

ORDINANCE NO. 2023-221

AN ORDINANCE OF THE CITY OF WACO, TEXAS, AMENDING CERTAIN DEFINITIONS IN SECTION 13-465 IN ARTICLE XIII “BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES” OF CHAPTER 13 “LICENSES, PERMITS AND BUSINESS REGULATIONS”, AND SECTION 28-1 OF ARTICLE I “IN GENERAL” OF CHAPTER 28 “ZONING” OF THE CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Waco is making changes to certain definitions in the Code of Ordinances in Section 13-465 of Article XIII “Bed and Breakfast Facilities and Short Term Rental Facilities” of Chapter 13 “Licenses, Permits and Business Regulations”, and Section 28-1 of Article I “In General” of Chapter 28 “Zoning”; and

WHEREAS, said changes are to the definitions of a Bed and breakfast homestay establishment, Short term rental type I, Short term rental type II, and Short term rental type III,

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

Section 1. That Article XIII – Bed and Breakfast Facilities and Short Term Rental Facilities of Chapter 13 – Licenses, Permits and Business Regulations of the Code of Ordinances of the City of Waco, Texas shall be amended as follows (Additions / ~~Deletions~~):

Chapter 13 – LICENSES, PERMITS AND BUSINESS REGULATIONS.

ARTICLE XIII – BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES.

Sec. 13-465. Definitions.

As used in this article:

Bed and breakfast facility includes a bed and breakfast homestay establishment or bed and breakfast inn.

Bed and breakfast homestay establishment shall mean an owner or a designated operator occupied residential property where short term lodging is provided that contains no more than five guest rooms and where breakfast service may be provided to overnight guests only. The owner or a designated operator must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Bed and breakfast inn shall mean a resident managed residential property where short term lodging is provided that contains no more than 15 guest rooms and where breakfast service may be provided to overnight guests only. The resident manager must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Designated operator shall mean the operator of a bed and breakfast facility or short term rental facility who resides in McLennan County, Texas, and will be present in McLennan County and available at all times the rental is in use.

Group shall mean a unit of person(s) that are together under a single reservation.

Influential interest means any of the following:

- (1) The actual power to operate, or control the operation, management or policies of the legal entity;
- (2) Ownership of a financial interest of 30 percent or more of the legal entity or of any class of voting securities of the legal entity; or
- (3) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in the legal entity.

Licensee shall mean a person or legal entity issued a bed and breakfast facility or short term rental facility license.

Owner shall mean an individual person, proprietorship, partnership, corporation, association, or other legal entity.

Short term rental shall mean a residential dwelling unit(s) that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.

Short term rental facility includes a short term rental type I, short term rental type II, or short term rental type III.

Short term rental type I shall mean an owner or a designated operator occupied residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The owner or a designated operator must reside in the primary structure on the property and be present at the property for the duration of any short term rental.

Short term rental type II shall mean a single family or duplex residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The property is not part of a multi-family residential use. The owner or a designated operator does not reside on the property or is not present at the property for the duration of any short term rental.

Short term rental type III shall mean a multi-family residential property where short term lodging is provided to only one group at a time per dwelling unit. The owner or a designated operator does not reside on the property or is not present at the property for the duration of any short term rental. A multi-family residential property includes a multifamily building or multiple detached single-family dwellings on a single lot.

Section 2. That Article I – In General of Chapter 28 – Zoning of the Code of Ordinances of the City of Waco, Texas shall be amended as follows (Additions / ~~Deletions~~):

Chapter 28 – ZONING.

ARTICLE I – IN GENERAL .

Sec. 28-1. 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 building shall mean a building incidental to and customarily associated with a principal use or building on the same premises.

Accessory use shall mean a use incidental to and customarily associated with a principal use or building on the same premises.

Alcoholic beverage shall mean alcohol or any beverage containing more than one-half of one per cent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer.

Alley shall mean a public right-of-way, other than a street, providing access to the abutting premises.

Amusement redemption machine means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes, and that rewards the player exclusively with non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than ten times the amount charged to play the game or device once or \$5.00, whichever is less. The term does not include an electronic, electromechanical, or mechanical contrivance that awards the user non-cash merchandise prizes, toys, or novelties directly from the machine, such as a claw or crane.

Antenna facility shall mean any antenna and accompanying radio equipment used within a wireless communication system regardless of its location. This term shall include "co-located" antennas.

Automobile wrecking yard shall mean premises used for the dismantling, storage, trading or buying and selling of disabled, dismantled and damaged vehicles. "Damaged vehicle" shall mean any vehicle which has been involved in a collision which required a reinspection under state law. The term shall include the outside storage of motor vehicle parts, even for remanufacturing purposes.

Basement shall mean the part of a building from one floor to the next floor above which has part of, but less than one-half of, its height below grade. If a basement is subdivided and used for dwelling purposes, it is counted as a story; a cellar is not.

Bed and breakfast homestay establishment shall mean an owner or a designated operator occupied residential property where short term lodging is provided that contains no more than five guest rooms and where breakfast service may be provided to overnight guests only. The owner or a designated operator must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Bed and breakfast inn shall mean a resident managed residential property where short term lodging is provided that contains no more than 15 guest rooms and where breakfast service may be provided to overnight guests only. The resident manager must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Block-face shall mean the properties along one side of a street between two consecutive intersections.

Board shall mean the zoning board of adjustment established in section 28-66 et seq.

Boarding house shall mean a residential unit arranged or used for long term lodging for compensation, with or without meals, and not occupied as a single-family dwelling unit. Long term lodging shall be considered to be for a period of time over 30 days.

Build shall mean to erect, convert, enlarge, reconstruct or structurally alter a building.

Buildable width shall mean the width of a lot left to be built upon after the side yards are provided.

Building shall mean a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, property or animals.

Cellar shall mean the part of a building from one floor to the next floor above which has more than one-half of its height below grade. If a basement is subdivided and used for dwelling purposes, it is counted as a story; a cellar is not.

Child care facility shall mean a facility which provides supervised care for children under 14 years of age for a monetary fee in a public or private facility for less than 24 hours a day. The term shall not include a registered family home, a licensed group home, kindergarten, nursery school or other special school.

Co-location facility shall mean any antenna facility that is located on an existing antenna support structure or alternate independent support structure.

Coin operated machine means any kind of machine or device operated by or with a coin or other United States currency, metal slug, token, electronic card, or check, including a music or skill or pleasure coin-operated machine.

Commercial funeral home means a facility, business, or establishment engaged in arranging, conducting, and managing funerals for a profit.

Commission shall mean the city plan commission of the city.

Common open space shall mean open space which is available and accessible to occupants of the use located on the same lot as the open space (see also section 28-972).

Community garden shall mean a garden operated and maintained by a nonprofit organization, church, neighborhood association, school district, or government entity for the purpose set forth in this chapter.

Community home I shall mean a licensed residential facility that provides food and shelter, personal guidance, care, habilitation services, and supervision for no more than six persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Community home II shall mean a licensed residential facility that provides food and shelter, personal guidance, care, habilitation services, and supervision for seven or more persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Crematory services means a facility that is used for the act or practice of cremating deceased humans or animal remains.

District shall mean an area of the city within which specified regulations and requirements contained in this chapter are uniformly applied.

Drive-through means a facility at which one can drive a motor vehicle to obtain service.

Dwelling or *dwelling unit* shall mean a residential unit other than a mobile home or HUD-Code manufactured home that provides independent residential facilities for one family, including permanent provisions for sleeping, eating and cooking.

Dwelling, multifamily, shall mean a building that contains three or more dwelling units.

Dwelling, single-family, shall mean a building that contains one dwelling unit.

Dwelling, single-family attached, shall mean a single-family dwelling located on a zero lot line and adjacent to another single-family dwelling located on a zero lot line.

Dwelling, small lot single-family, shall mean a single-family dwelling unit that is located on a lot that is less than 50 feet in width and 6,000 square feet in area. Such dwelling unit will be limited to an individual, or two or more persons related by blood, marriage or adoption, or a group of no more than two unrelated persons living together as a single housekeeping unit.

Dwelling, townhouse, shall mean a dwelling unit having its own ground floor entrance and joined to one or more other dwelling units by party walls extending from the foundation through to the roof.

Dwelling, two-family, shall mean a building that contains two dwelling units.

Dwelling unit, efficiency, shall mean a living unit containing no more than 500 square feet of floor area and not having a separate bedroom or sleeping area independent of the principal living area.

Enclosed outside storage shall mean an accessory use that is a storage facility, such a storage container, storage trailer, or portable structure, that is not attached to a main or accessory building.

Family shall mean an individual, or two or more persons related by blood, marriage or adoption, or a group of not more than four unrelated persons living together as a single housekeeping unit in a dwelling unit.

Farmers' market means an organized reoccurring operation at a designated location used by vendors primarily for the distribution and sale of locally produced agricultural products or a limited amount of locally produced non-agricultural products as set forth in section 13-443. A farmers' market is not an event and is not a food establishment.

Flea market shall mean an occasional or periodic market, usually a group of stalls, booths, tables or other similar arrangement, held in an open area and not in a totally enclosed building where groups of individual sellers offer new or used goods for sale or trade to the public.

Floor area shall mean the total enclosed area of all floors in a building, measured to the surface of the exterior walls. "Floor area" does not include porches, parking facilities, basement or cellar space not used as a dwelling unit, and enclosed loading berths.

Floor area ratio shall mean the ratio of floor area to gross site area.

Grade shall mean:

- (1) For a building more than five feet from any street line, the average level of the finished surface of the ground adjacent to the building.
- (2) For a building, any portion of which is located within five feet of a street line or lines, the sidewalk level or the average sidewalk levels if there is more than one street. If there is no sidewalk, the grade is the equivalent established ground surface adjacent to the street line, or the average of such surfaces if there is more than one street.

Group shall mean a unit of person(s) that are together under a single reservation. This definition shall apply to a bed and breakfast homestay establishment, a bed and breakfast inn, a short term rental type I, a short term rental type II, and a short term rental type III.

Half-story shall mean a space under a sloping roof which is at least three feet high. No more than 60 per cent of the floor grade to area of a half-story may be finished for use.

Halfway house shall mean a licensed group residential facility for housing inmates on release from more restrictive custodial confinement, or for housing other individuals, initially placed in such a facility, in lieu of more restrictive custodial confinement, wherein supervision,

rehabilitation and counseling are provided to aid residents in their return to society, thus enabling them to live independently.

Height of a building shall mean the vertical distance from the grade to:

- (1) The highest point on a flat roof;
- (2) The deck line of a mansard roof; or
- (3) The mean height between eaves and ridge for gable, hip and gambrel roofs.

Home occupation shall mean a business, profession, occupation or trade conducted for gain entirely within a principal structure also used for residential purposes except as may be authorized by this chapter. This term shall include beauty, barber, personal service shops and registered family homes that comply with the regulations set out in section 28-928.

Hotel shall mean a building occupied by 20 or more persons that does not contain living units. An "apartment hotel" is a multiple dwelling under resident supervision that contains an inner lobby through which all tenants must pass to gain access to the apartments.

House Museum shall mean a property designated as a Recorded Texas Historic Landmark ("RTHL") with historic or architectural significance which provides house tours to be conducted for compensation to the public for the purpose of offering varied experiences for education, enjoyment, reflection and knowledge sharing.

HUD-Code manufactured home shall mean a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. Anything less than this length and/or width shall not be allowed. The term does not include a recreational vehicle as that term is defined in 24 CFR 3282.8(g).

HUD-Code manufactured home park shall mean any lot or tract of land upon which two or more HUD-Code manufactured homes occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with HUD-Code manufactured homes, regardless of whether or not a fee is charged for such accommodations. Such park shall consist of a minimum of ten acres of land.

HUD-Code manufactured home subdivision shall mean a subdivision designed and intended for residential use where residence is permitted in HUD-Code manufactured homes, each being located on a separate lot. Such subdivision shall meet all requirements of Appendix B, Subdivisions, of this Code, and shall consist of a minimum of ten acres of land.

Indoor amusement facility means an amusement enterprise wholly enclosed in a building offering entertainment or games to the general public, for a fee, including, but not limited to, a bingo hall, billiard parlor/pool hall, and a facility with video games, computer games, skill or pleasure coin operated machines, or amusement redemption machines. This definition does not include a business that exhibits a billiard/pool table, video game, computer game, or skill or pleasure coin operated machines as a secondary use of the property.

Indoor recreational facility means a facility that provides, and derives at least 25 percent of its gross income from, recreational opportunities or games of skill to the general public, for a fee, that were wholly enclosed in a building, including, but not limited to, roller, ice skating, and hockey rink, batting cage, paint ball or laser tag facility, gymnasium or indoor arena, basketball, handball, tennis court, golf driving range, miniature golf course, bowling alley or fitness facility.

Such establishment may include the sale of food and beverages for on-premises consumption, including alcoholic beverages.

Licensed group home shall mean a residence that provides care for less than 24 hours a day for seven to 12 children under 14 years of age. Licensed group homes are licensed by the state.

Live/work unit shall mean a dwelling unit in which a portion of the space includes a nonresidential use that is (1) permitted by the zoning district in which the unit is located and (2) operated by the occupant(s) of the dwelling unit.

Lot shall mean a parcel of land platted in accordance with a recorded subdivision which is sufficient in size for a use permitted by this chapter and which meets the yard, area, and off-street parking requirements of this chapter.

Lot depth shall mean the horizontal distance between the midpoint of the front line and the midpoint of the rear lot line.

Lot width shall mean the width of a lot at the property line.

Main building shall mean a building occupied by a primary use.

Micro-brewery shall mean a business which:

- (1) Operates under a manufacturer's license, as described in chapter 62 of the Texas Alcoholic Beverage Code, issued by the Texas Alcoholic Beverage Commission ("T.A.B.C.");
- (2) May operate, but is not required to operate under a brewer's permit as described in chapter 12 of the Texas Alcoholic Beverage Code issued by T.A.B.C.;
- (3) Has a total maximum production per year of beer, malt liquor and ale of not more than 20,000 barrels (or 620,000 standard gallons);
- (4) Does not produce or generate any generally obnoxious odors.

Mobile home shall mean a structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 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 is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems.

Mortuary services means offering or providing the services of preparing a deceased person for interment or cremation.

Motel shall mean a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which some of the rooms are directly accessible from a public or private right-of-way, from a parking lot or space, or from the exterior of the building.

Neighborhood grocery store shall mean a grocery store no larger than 20,000 square feet in area engaged in the retail sale of primarily food, non-alcoholic beverages, or household items for consumption off-premises. Beer and wine may be sold for off premises consumption only. For determining whether an establishment is a neighborhood grocery store, the building official shall inspect the displayed inventory of the establishment. If the building official still has reason to question whether an establishment is a neighborhood grocery store, then the building official may require that any person owning or operating the establishment to provide a verified audit for the previous year showing that at least 75 percent of the gross sales of the establishment was derived from the sale of food, non-alcoholic beverages, or household items. Failure to provide the requested documents within a reasonable timeframe shall be prima facie evidence of a violation of this chapter.

Office building shall mean a building designed for or used as the offices of professional, commercial, industrial, religious, public or semipublic persons; provided, that no goods, wares or merchandise shall be prepared or sold on the premises.

Open space shall mean land which is not covered by structures or paved area.

Open storage shall mean items, meant to be used or sold in the future, that are not in an enclosed structure.

Outdoor recreational and amusement facility means a facility that provides, and derives at least 25 per cent of its gross income from, entertainment, recreational opportunities or games to the general public, for a fee, that takes place in the open including, but not limited to, a golf driving range, miniature golf course, archery range, paint ball facility, go-cart, water slide, swimming pool, batting cage, amusement park, exhibition hall or a stadium. Such establishment may include the sale of food and beverages for on-premises consumption, including alcoholic beverages.

Outside display shall mean an accessory use that is a display of merchandise for sale.

Parking space shall mean an area, enclosed or unenclosed, sufficient to store one automobile and connected to a public street or alley by a driveway arranged to permit the ingress and egress of the automobile at all times.

Personal service shops shall mean an establishment providing non-medical services to individuals as a primary use. Personal service shops shall include, beauty/barber shops and salons, day/health spa, tanning salons, nail salons, massage therapy facilities and tattoo studios.

Premises shall mean land together with any contiguous land in common ownership and any buildings located on the land.

Private garage shall mean an accessory building for the storage of motor vehicles owned or used by the occupants of the main building.

Public building shall mean a building owned or used exclusively by the city, county, state or federal government.

Public golf course shall mean a golf course for use by the general community, as opposed to a private club requiring membership.

Public use shall mean a use of structures or land conducted as a function of the city, county, state or federal government. Schools shall not be included within this term as it is used in divisions 2 through 22 of article IV of this chapter to designate permitted uses or uses allowed by special permit.

Queue means a sequence of motor vehicles having occupants who are awaiting their turn to be attended to or to proceed.

Registered family home shall mean a facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

Repurposed shipping container shall mean a container originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities repurposed for a residential or commercial use.

Restaurant shall mean an establishment engaged in the preparation and retail sale of food and beverages for consumption on-premises or off-premises. The beverages sold for on-premises consumption only may include alcoholic beverages. In determining whether an establishment is a restaurant, the building official shall initially inspect the appearance of the establishment for a full

kitchen, complete with refrigerator, food stock, ovens, stoves, food preparation tables, dishes and utensils in sufficient quantity to serve the seating capacity, and a chef. If the building official still has reason to question whether an establishment is a restaurant, the building official may require that any person owning or operating an establishment to provide a certified audit for the previous year showing that at least 25 per cent of the gross income of the establishment was derived from the sale of food.

Separate tract shall mean a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the ordinance from which this chapter was derived.

Sexually oriented business means an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio or nude model studio, or a sex paraphernalia store as those terms are defined in section 20-2 of this Code.

Shelter shall mean a facility with support staff who are present at all times the residents are present providing temporary boarding or lodging on its premises to indigent, needy, chronically homeless or transient people.

Short term rental shall mean a residential dwelling unit(s) that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.

Short term rental type I shall mean an owner or a designated operator occupied residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The owner or a designated operator must reside in the primary structure on the property and be present at the property for the duration of any short term rental.

Short term rental type II shall mean a single family or duplex residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The property is not part of a multi-family residential use. The owner or a designated operator does not reside on the property or is not present at the property for the duration of any short term rental.

Short term rental type III shall mean a multi-family residential property where short term lodging is provided to only one group at a time per dwelling unit. The owner or a designated operator does not reside on the property or is not present at the property for the duration of any short term rental. A multi-family residential property includes a multifamily building or multiple detached single-family dwellings on a single lot.

Sign shall mean any combination of structure and message in the form of a display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol or other form, designed to advertise or inform the public.

Site work shall mean any grading, filling, or clearing of land.

Skill or pleasure coin-operated machine means any kind of coin-operated machine that dispenses, or is used or is capable of being used to dispense or afford, amusement, skill, or pleasure or is operated for any purpose, other than for dispensing merchandise, music, or service. The term includes marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, billiard or pool games, or machines or devices that dispense merchandise or commodities or plays music in connection with or in addition to dispensing skill or pleasure; and does not include an amusement machine designed exclusively for a child.

Smoke shop shall mean any premises where more than 20 percent of the gross square footage or gross sales of the establishment is dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia.

Storage garage shall mean a building for the storage of motor vehicles not owned or used by the occupants of the main building.

Story shall mean the part of a building from one floor to the next floor above or to the ceiling above if there is no floor above.

Street shall mean property dedicated for and accepted by the city for primary public access to lots.

Structural alteration shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls.

Structure shall mean anything built that requires a permanent location.

Temporary commercial parking facility shall mean the use of property not to exceed 15 days per calendar year for parking operated as a business enterprise by charging a fee in conjunction with a temporary event(s) that is open to the public, and that will have more than 5,000 persons in attendance.

Temporary wireless communication facility shall mean any wireless communication facility designed for short-term use only for a special event or while a permanent wireless facility is under construction. Includes wireless communication facilities commonly referred to as cellular on wheels (COWS).

Theater means a building or part of a building devoted to, and deriving at least 25 per cent of its gross income from, the showing of motion pictures, or for dramatic, musical or live performances. Such establishment may include the sale of food and beverages for on-premises consumption, including alcoholic beverages.

Tobacco shall mean any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

Tobacco paraphernalia shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, or tobacco products. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

Tobacco product shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

Transitional shelter I shall mean a residential facility of no more than six residents and two supervisory personnel providing temporary shelter for persons who are receiving therapy and/or

counseling from support staff who are present at all times the residents are present, for one or more of the following purposes:

- (1) To help residents recuperate from the effects of drugs or alcohol addiction;
- (2) To help homeless persons or families achieve independence and obtain permanent housing; or
- (3) To provide temporary shelter for persons who are victims of domestic abuse.

Transitional shelter II shall mean a residential facility as defined in the definition of transitional shelter I above, except that there is no limit on the number of residents or supervisory personnel.

Usable open space shall mean open space which is not covered by structures or paved area, except for structures or paved areas used solely for recreational purposes, and which occupies an area at least 30 feet in width and ten feet in length.

Vineyard shall mean the cultivation or planting of grapes.

Wholesale business shall mean a business which sells goods in large quantities to retailers who sell to consumers, rather than the sale of goods directly to consumers.

Winery shall mean the manufacturing, bottling, labeling, or packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on-premise or imported. A winery may include the following accessory uses: a tasting room to dispense wine for on-premise consumption; meeting/banquet facilities; restaurant and retail sales area of wine for off-premise consumption and merchandise associated with the wine industry.

Wireless communication system shall mean antenna support structures for mobile and land based telecommunication facilities and equipment used for wireless transmission from a sender to one or more receivers, such as mobile cellular telephones, mobile radio systems or television (commercial only) broadcasting towers and transmitting stations.

- (1) *Alternate independent support structures* shall mean existing antenna structures, buildings or other structures such as water towers, church steeples, utility poles and similar alternative antenna mounting structures, except for single-family or two-family residential structures.
- (2) *Guy wire antenna structures* shall mean guy wire supported structures, so designed to support fixtures which hold one or more antennas and related equipment for wireless communication system transmission.
- (3) *Lattice antenna structures* shall mean steel lattice, self-supporting structures with no guy wire support so designed to support fixtures which hold one or more antennas and related equipment for wireless communication system transmission.
- (4) *Monopole antenna structures* shall mean self-supporting pole type structures with no guy wire support, tapering from base to support and so designed to support fixtures which hold one or more antennas and related equipment for wireless communication system transmission.
- (5) *Stealth antenna structures* shall mean any support structure which is designed to camouflage the presence of telecommunication antennas and to resemble another use permitted in the zoning district in which the proposed structure is to be located, including but not limited to church steeples, trees, flagpoles, monuments, bell towers, ornamental towers, spires, or other similar structures.

Yard shall mean a required open space on a lot between a lot line and a building which is unoccupied and unobstructed from grade to the sky, except as permitted by this chapter.

Yard, depth or width shall mean the shortest horizontal distance from a lot line to the main building.

Yard, front, shall mean the area from one side lot line to the other side lot line and between the main building and the street on which the lot fronts. On corner lots the front yard shall abut the shortest street dimension of the lot but may abut either street if the lot is square or almost square

with dimensions in a ratio from 3:2 to 3:3. A corner lot is a lot that abuts two or more streets at their intersections.

Yard, rear, shall mean the area from one side lot line to the other side lot line and from the main building to the rear lot line located on the opposite end of a lot from the front yard.

Yard, side, shall mean the area from the front lot line to the rear lot line and from the main building to a side lot line.

Zoning administrator shall mean the official designated by section 28-86.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$2,000.00, and each day a violation exists shall be a separate offense.

Section 6. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 7. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 8. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED:

FIRST READING: this 21st day of February 2023.

SECOND READING: this 21st day of March 2023.

DocuSigned by:

Dillon Meek

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Dillon Meek, Mayor
City of Waco, Texas

ATTEST:

DocuSigned by:

Michelle Hicks

425883FB80CC400...

Michelle Hicks,
City Secretary

DS



APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:

William Conrad

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Jennifer Richie, City Attorney

APPROVED:

DocuSigned by:

Clint Peters

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Clint Peters, Director of Development Services