.

**Watercourse** means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Watercraft.** Any water born vessel, motorized or not, including canoes, personal watercraft (jet skis), motorboat, paddle boat, and sail boat.

**Waterfront facilities.** Any improvement to the shore line of Lake LBJ, dredged canals, and off shore within 50 feet of land including, but not limited to, retaining wall, boat lift, boat dock, deck, boat launch ramp, and boat house.

**Watershed.** The area from which storm water drains into a given basin, river or creek.

**Waterway.** Any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

**Wild animal.** Included but not limited to lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, lynx, bobcats, hyenas, bears, lesser pandas, wolves, coyotes, foxes, raccoons, possums, non-human primates, elephants, rhinoceroses, or any poisonous or dangerous snake or other reptile, which can be found in the wild.

**Will.** The word is mandatory, not discretionary, when used in this ordinance (now generally used in place of "shall").

**Working days.** Monday through Thursday exclusive of City recognized holidays.

**Yard depth.** The shortest distance between a lot line and a yard line.

**Yard line.** A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

**Yard.** An open space that lies between the principal or accessory building or buildings and the nearest lot line.

**Zoning.** The division of a city into districts to include the prescription and application of different regulations in each district. A comprehensive (not specific to a specific property) zoning ordinance necessarily divides a city into certain districts and describes regulations for each one having to do with the architectural design of structures, the area of a building to be occupied by them, and the use to which the property may be devoted. Zoning also includes regulations that apply to all zone districts.

**Section 3. AMENDING ORDINANCES** - The zoning, subdivision, property, building, and nuisance regulating ordinances of the City are hereby amended to include the provisions of definitions of this ordinance. The ordinances shall be interpreted in harmony to include the terms and provisions of this ordinance. If a specific ordinance conflicts with all or part of this ordinance, it is the intent of the Board of Aldermen that this ordinance shall control unless the result is a violation of state or federal law or from the context is clearly inapplicable. All parts of

ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions this ordinance shall govern.

**Section 4. SEVERABILITY** - Should any section or part of this ordinance be held unconstitutional, illegal or invalid or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**Section 5. EFFECTIVE DATE** - This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

**Section 6. OPEN MEETING** - It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that the public notice of the time, place and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551, Tex. Government Code.

**PASSED AND APPROVED** on the *16th* day of *February 2016* during a scheduled meeting of the Board of Aldermen of The City of Highland Haven, Texas.

---

Olan Kelley, Mayor

ATTEST:

Seal

---

Dana Turner, City Secretary