

ARTICLE I. IN GENERAL

Sec. 98-1 Definitions.

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

Accessory use or building means a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

Adjoining or abutting means touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot, it adjoins and abuts such other lot which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.

Alley means a public way which affords only a secondary means of access to property abutting thereon.

Apartment hotel means an apartment house which furnishes, for the use of its tenants, services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Area, sign shall mean as described in Division 2, *Measurement Of Signs; Permitted Signs; Exceptions*, in [Chapter 66, Signs, of the Code of Ordinances](#).

Balcony, Juliet means an architectural feature that has the appearance of a conventional balcony but that does not extend far enough from the building facade to be usable.

Bed and breakfast means a house used for the temporary residence of motorists or travelers.

Boardinghouse and lodginghouse mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. The term "building" shall include the term "structure."

Building, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

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

Building official means any person or officer of the city duly designated by official resolution of the city council having the **qualifications and** duty to enforce the regulations contained in this chapter.

Cabinet sign means a permanent building-mounted or freestanding sign with its letters, numbers, logos, symbols, and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures that illuminate the sign face from behind.

Channel letter sign means a sign with three-dimensional, individually manufactured letters, numbers, logos, symbols, and artwork, that are:

- Covered by clear or translucent acrylic and that contain an enclosed light source to illuminate the letters; or

- Placed in front of the light source to produce a halo effect around each individual letter, number, logo, symbol, and artwork.

Clearance, sign means the minimum distance between the sidewalk, a walkway, or finished grade and the lowest part of a sign.

Clinic means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by physicians providing medicine, or other health care professionals.

Club means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Demolition means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

Design guidelines for the City of Montgomery means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the city secretary.

District means a section of the city for which regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform under this chapter.

Dwelling means any building or portion thereof which is designed for or used for residential purposes.

Dwelling, multifamily, means a building designed for or occupied exclusively by more than one family.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Event venue means a structure and/or the grounds of a property used commercially to hold events such as weddings, receptions, meetings, parties, concerts, or conferences that may include accessory on-site preparation and consumption of food and beverages.

Exterior architectural feature means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

Exterior walls and façades means the outermost covering of a building that is visible from any public right-of-way, street or roadway.

False second story means a facade of a building above the first story of the building that includes a variety of architectural treatments to create the appearance of a second story.

Family means one or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, or hotel.

Frontage, block, means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Height, sign shall mean the distance between the topmost portion of the sign structure and the ground elevation at the base of the sign.

Historic landmark means an individual property designated by the city council under this chapter, as having outstanding historical and cultural significance in the nation, region, or community. The designation "historic landmark" recognizes that the historic place, or the building, structure, accessory buildings, fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial historic landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list and map kept on file in the office of the city secretary. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9,000 square feet in area, only the buildings or structures and a 25-foot buffer around said buildings or structures shall be subject to the provisions of this chapter. Said list and map shall remain on file with the city secretary and the county clerk's office.

Historic preservation district means an area of the city designated by the city council under this chapter, as having definable geographic boundaries, and a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "historic preservation district" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods, and economic development and promotion of tourism. The initial historic preservation district shall consist of the area shown on the map, and the map shall remain on file with the city secretary.

Hotel means a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, and the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. The term "lot" includes the term "plot."

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Main entryways and corridors means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

Metal panels means profiled metal panels, deep-ribbed panels and concealed fastener systems.

Microbrewery means a small, independently owned establishment where beer, wine, or other alcoholic beverage is brewed, fermented, or distilled for on-premises consumption and/or distribution.

Micro-manufacturing means the retail or business-to-business production of artisan goods that are produced in small quantities using small hand tools or light machinery.

Modification, structural (sign, building, or lighting) shall mean any change to a sign, building, or lighting that significantly alters its structure, size, height, shape, materials, or lighting intensity. Changes that do not significantly alter the appearance, structure, or functionality of a sign, building, or lighting, such as routine maintenance, minor repairs, changing out light sources, or updating existing text or graphics without changing the overall design, are not considered substantial modifications.

Motor court and motel mean a building or group of buildings used for the temporary residence of motorists or travelers.

Nonconforming structures means commercial, residential, and/or institutional buildings or other structures existing within an historic preservation district but not possessing the character nor the designation of an official historic landmark.

Nonconforming use, building or yard means a use, building, or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Ordinary maintenance means repairs and other work necessary for the upkeep of buildings and other structures that may include, but is not limited to, minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a building permit.

Parking space, off-street, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

Place means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planning and zoning approval means an indication on the building permit evidencing the approval of the planning and zoning commission, signed and dated by the chairperson of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature, resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this chapter, where approval for the same is required.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street means a public or private thoroughfare which affords the principal means of access to the abutting property.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations means any changes in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences, or boundary or retaining walls.

Temporary building means any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Townhouse shall mean a structure that is one of a series of dwelling units designed for single-family occupancy, where the dwelling units are structurally connected or immediately adjacent to each other without side yards between individual dwelling units, as depicted below.



Upper-story residential means residential dwelling units located on the upper floors of a building where the first floor of the building is used for nonresidential purposes.

Used for includes the meaning "designed for" or "intended for."

Visual barrier means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening, provided it creates a visual barrier. The city shall not be responsible for the maintenance of required screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

Wetland means any swamps, marshes or bogs or other areas classified as jurisdictional wetland which would require appropriate permits from the Corps of Engineers for any construction.

Window, clerestory means an upperstory window or row of windows, typically wider than they are tall, the primary purpose of which is to let in sunlight.

Yard means 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 as otherwise provided in this chapter. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

Yard, rear, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, enclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

Yard, side, means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-2 Violations; penalty.

- (a) It shall be the duty of the building official to enforce the provisions of this chapter, and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of this chapter.
- (b) In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the building official is authorized and directed, after notifying the property owner of the violation and allowing ten days for correction, to remedy any such violation. If the building official determines that a good faith effort is being made to correct the violation, the grace period can be extended.
- (c) Any person who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved under this chapter, shall be guilty of a misdemeanor and shall be liable to a fine as prescribed in section 1-13 and each day such violation shall exist, after the ten days allowed for correction and any additional correction time approved by the building official, shall constitute a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof, shall be punished as provided in this section.
- (d) In addition to the penalties provided for herein, the city may bring suit in a court having jurisdiction thereof to abate or enjoin any violations of the provisions of this chapter, and obtain such remedies as may be available at law or in equity.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-3 Interpretation; conflicting regulations or agreements.

In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces, than are imposed or required by other ordinances, rules, or regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-4—98-24 Reserved.