

# Chapter 3

## Permitted Uses and Definitions

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SECTION 1  
USE OF LAND AND BUILDINGS

1.1 USES PERMITTED BY DISTRICT:

- A. Land and buildings in each of the zoning districts may be used for any of the indicated uses but no land shall hereafter be used, and no building or structure shall hereafter be erected, altered, or converted, which is arranged or designed or used for other than those uses specified as permitted uses in the district in which it is located, according to the Chapter 3, Section 1.3 and in accordance with Chapter 1, Section 3 and the provisions of this Ordinance.
- B. Legend for Schedule of Uses in Section 1.3

●	Use is permitted in district indicated
○	Use is prohibited in district indicated
S	Use is permitted in district upon approval of a specific use permit
1	Use is permitted in the district indicated if conditional development standards or limitations in the corresponding numeric end note in Chapter 3, Section 1.4 are complied with

- C. If a use is not on the Schedule of Uses, it is prohibited subject to compliance with Section 1.2 below.

1.2 CLASSIFICATION OF NEW AND UNLISTED USES:

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the Town. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- A. The Building Official shall refer the question concerning any new or unlisted use to the Planning & Zoning Commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing, among other things, the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.
- B. The Planning & Zoning Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and recommend to the Town Council the zoning district(s), use, and classification.
- C. The Planning & Zoning Commission shall transmit its recommendations to the Town Council as to the zoning district(s), use, and classification proposed for any new or unlisted use. The Town Council shall make such determination concerning the zoning district(s) and classification of such use as it determines appropriate.
- D. Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in Chapter 3, Section 1.2 (1-3) shall be followed for determination of the new standards.

1.3 SCHEDULE OF USES:

The Schedule of Uses appears on the following charts. (*Ordinance 13-48; 9/10/13*).





SECTION 1.3(C) EDUCATIONAL, INSTITUTIONAL, PUBLIC, AND SPECIAL USES	Residential Districts							Non-Residential Districts									
	A - Agricultural	SF - Single Family (E - 10)	DTSF - Downtown SF	TH - Townhome	2F - Two Family	MF - Multifamily	MH - Mobile Home	O - Office	DTO - Downtown Office	NS - Neighborhood Service	DTR - Downtown Retail	R - Retail	DTC - Downtown Commercial	C - Commercial	CC - Commercial Corridor	I - Industrial	

Airport/Heliport																	S
Assisted Care or Living Facility						●	●	S		S		S		S	●	●	
Athletic Stadium or Field, Private	8	8	8	8	8	8	8	S		S		S		S	S	●	
Athletic Stadium or Field, Public	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Cemetery or Mausoleum	S	S		S	S	S	S	S		S		S		S	S		
Civic/Convention Center								●	●	●	●	●	●	●	●	●	
College, University, Trade, or Private Boarding School								●	●		●	●	●	●	●	●	
Community Center						●	●	●	●	●	●	●	●	●	●	●	
Farm, Ranch, Stable, Garden, or Orchard	●	●		●	●	●	●	●		●		●		●	●	●	
Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority								●	●	●	●	●	●	●	●		
Helistop								S							S	S	
Hospital								●	●	●	●	●	●	●	●		
Household Care Facility		●	●	●	●	●	●										
House of Worship	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Municipal Uses Operated by the Town of Prosper	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Museum/Art Gallery								●	●	●	●	●	●	●	●	●	
Open Storage												●	●	●	●	●	
Park or Playground	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Private Recreation Center	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Rehabilitation Care Facility	9	9	9	9	9	9	9										
Rehabilitation Care Institution								S		S		S	S	S	S	S	
School, Public	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		
School, Private or Parochial	S	S	S	S	S	S	S	●	●	●	●	●	●	●	●		







SECTION 1.3(G) SERVICE USES	Residential Districts							Non-Residential Districts							
	A - Agricultural	SF – Single Family (E – 10)	DTSF – Downtown SF	TH - Townhome	2F – Two Family	MF – Multifamily	MH – Mobile Home	O – Office	DTO – Downtown Office	NS – Neighborhood Service	DTR – Downtown Retail	R – Retail	DTC – Downtown Commercial	C – Commercial	CC – Commercial Corridor

Alcoholic Beverage Establishment												30		30	30	
Artisan's Workshop										•	•	•	•	•		
Bank, Savings and Loan, or Credit Union								•	•	•	•	•	•	•	•	•
Beauty Salon/Barber Shop								•	•	•	•	•	•	•	•	
Bed and Breakfast Inn	S	S	S					S	S	S	•	•	•	•		
Body Art Studio																19
Business Service								•	•		•	•	•	•	•	•
Cabinet/Upholstery Shop													•	•	•	•
Campground or Recreational Vehicle Park	S						S									
Commercial Amusement, Indoor								•	•		•	•	•	•	•	•
Commercial Amusement, Outdoor												S	S	S	S	S
Contractor's Shop and/or Storage Yard														•		•
Dance Hall													S	S	S	
Day Care Center, Adult	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Day Care Center, Child	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	
Day Care Center, In-Home	21	21	21													
Day Care Center, Incidental								S	S		S		S	S	S	
Dry Cleaning, Major														•		•
Dry Cleaning, Minor								•	•	•	•	•	•	•	•	•
Fairgrounds/Exhibition Area														S	S	S
Fortune Teller/Psychic																•
Furniture Restoration													S	•		•
Golf Course and/or Country Club	•	•		•	•	•	•	•	•	•		•		•	•	•
Gunsmith												•	•	•	•	•
Gymnastics/Dance Studio									•	•	•	•	•	•	•	
Health/Fitness Center								•	•	S	•	•	•	•	•	•
Hotel													22	22	22	
Household Appliance Service and Repair											•	•	•	•	•	•
Indoor Gun Range														S	S	•
Laundromat										•		•	•	•	•	
Locksmith/Security System Company											•	•	•	•	•	•









1.4 **CONDITIONAL DEVELOPMENT STANDARDS:**

**1. Private Street Development:**

Private Street Developments are subject to provisions of the Thoroughfare and Circulation Design Requirements ordinance, as it exists or may be amended. Private Street Developments are permitted by Specific Use Permit in the referenced districts. Private Street Developments that exist as of the adoption of this Ordinance, May 10, 2005, and properties that are zoned by a planned development that permits Private Street Developments are excluded from the requirement for a Specific Use Permit. In considering a request for a Specific Use Permit for a Private Street Development, the Town Council shall use any of the following criteria:

New Development

- a) Non-disruption of planned public roadways or facilities/projects (thoroughfares, parks, park trails, public pedestrian pathways, etc.);
- b) Non-disruption to and from properties of future developments either on-site or off-site to the proposed subdivision;
- c) No negative effect on traffic circulation on public streets;
- d) No impairment of access to and from public facilities including schools or parks;
- e) Adequate and timely provision of essential municipal services (emergency services, water/sewer improvements or maintenance, etc.);
- f) Existence of natural and/or man-made boundaries around the development (creeks, floodplain, golf courses, parks); and/or
- g) Absence of a concentration of Private Street Developments in the vicinity of the requested Private Street Development.
- h) And any other criteria deemed appropriate by the Town Council

Conversion of existing subdivision to private streets

- Criteria would include all the issues and procedures involved with new developments;
- Petition signed by one hundred (100) percent of the owners in the existing subdivision requesting approval to convert to private streets;
- Formation of a property owners' association, if none exists, that would be responsible for owning and maintaining the converted streets and right-of-ways;
- Replatting of existing subdivision to reflect changes; and/or
- Applicant agreeing to contract with the Town for purchase of the converted infrastructure and rights-of-way from the Town.

**2. Single Family Dwelling, Detached:**

Single family dwellings, detached may be developed in the referenced districts using the minimum development standards for the SF residential districts. The district standards selected shall be indicated on the preliminary and final plats for the property to be developed as single family dwellings, detached.

**3. Gas Pumps:**

Gas pumps shall be subject to the following development standards:

- Gas Pumps are permitted only within two hundred (200) feet of the right-of-way lines of intersecting major thoroughfares;
- Gas Pumps are permitted at a maximum of two (2) corners at an intersection of two (2) major thoroughfares;
- Canopies shall have pitched roofs;
- Canopy support columns shall be entirely masonry encased;
- A raised landscape planter of the same material as the masonry columns shall be provided at both ends of all pump islands. Raised landscape planters shall be between eighteen (18) and twenty-four (24) inches tall and a minimum of four (4) feet wide and four (4) feet long;
  - Raised planters shall be landscaped with a combination of shrubs and ground cover as approved by the Director of Planning, or his/her Designee.
- Landscape island(s) totaling a length equal to fifty (50) percent of the canopy perimeter and a minimum of six (6) feet wide shall be provided for screening and traffic flow purposes;
  - a) These areas shall have a minimum of one (1) ornamental tree per twelve (12) linear feet or portion thereof and one (1) five (5) gallon shrub per one (1) linear foot arranged as approved by the Director of Planning, or his/her Designee.
- Use shall be removed if closed for more than six (6) months; and
- The canopy band face shall be of a color consistent with the main structure or an accent color and may not be backlit.

**4. Homebuilder Marketing Center:**

Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district. The use must be removed when all homes/lots in the development have been sold.

**5. Home Occupation:**

A home occupation is a business that is customarily carried on in a home by the resident and shall adhere to all of the following conditions and requirements:

- a) No signage associated with the home occupation and visible from outside of the dwelling shall be allowed on the premises.
- b) Only two (2) employees other than the occupants of the residence may be employed on-site at any one time. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.
- c) Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.
- d) Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.
- e) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation.
- f) The home occupation shall not produce offensive noises, vibrations, smoke, dust, odors, heat or glare beyond the property lines.
- g) A home occupation shall not serve as an office or storage facility for a vehicle fleet operation in which fleet vehicles visit the site.

- h) No major alterations to the property or exterior of the dwelling unit shall be allowed that changes the residential character of the home.
- i) No repair or servicing of vehicles, internal combustion engines, large equipment or large appliances shall be allowed.
- j) No storage of hazardous materials for business purposes shall be allowed on the premises.
- k) Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises.
- l) No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.

Homeowners/occupants who establish an occupation in their residence must adhere to all of the above conditions.

#### **6. Mobile Food Vendor:**

Mobile food vendors are subject to the following regulations:

- a) Mobile food vendors are permitted in Retail, Downtown Retail, Downtown Commercial, and Commercial zoning districts;
- b) Mobile food vendors shall be located on private property where an existing, permanent business operates in a building with a Certificate of Occupancy;
- c) Mobile food vendors shall provide the Town with a copy of written permission from the property owner on an annual basis to allow the operation of a mobile vendor and to allow the mobile vendor and their customers access to a commercially plumbed public restroom on-site;
- d) A mobile food vendor shall submit a site plan depicting the location of the mobile food vendor on the property, shall secure a health permit from the Town, and a permit from Building Inspections prior to the operation of such use;
- e) Temporary connections to potable water are prohibited. Water shall be from an internal tank, and electricity shall be from a generator or an electrical outlet via a portable cord that is in conformance with the Electrical Code as adopted by the Town, including amendments thereto;
- f) Mobile food vendors shall be located within fifty (50) feet of an entrance of a primary building that holds the Certificate of Occupancy;
- g) Mobile food vendors shall be setback a minimum of one hundred (100) feet from major thoroughfares, as designated on the Town's Thoroughfare Plan, as it exists or may be amended;
- h) Mobile food vendors may operate only during the business hours of the primary business on the property;
- i) The operator shall possess a Town tax certificate showed as paid;
- j) A drive through is not permitted in conjunction with the mobile food vendor;
- k) Mobile food vendors shall not operate in required parking spaces, driveways, fire lanes or public roads;
- l) Sales of food from a stationary vehicle excludes catering trucks; and

- m) Mobile food vendors are prohibited in a temporary building.
- 7. Temporary Building:**
- A. Temporary buildings are permitted by right for houses of worship, public schools (kindergarten through twelfth grade only), and government agencies (See Chapter 3, Section 2.2), subject to the conditions below. Temporary buildings are permitted by Specific Use Permit for private enterprises subject to the conditions below.
- B. A permit to erect a temporary building may be issued for an initial period of three (3) years provided the applicant submits:
- 1) an application with documented evidence of an immediate need for space to the Building Official, who shall evaluate each application for a temporary building based on the following criteria:
    - a) capacity of the existing permanent building(s), which is located or planned to be located on the same property for which the temporary building permit is being sought, compared to the enrollment, employment, and/or number of people attending the existing permanent building(s) at one time;
    - b) total enrollment, employment, and/or membership size;
    - c) documentation of growth records depicting the number of people in the congregation, school and/or office;
    - d) whether the facility is a start-up or new facility;
    - e) indication of alternative options that were explored before a temporary building application was considered;
    - f) acts of nature; and/or
    - g) any other evidence which is reasonably related to the immediate need for additional space;
  - 2) a preliminary site plan to the Planning Department, providing for a permanent solution to the immediate need for a new temporary building(s) showing the permanent building(s), the temporary building(s), and the required parking, which is subject to the review and approval of the Planning & Zoning Commission; and
  - 3) a site plan for the temporary building(s) to the Planning Department, which is subject to the review and approval of the Planning & Zoning Commission
- C. The temporary building(s) shall be removed within thirty (30) days of the date:
- 1) a Certificate of Occupancy is issued for the permanent building; or
  - 2) the permit for the temporary building expires, whichever occurs first.
- D. A request for a one (1) year extension of the temporary building permit may be granted by the Planning & Zoning Commission provided the applicant:
- 1) has an approved and valid preliminary site plan for the permanent building(s) and an approved and valid site plan for the temporary building(s);
  - 2) has a specific plan of how an additional year would allow the applicant to construct the permanent building(s) by providing:
    - a) evidence of numeric growth, beyond that which was specifically anticipated by the applicant;

- b) membership, enrollment, and/or employment growth records;
  - c) evidence that alternative options were explored before an extension of the temporary building permit was requested; and
  - d) any other criteria reasonably deemed appropriate by the Planning & Zoning Commission.
- E. The applicant may challenge a decision of the Building Official or Planning & Zoning Commission, by appealing, in writing, to the Town Council within fourteen (14) days of a decision of the Building Official or the Planning & Zoning Commission. The Town Council's decision is final.
- F. Three (3) or more members of the Town Council may appeal the decision of the Planning & Zoning Commission by submitting a written notice of appeal to the Planning & Development Department. The Town Council shall consider and act on whether it will appeal the Commission's decision no later than fourteen (14) days from the date of such decision or at its first regular meeting (for which there is time to post an agenda as required by law) that occurs after the Commission meeting at which the decision was made, whichever is later. Written notice of the Town Council's vote to appeal shall be submitted to the Planning Department within seven (7) days of the Town Council's vote. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) days after the date on which the notice of appeal is submitted to the Planning Department. The Town Council may affirm, modify, or reverse the decision of the Planning & Zoning Commission.

**8. Athletic Stadium or Field, Private**

Permitted by Specific Use Permit when developed in conjunction with a School, Private or Parochial.

**9. Rehabilitation Care Facility:**

Shall maintain a minimum separation of fifteen hundred (1,500) feet measured linearly from property line to property line from any other Rehabilitation Care Facility.

**10. Antenna, Non-Commercial (Z10-0014):**

a) Satellite Dishes and Wireless Broadband Antennas

1. In the A, SF, DTSF, 2F, and MH districts, satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two (2) feet in diameter. Only three (3) satellite dishes and/or wireless broadband antennas shall be permitted per lot or primary structure. One (1) of the three (3) satellite dishes and/or wireless broadband antennas on a residential structure and/or lot may be up to twelve (12) feet in diameter. The other two (2) satellite dishes and/or wireless broadband antennas shall not exceed two (2) feet in diameter.
  2. In the TH and MF districts, satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two (2) feet in diameter. Only three (3) satellite dishes and/or wireless broadband antennas shall be permitted per residential unit. One (1) of the three (3) satellite dishes and/or wireless broadband antennas on a residential unit may be up to twelve (12) feet in diameter. The other two (2) satellite dishes and/or wireless broadband antennas shall not exceed two (2) feet in diameter.
- b) Non-commercial antennas shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC).

In no case shall the height of such antennas exceed forty-five (45) feet, unless located on property owned or leased by the Town of Prosper, and proper guy wire securement shall be followed. In no manner shall the use of such equipment infringe upon adjoining property owners. Roof mounted satellite dishes in excess of fifty (50) pounds shall be approved by a registered architect or professional engineer by written letter to the building official, prior to installation, stating the antenna's stability and support and shall not extend more than six (6) feet above the first story.

**11. Antenna, Commercial:**

Permitted by Specific Use Permit in the referenced districts subject to the following standards:

- a) No commercial antenna shall be located within a distance equal to or less than the height of such tower from any residential structure or from any area zoned residential, or shown as residential on the current Future Land Use Plan. Such distance shall be measured in a straight line from the closest point of the tower to the closest point of such area or residential structure. This requirement does not apply to a stealth antenna.
- b) Additional antennas may be placed on a commercial antenna tower with an existing Specific Use Permit without approval of a separate Specific Use Permit subject to approval of a final plat and site plan (as necessary) for the property.
- c) Satellite dishes, antennas and cellular equipment shall be screened from rights-of-way and adjacent properties.

**12. Antenna, Stealth:**

Stealth antennas are permitted by right in the residential districts only as a secondary use when the primary use on the lot is a church, school, athletic stadium or field, or public utility structure. Stealth antennas are permitted by right in the non-residential districts. The Director of Planning, or his /her designee, may approve a request to install a stealth antenna when the proposed stealth antenna is of a type that is specifically listed in the definition of Antenna, Stealth in Chapter 2, Section 1.2. For stealth antenna requests of a type that are not specifically listed in this definition, the Town Council may determine if a proposed commercial antenna is a stealth antenna or not when considering site plan approval for the proposal.

**13. Bus Terminal:**

Permitted by right in the CC district. Permitted by Specific Use Permit in the C and I districts. Bus parking and storage areas will be screened with a six (6) foot ornamental metal fence, three (3) inch caliper evergreen trees on twenty (20) foot centers, and five (5) gallon evergreen shrubs on three (3) foot centers located within a fifteen (15) foot landscape edge.

**14. School District Bus Yard:**

A School District Bus Yard shall be owned and/or operated by a public Independent School District. Unless otherwise approved by the Planning & Zoning Commission, School District Bus Yards shall be screened using one of the following methods:

Option 1

- a) A six (6) foot ornamental metal fence,
- b) Three (3) inch caliper evergreen trees on twenty (20) foot centers, and
- c) Five (5) gallon evergreen shrubs on three (3) foot centers.

Option 2

- d) A six (6) foot clay-fired brick wall, and
- e) Three (3) inch caliper evergreen trees on twenty (20) foot centers.

**15. Research and Development Center:**

Any Research and Development Center that includes animal or biological testing will be permitted by Specific Use Permit in the designated districts; otherwise they are permitted by right.

**16. Alcoholic Beverage Sales (Z13-0010):**

*(Ordinance 13-48; 9/10/13)*

Alcoholic Beverage Sales, as defined by the Prosper Zoning Ordinance, as amended, shall mean any establishment, place of business or person engaged in the selling of Alcoholic Beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise personal or household consumption.

- a) Alcoholic Beverage Sales shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- b) Alcoholic Beverage Sales are permitted only in the NS, DTR, R, DTC, C, CC and I zoning districts.
- c) Beer sales are not permitted in residential zoning districts.
- d) Pursuant to the Town Charter, the sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the Town.
- e) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.
- f) Alcoholic Beverage Sales shall not be located within the following:
  1. Three hundred (300) feet from a church, public school, private school, and/or public hospital. However, Alcoholic Beverage Sales may be located within three hundred (300) feet of a private school if minors are prohibited from entering the place of business, as required by Section 109.53, Texas Alcoholic Beverage Code, as amended; or
  2. One thousand (1,000) feet from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution. But, the Town Council may not adopt this additional spacing requirement if: (i) minors are prohibited from entering the place of business engaged in Alcoholic Beverage Sales, pursuant to Section 109.53, Texas Alcoholic Beverage Code, as amended; (ii) the holder of a retail off-premise consumption permit or license if less than fifty percent (50%) of the gross receipt for the premises, excluding the sale of items subject to the motor fuels are from the sale or service of alcoholic beverages; or (iii) the holder of a license or permit issued under Chapter 27, 31 or 72, Texas Alcoholic Beverage Code, as amended, who is operating on the premises of a private school.
- g) Measurement of the distance between the place of business engaged in Alcoholic Beverage Sales and the church or public hospital shall be along the property line of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the place of business engaged in Alcoholic Beverage Sales and a public or private school shall be:
  1. In a direct line from the Property Line of the public or private school to the Property Line of the place of business, and in a direct line across intersections; or
  2. If Alcoholic Beverage Sales are located on or above the fifth (5<sup>th</sup>) story of a multistory building, in a direct line from the Property Line of the public or private school to the Property Line of the place of business, in a direct line across intersections, and vertically up the building at the Property Line to the base floor on which Alcoholic Beverage Sales are located.
- h) In accordance with Section 109.33, Texas Alcoholic Beverage Code, as amended, in this Paragraph 16, "private school" means a private school, including a parochial school, that:
  1. Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; or

2. Has more than one hundred (100) students enrolled and attending courses at a single location.
- i) If at any time an original Alcoholic Beverage permit or license is granted by the Texas Alcoholic Beverage Commission to an establishment, place of business, or person and the establishment, place of business or person satisfies the requirements regarding the distance requirements in this Paragraph 16, then the same shall be deemed to satisfy the distance requirements for all subject renewals of the license or permit. This shall not be the case if the Texas Alcoholic Beverage Commission revokes the license or permit.
- j) There shall be no variances considered with regard to the regulations set forth herein.

**17. Convenience Store With Gas Pumps:**

Convenience Stores with Gas Pumps shall be subject to the following development standards:

- a) Permitted in the designated districts only within two hundred (200) feet of the right-of-way lines of intersecting major thoroughfares;
- b) Gas Pumps are permitted at a maximum of two (2) corners at an intersection of two (2) major thoroughfares;
- c) Canopies shall have pitched roofs;
- d) Canopy support columns shall be entirely masonry encased;
- e) The canopy band face shall be a color consistent with the main structure or an accent color and may not be backlit; and
- f) Use shall be removed if closed for more than six (6) months.

**18. Nursery, Major:**

Permitted by Specific Use Permit in an Agricultural zoning district if designated as non-residential on the Future Land Use Plan.

**19. Body Art Studio:**

Must be set back one thousand (1,000) feet from any other Body Art Studio, Residential Zoning District, church, Public, Private, or Parochial School, and day care.

**20. Day Care Center, Child:**

Notwithstanding anything to the contrary herein, a public independent school district is not required to obtain a SUP for the operation of a Day Care Center, Child in a public school. A Day Care Center, Child not operated by a public independent school district is permitted by SUP in all districts except Industrial.

**21. Day Care Center, In-Home:**

Permitted by right as a home occupation in the designated zoning districts and is subject to the regulations of Home Occupation.

**22. Hotel:**

Hotel developments shall be subject to the following development standards:

- a) External balconies and walkways shall be set back two hundred (200) feet from any residential zoning district.
- b) Shall provide staff on-site twenty four (24) hours a day.
- c) Shall provide at least four (4) amenities from the list below:

- Indoor/Outdoor Pool
  - Spa/Sauna
  - Weight Room/Fitness Center
  - Playground
  - Sports Court
  - Plaza/Atrium
  - Game Room
  - Jogging Trail
  - a) Conference Room (one thousand (1,000) square foot minimum)
  - a) Full Service Restaurant (minimum seating capacity of Thirty five (35))
- d) All room units must be accessed through an internal hallway, lobby, or courtyard.
- e) Permitted by Specific Use Permit in a Downtown Commercial District.

**23. Motel:**

Motel developments shall be subject to the following development standards:

- External balconies and walkways shall be set back two hundred (200) feet from any residential zoning district.
- Shall provide staff on-site twenty four (24) hours a day.
- Shall provide at least four (4) amenities from the list below:
  - Indoor/Outdoor Pool
  - Spa/Sauna
  - Weight Room/Fitness Center
  - Playground
  - Sports Court
  - Plaza/Atrium
  - Game Room
  - Jogging Trail
  - b) Conference Room (one thousand (1,000) square foot minimum)
  - b) Full Service Restaurant (minimum seating capacity of Thirty five (35))
- Shall maintain a minimum separation of one thousand five hundred (1,500) feet measured linearly from property line to property line from any other Hotel, Motel, or Residence Hotel property.

**24. Pet Day Care:**

Permitted by right subject to the following standards:

- Hours of operation limited to 6:00 a.m. to 8:00 p.m.
- A Pet Day Care must be located a minimum of one hundred (100) feet from restaurants and food preparation establishments (property line to property line).
- Overnight boarding of animals and outdoor kennels are prohibited.
- Provisions must be made for the sanitary disposal of all animal waste in accordance with the Animal Control Ordinance and Building Codes, as they exist or may be amended.

**25. Residence Hotel:**

Residence Hotel developments shall be subject to the following development standards:

- a) Not more than twenty three (23) room units per acre.

- b) External balconies and walkways shall be set back two hundred (200) feet from any residential zoning district.
- c) Shall maintain laundry facilities on-site for guest use.
- d) Shall provide staff on-site twenty four (24) hours a day.
- e) Shall provide at least five ( 5) amenities from the list below:
  - Indoor/Outdoor Pool
  - Spa/Sauna
  - Weight Room/Fitness Center
  - Playground
  - Sports Court
  - Plaza/Atrium
  - Game Room
  - Jogging Trail
- c) Conference Room (one thousand (1,000) square foot minimum)
- c) Full Service Restaurant (minimum seating capacity of Thirty five (35))
- f) Shall be set back a minimum of one hundred (100) feet from any residential district.
- g) Shall maintain fifteen (15) percent of the lot area as open space, exclusive of required setbacks and parking areas, but including amenities from the above list except for Conference Room and Full Service Restaurant.
- h) Shall maintain a minimum separation of fifteen hundred (1,500) feet measured linearly from property line to property line from any other Hotel, Motel, or Residence Hotel property.
- i) A minimum of fifty (50) percent of the room units shall contain kitchen facilities.
- j) Shall be permitted only with frontage along U.S. 380, Preston Road, or the Dallas Parkway.

**26. Restaurant or Cafeteria (Z13-0010):**

*(Ordinance 13-48; 9/10/13)*

- a) A Restaurant or Cafeteria is permitted by specific use permit in the NS zoning district and is permitted by right in the O, DTO, DTR, R, DTC, C, and CC zoning districts subject.
- b) Restaurants with drive-through are only permitted in the R, C, and CC zoning districts.
- c) Restaurants or Cafeterias that sell Alcoholic Beverages for on-premise consumption shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- d) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.
- e) A Restaurant or Cafeteria that sells Alcoholic Beverages for on-premise consumption shall not be located within the following:
  - 1. Three hundred (300) feet from a church, public hospital, public school and/or private school. However, Alcoholic Beverage Sales may be located within three hundred (300) feet of a private school if the holder of a license or permit holds a food and beverage certificate covering a premise that is located within three hundred (300) feet of a private school; or

2. One thousand (1000) feet from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts such additional spacing requirements by resolution. Measurement for the distance between a Restaurant or Cafeteria where Alcoholic Beverages for on-premise consumption are sold and a church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections.
- f) Measurement for the distance between a Restaurant or Cafeteria where Alcoholic Beverages for on-premise consumption are sold and a public and/or private school shall be:
1. In a direct line from the Property Line of the public and/or private school to the Property Line of the place of business, and in a direct line across intersections; or
  2. If the Restaurant or Cafeteria that sells Alcoholic Beverages for on-premise consumption is located on or above the fifth (5<sup>th</sup>) story of a multistory building, in a direct line from the Property Line of the public and/or private school to the Property Line of the place of business, in a direct line across intersections, and vertically up the building at the Property Line to the base of the floor on which the Restaurant or Cafeteria is located.
- g) If a Restaurant or Cafeteria receives seventy-five percent (75%) or more of its gross revenue on a quarterly basis from the sale or service of Alcoholic Beverages for on-premise consumption, the use will no longer qualify as a Restaurant or Cafeteria and will be classified and regulated by the Town as an Alcoholic Beverage Establishment under the Prosper Zoning Ordinance.
- h) There shall be no variances considered with regard to the regulations set forth herein.

**27. Car Wash:**

Permitted as an accessory use to Convenience Store with Gas Pumps.

**28. Winery:**

A winery is permitted by right in the Agricultural District only when located on the same lot as a vineyard. The vineyard shall occupy a minimum of eighty (80) percent of the lot, and the winery may not exceed twenty (20) percent of the lot.

**29. Private Club (Z13-0010)**

*(Ordinance 13-48: 9/10/13)*

- a) Private Clubs shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- b) A Private Club is permitted only by specific use permit in R, C and CC zoning districts. A Private Club is also permitted by specific use permit as an accessory use in any zoning district only when in conjunction with the operation of a golf course.
- c) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.
- d) A Private Club shall not be located within:
  1. Eight hundred (800) feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but are not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts;

2. One Thousand (1000) feet from a public school if the Town Council receives a request for this additional spacing requirement from the school district, and the Town Council adopts such additional spacing requirements by resolution; or
  3. One Thousand (1000) feet from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution.
- e) Measurement for the distance between a Private Club and the uses listed above or the nearest residential zoning district shall be in a direct line from the Property Line of the applicable use listed above or the nearest residential zoning district to the Property Line of the Private Club, and in a direct line across intersections.
- f) There shall be no variances considered with regard to the regulations set forth herein.

### **30. Alcoholic Beverage Establishment (Z13-0010)**

*(Ordinance 13-48; 9/10/13)*

- a) Alcoholic Beverage Establishments shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- b) An Alcoholic Beverage Establishment is permitted only by specific use permit in R, C and CC zoning districts.
- c) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.
- d) An Alcoholic Beverage Establishment shall not be located within:
  1. Eight Hundred (800) feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but is not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts;
  2. One Thousand (1000) feet from a public school if the Town Council receives a request for this additional spacing requirement from the school district, and the Town Council adopts such additional spacing requirements by resolution; or
  3. One Thousand (1000) feet from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution.
- e) Measurement for the distance between an Alcoholic Beverage Establishment and the uses listed above or the nearest residential zoning district shall be in a direct line from the Property Line of the applicable use listed above or the nearest residential zoning district to the Property Line of the Alcoholic Beverage Establishment, and in a direct line across intersections.
- f) There shall be no variances considered with regard to the regulations set forth herein.

SECTION 2  
DEFINITIONS

- 2.1 For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not discretionary.
- 2.2 **Abutting, Adjacent, or Adjoining** - Contiguous or sharing a common border or boundary with other property. Abutting, adjacent and adjoining shall include property immediately across an alley, but shall not include property across a street.

**Accessory Building** - A building that is subordinate to and functionally related to the primary building, which contributes to the comfort, convenience, or necessity of occupants of the primary building on the same platted lot. Accessory buildings shall be detached from the primary building.

**Administrative, Medical, or Professional Office** - A building used for the provision of executive, management, or administrative services. Typical uses include, but are not limited to, administrative offices and services including real estate, property management, investment, medical, architect, engineer, travel, secretarial services, accounting organizations and associations, and vehicle rental office without on-site storage of fleet vehicles.

**Advertising Sign Or Structure** - Any cloth, card, paper, metal, glass, wooden, plastic, plaster or stone sign or other sign, device or structure of any character whatsoever, including a statuary or place for outdoor advertising purposes on the ground or any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, mailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure shall be determined as the area of the largest cross-section of such structure. Directional, warning, or any other signs posted by public officials in the course of their public duties shall not be construed as advertising signs for the purpose of this Ordinance.

**Airport/Heliport** - A place where aircraft and/or helicopters can land and take off, usually equipped with hangars, facilities for refueling/repair and various accommodations for passengers.

**Alcoholic Beverage** - Means alcohol, or any beverage containing more than one-half (1/2) of one percent (1%) of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted, as defined by the Texas Alcoholic Beverage code, as amended. (*Ordinance 13-48; 9/10/13*).

**Alcoholic Beverage Establishment** - Any establishment that derives seventy-five percent (75%) or more of its gross revenues on a quarterly basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, as amended, for on-premise consumption. (*Ordinance 13-48; 9/10/13*).

**Alcoholic Beverage Sales** - Any establishment, place of business, or person engaged in the selling of Alcoholic Beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise personal or household consumption. (*Ordinance 13-48; 9/10/13*).

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

**Antenna** - An instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

**Antenna, Commercial** - An antenna and its support structure used for commercial broadcasting or telecommunication purposes. This definition shall also include a satellite dish exceeding twelve (12) feet in diameter and a microwave-transmitting tower. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and

Safety Administration (OSHA), and all other applicable State and Federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended.

**Antenna, Non-Commercial (Z10-0014)** - An antenna and its support structure not exceeding forty-five (45) feet in height above the ground elevation at the base of the support structure, unless located on property owned or leased by the Town of Prosper, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum. This definition shall also include a satellite dish antenna not to exceed twelve (12) feet in diameter.

**Antenna, Stealth** - A commercial antenna and its support structure that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth Antennas include, but are not limited to:

- Antennas within a building's attic space;
- Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located;
- Antennas on a public utility structure, such as a water tower or high transmission line support tower, and painted to match the structure; or
- Antennas located within a structure such as a flagpole, church steeple, subdivision monument, clock tower, or similar architectural feature, and Antennas located on an athletic field light pole.

**Antenna Support Structure** - Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals.

**Antique Shop and Used Furniture** - A retail establishment engaged in the selling of works of art, furniture, or other artifacts of an earlier period, with all sales and storage occurring inside a building.

**Apartment** - A room or suite of rooms in a Multiple-Family Residence arranged, designed, or occupied as a place of residence by a single family, individual, or group of individuals.

**Artisan's Workshop** - An establishment used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather-craft, hand-woven articles, and related items.

**Assisted Care or Living Facility** - A facility which provides residence and care to ten or more persons regardless of legal relationship who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; terminally ill; or temporarily homeless due to fire, natural disaster, or financial setback together with supervisory personnel. This definition shall also include a facility providing health care or rehabilitative services over a long period of time to persons chronically ill, aged, or disabled due to injury or disease.

**Athletic Stadium or Field, Private** - A private field(s) and structure used for sporting events with associated spectator seating, either permanent or temporary.

**Athletic Stadium or Field, Public** - A field(s) and structure owned and operated by the Town of Prosper and/or a local independent school district used for sporting events with associated spectator seating, either permanent or temporary.

**Automobile** - A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including, but not limited to, passenger cars, trucks, buses, motor scooters, and motorcycles.

**Automobile Parking Lot/Garage** - An area or structure where the parking of motor vehicles serves as the primary use on the lot. This use does not include the storage of gasoline.

**Automobile Paid Parking Lot/Garage** - An area or structure where a fee is charged for parking motor vehicles and which serves as the primary use on the lot. This use does not include the storage of gasoline.

**Automobile Repair, Major** - General repair or reconditioning of engines, air-conditioning systems, and transmissions for motor vehicles; wrecker or towing service with on-site storage of vehicles; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; tire retreading; insurance estimations with on site storage; undercoating and rust proofing, and other similar uses.

**Automobile Repair, Minor** - An establishment used for the dispensing or sales of automobile fuels, lubricants, and automobile accessories; the minor repair or replacement of parts and performing state inspections and making minor repairs necessary to pass said inspection; automobile detailing; and the sales and installation of automobile radios. Uses listed under "Automobile Repair, Major" or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain parked outside for a period greater than seven (7) days.

**Automobile Sales/leasing, New** - Sales, rental, and/or leasing of new automobiles or light load vehicles, including, as accessory uses: Automobile Sales, Used; Automobile Repair, Major; and Automobile Storage.

**Automobile Sales, Used** - Sales of used automobiles or light load vehicles.

**Automobile Storage** - The storage on a lot or tract of operable automobiles for the purpose of holding such vehicles for sale, lease, distribution, or storage.

**Auto Parts Sales, Inside** - The use of any building for the display and sale of new or used parts, including tires, for automobiles, panel trucks or vans, trailers, or recreation vehicles.

**Auto Parts Sales, Outside** - The use of any land area for the display and sale of new or used parts, including tires, for automobiles, panel trucks or vans, trailers, or recreation vehicles.

**Bank, Savings and Loan, or Credit Union** - An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds, including automated teller machines.

**Basement (or Cellar)** - A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

**Beauty Salon/Barber Shop** - Establishments primarily engaged in providing services generally involved in the care of the person or his apparel including, but not limited to, barber and beauty shops, tanning salons, ear piercing shops, cosmetic tattooing shops, and reducing salons.

**Bed and Breakfast Inn** - An owner (or operator) occupied residence with up to five (5) bedrooms available for overnight guests. A Bed and Breakfast Inn may provide for guest stays up to fourteen (14) consecutive days; however, it shall not offer weekly rental rates. Kitchen and dining facilities may be included to provide meals for guests only; however, no food preparation shall be permitted in guest bedrooms. A Bed and Breakfast Inn shall not include restaurants, banquet facilities, or similar services.

**Big Box** - Retail buildings over eighty thousand (80,000) square feet where the primary tenant occupies at least eighty (80) percent of the building.

**Block** - An area enclosed by streets, or if said word is used as a term of measurement, it shall mean the distance along a side of a street between two intersecting streets; or if the street is of a dead-end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead-end street. In cases where platting is incomplete or disconnected, the Building Official shall determine the outline of the block.

**Board of Adjustment** - A five (5) member board with two (2) alternates appointed by the Town Council for the purpose of making special exceptions to the terms of the Town of Prosper Zoning Ordinance. See Chapter 1, Section 8.6 of this Ordinance for the specific duties and regulations of the Board of Adjustment.

In the event that a Board of Adjustment is not appointed, the Town Council shall perform the duties and responsibilities assigned to the Board of Adjustment by this Ordinance.

**Body Art Studio** - An establishment whose services include tattooing and/or body piercing. Tattooing shall mean the placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. Body piercing shall mean the creation of an opening in an individual's body to insert jewelry or another decoration.

**Bottling Works** - A manufacturing facility designed to place a beverage into a bottle or can for distribution.

**Breezeway** - A covered passage one (1) story in height and six (6) feet or more in width connecting a main structure and an accessory building. A breezeway shall be considered an accessory building.

**Buildable Area** - the allowable area available to construct a building or structure after complying with the Town's applicable set back and maximum lot coverage requirements.

**Building** - Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

**Building Height** - The vertical distance between the average of the highest and lowest points of grade of that portion of the lot covered by the building to the highest point of a structure.

**Building Line** - A line parallel, or approximately parallel, to any front lot line at a specific distance there from, marking the minimum distance from the front lot line that a building may be erected.

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

**Building Material and Hardware Sales, Major** - An establishment for the sale of materials customarily used in the construction of buildings and other structures, including outside storage or display of materials or merchandise.

**Building Material and Hardware Sales, Minor** - An establishment for the sale of materials customarily used in the construction of buildings and other structures, without any outside storage or display of materials or merchandise.

**Building Official** - The inspector or administrative official of the Town charged with responsibility for issuing permits and enforcing the Zoning Ordinance and Building Code.

**Building Permit** - An official document or certificate issued by the Town of Prosper authorizing erection, construction, renovation, maintenance, or any other specified activity on any building, structure or land, or on any installations or facilities therein. The term "building permit" shall include but not be limited to building permits, electrical permits, mechanical permits, and plumbing permits.

**Bus Terminal** - Any premises for the transient parking or storage of motor-driven buses and the loading and unloading of passengers.

**Business Service** - establishments primarily engaged in providing services not elsewhere classified, to business enterprises on a fee contract basis, including, but not limited to, advertising agencies, computer programming and software services, and office equipment sales, rental, leasing, or repair.

**Cabinet/Upholstery Shop** - An establishment for the production, display, and sale of cabinets, furniture, and soft coverings for furniture.

**Campground or Recreational Vehicle Park** - Any area that is designed for occupancy by transients using tents, mobile trailers, or recreational vehicles for temporary sleeping purposes.

**Candlepower** - The quantity of light required to illuminate a surface one (1) foot distance from a light source to the intensity of one (1) foot-candle.

**Caretaker's/Guard's Residence** - A residence located on a premises with a main non-residential use and occupied only by a caretaker or guard, and his/her family, employed on the premises.

**Carport** - A structure, either attached to or detached from another structure, open on a minimum of two sides designed or used to shelter not more than three vehicles and not to exceed twenty-four feet on its longest dimension. Also called "covered parking area."

**Car Wash** - A facility where a customer can have a motorcycle, automobile and light load vehicle washed in exchange for financial consideration.

**Car Wash, Self-Serve** - A facility, typically coin operated, used by the customer to wash motorcycles, automobiles and light load vehicles.

**Cemetery or Mausoleum** - Property used for the interring of the dead.

**Certificate of Occupancy** - An official certificate issued by the Town through the Building Official that indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

**Civic/Convention Center** - A building or complex of buildings used for cultural, recreational, athletic, convention or entertainment purposes.

**Clear-Cutting** - any indiscriminate cutting, plowing, or grubbing of Protected Tree(s) without regard to their type or size for the purpose of clearing an area of land of Trees.

**College, University, Trade, or Private Boarding School** - An institution established for educational purposes offering courses for study beyond the secondary education level, including trade schools and commercial schools offering training or instruction in a trade, art, or occupation. A Private Boarding School is an educational institution offering primary and secondary level courses. Dormitories for students and employees only are permitted in conjunction with these uses.

**Commercial Amusement, Indoor** - An enterprise providing for indoor recreational activities, services, amusements, and instruction for an admission fee. Uses may include, but are not limited to, bowling alleys, ice or roller skating rinks, bingo parlors, amusement arcades, and/or practice areas.

**Commercial Amusement, Outdoor** - An enterprise providing for outdoor recreational activities, services, amusements, and instruction for an admission fee, including, but not limited to, batting cages, miniature golf, go-kart tracks, and carnivals.

**Community Center** - A building or portion of a building owned and/or operated by a government entity or not-for-profit agency in which facilities are provided for civic, educational, political, or social purposes.

**Comprehensive Plan** - Graphic and textual form policies which govern the future development of the Town and which consists of various components governing specific geographic areas and functions and services of the Town.

**Concrete/Asphalt Batching Plant, Permanent** - A permanent manufacturing facility for the production of concrete or asphalt.

**Concrete/Asphalt Batching Plant, Temporary** - A temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

**Construction Yard and Field Office, Temporary** - A building, structure, or storage/assembly yard used in conjunction with a development project for housing temporary supervisory or administrative functions related to development, construction, or the sale of real estate properties within the development and subject to removal at completion of construction.

**Contractor's Shop and/or Storage Yard** - A building, part of a building, or land area for the construction or storage (inside or out) of materials, tools, products, and vehicle fleets.

**Convenience Store with Gas Pumps** - A retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption. This definition shall also include the dispensing or sales of motor vehicle fuels, lubricants, and accessories, but shall not include automobile repair or the sale of replacement parts.

**Convenience Store without Gas Pumps** - A retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption.

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

**Coverage** - The lot area covered by all buildings located thereon.

**Cutoff** - The point at which all light rays emitted by a lamp, light source or luminary are completely eliminated (cutoff) at a specific angle above the ground.

**Cutoff Angle** - The maximum angle formed by a line drawn in the direction of emitted light rays at the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted.

**Dance Hall** - An establishment open to the general public for entertainment, in particular, dancing.

**Day Care Center, Adult** - A facility that provides services under an Adult Day Care Program on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility. Adult Day Care Centers must be licensed by the Texas Department of Human Services.

**Day Care Center, Child** - A commercial institution or place designed for the care of four (4) or more children during the hours of 6:00 a.m. to 10:00 p.m. The term "day care center" shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to any school. This use is subject to registration/licensing with appropriate State agencies.

**Day Care Center, Incidental** - An accessory use designed only for the care of children belonging to employees of the primary use. The center shall be completely contained within the primary use and shall not constitute more than fifteen (15) percent of the main use. The operating hours of the center shall be the same as the primary use and shall not include overnight lodging, medical treatment, counseling, or rehabilitative services. This use is subject to registration/licensing with appropriate State agencies.

**Day Care Center, In-Home** - A home occupation that provides care for less than twenty four (24) hours a day to no more than six (6) children under the age of fourteen, plus no more than six (6) additional elementary school-age children (age five (5) to thirteen (13)). The total number of children, including the caretaker's own children, is no more than twelve (12) at any time. This use is subject to registration/licensing with appropriate State agencies.

**Development** - any manmade change to improved or unimproved real estate, including but not limited to, buildings and/or other structures, paving, drainage, utilities, storage, and agricultural activities.

**District** - Any section or sections of the Town for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

**Downtown Public Parking Lot(s)** - An area, other than street or public way, provided for self-parking by employees, visitors, and/or patrons of any state or local government, any public accommodations, retail or office establishments, or any other business open to the general public.

**Drip Line** - A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

**Dry Cleaning, Major** - An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

**Dry Cleaning, Minor** - A custom cleaning shop or pick-up station not exceeding six thousand (6,000) square feet of floor area, including, but not limited to, dry cleaning plants having no more than one thousand five hundred (1,500) square feet of floor area for dry cleaning equipment.

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

**Electrical Power Generating Plant** - All equipment, fixtures, and property operated or maintained in connection with the production of electricity and transmission of electricity produced.

**Equipment and Machinery Sales and Rental, Major** - A building or open area used for the display, sale, rental, or storage of heavy equipment and machinery.

**Equipment and Machinery Sales and Rental, Minor** - A building or structure used for the inside display, sale, rental, or storage of light machinery, including, but not limited to, bicycles, lawn mowers, tools, and other small machinery.

**Fairgrounds/Exhibition Area** - An area where outdoor fairs, circuses, or exhibitions are held.

**Family** - One or more persons related by blood, marriage, or adoption, or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit.

**Farmer's Market** - An area containing individual vendors who offer fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey for sale. The following products are not permitted for sale at a Farmer's Market: any type of meat, fish, poultry, eggs, refrigerated dairy products, or home packaged items.

**Farm, Ranch, Stable, Garden, or Orchard** - An area which is used for the cultivation of vegetables, fruits, and grain or for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

**Feed Store** - An establishment for the selling of corn, grain, and other foodstuffs for animals and livestock and including other implements and goods related to agricultural processes, but not including farm machinery.

**Fence** - Any construction or hedge of any material, the purpose of which is to provide protection from intrusion (either physical or visual) to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence. Restraining walls for the purpose of diverting water and retaining soil are not classified as a fence.

**Flea Market, Inside** - A building or structure wherein space is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

**Flea Market, Outside** - An outdoor site where space is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services

establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

**Flood or Spot Light** - Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

**Flood Plain** - any property within the limits as delineated by FEMA (Federal Emergency Management Agency) of the 100-year flood plain or as amended by an engineering flood study of the ultimate developed conditions prior to any reclamation.

**Floor Area** - The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

**Floor Area Ratio (FAR)** - The floor area of a main building or buildings on a lot, excluding structured parking garages, divided by the lot area.

**Foot-Candle** - A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle. When metric units are used, lux is the unit of light quantity. One (1) lux equals one (1) lumen per square meter of area. One (1) foot-candle equals 10.76 lux.

**Fortune Teller/Psychic** - A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall include, but is not limited to, uses where the fortune is told through astrology, augury, card or tea reading, cartomancy, clairvoyance, clairaudience, crystal gazing, divination, magic mediumship, necromancy, palmistry, psychometry, phrenology, prophecy, and spiritual reading. Fortune telling does not include forecasting based on historical trends or patterns or religious dogma.

**Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority** - An organized group having a restricted membership and specific purpose related to the welfare of the members including, but not limited to, Elks, Masons, Knights of Columbus, Rotary International, Shriners, or a labor union.

**Full Cutoff-Type of Luminaries or Horizontal Limited Luminaries** - Luminaries constructed or shielded to direct all light at a cutoff angle of less than ninety (90) degrees.

**Furniture, Home Furnishings and Appliance Store** - Retail establishments selling goods used for furnishing the home, including, but not limited to, furniture, floor coverings, draperies, domestic stoves, refrigerators, and other household electrical and gas appliances.

**Furniture Restoration** - A workshop that specializes in furniture refinishing, including the use of all materials, tools, and chemicals associated with the use.

**Garage Apartment** - An accessory dwelling unit for one (1) family erected in conjunction with a garage, but with a separate entrance than that of the primary dwelling unit on the lot, when the main structure is an owner occupied detached dwelling unit, and which is never rented or offered for rent.

**Garage, Private** - An enclosed (on at least three (3) sides) accessory building, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests. Also called "enclosed parking space."

**Gas Pumps** - Any facility, equipment, or fixture, including a canopy, used for retail dispensing of motor vehicle fuels.

**General Manufacturing/Industrial Use Complying with Performance Standards** - Manufacturing of finished products and component products or parts through the processing of materials or substances, including basic industrial processing. Such operations shall be determined by Health, Fire, and Building officials not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

**Glare** - Direct light emitted from a light source, which is sufficient to cause annoyance, discomfort, or temporary loss of visual performance and visibility.

**Golf Course and/or Country Club** - A land area and buildings used for golf, including fairways, greens, tee boxes, driving range, putting green, and associated maintenance and retail facilities. This definition shall also include clubhouses, dining rooms, swimming pools, tennis courts, and similar recreational or service uses available only to members and their guests.

**Governmental Office** - A building used for the provision of governmental executive, management, administrative, and/or postal services. Governmental offices include those facilities owned and/or operated by city, special district, county, state, and federal agencies.

**Green Belt** - An open space that may be of irregular form that may include trees typically found along a natural or manmade feature such as a creek, flood plain, escarpment, right-of-way, or park.

**Guest House** - An accessory dwelling unit, detached from the main building on the lot, used to house family and/or guests of the owner(s) of the main residential structure, and which is never rented or offered for rent.

**Gunsmith** - An establishment used for the sale, service, or exchange of firearms, ammunition, or other gun related equipment.

**Gymnastics/Dance Studio** - A building or portion of a building used as a place of work for a gymnast, dancer, or martial artist or for instructional classes in gymnastics, dance, or martial arts.

**Health/Fitness Center** - A public or private facility operated to promote physical health and fitness. Activities may include exercise, physical therapy, training, and education pertaining to health and fitness. Uses or combinations of uses or facilities would typically include, but are not limited to, game courts, weight lifting and exercise equipment, aerobics, swimming pools and spas, and running or jogging tracks.

**Heavy Load Vehicle** - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than eleven thousand (11,000) pounds, such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

**Height of luminary** - The height of a luminary shall be the vertical distance from the ground directly below the centerline of the luminary to the lowest direct light emitting part of the luminary.

**Helistop** - A place where helicopters can land and take off only and excluding refueling, maintenance, repairs, and storage of helicopters.

**Homebuilder Marketing Center** - A building or structure used for the marketing and sale of lots and/or homes.

**Home Occupation** - An occupation, which is secondary to the primary use of a dwelling as a residence, conducted on residential premises by the occupant of the residence. Home occupations shall be subject to the conditions set forth in Chapter 3, Section 1.4(5) of this Ordinance.

**Hospital** - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, helistops, outpatient facilities, or training facilities as licensed by the State of Texas.

**Hotel** - A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, maid service, and telephone are provided. Hotel room units are accessed through doorways into an internal hallway, courtyard, or lobby. Financial consideration for Hotel room units is generally calculated on a nightly basis.

**Household Appliance Service and Repair** - The maintenance and rehabilitation of appliances customarily used in the home, including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, and vacuum cleaners.

**Household Care Facility** - A dwelling unit which provides residence and care to not more than nine persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; terminally ill; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition is subject to Personal Care Facility Licensing Act (Texas Health and Safety Code, Section 247.001 et seq.) and Community Homes for Disabled Persons Location Act (Texas Human Resources Code, Section 123.001 et seq.) as they presently exist or may be amended in the future.

**Household Pet** - a domesticated animal kept for pleasure rather than utility, including, but not limited to, a dog, cat, or bird.

**House of Worship** - A building designed and used primarily for religious assembly and worship and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns, rabbis, or other religious personnel on the premises (tax exempt as defined by State law). This definition includes, but is not limited to, churches, temples, synagogues, and mosques. For the purposes of this Ordinance, bible study and other similar activities that occur in a person's primary residence shall not apply to this definition.

**Illumination Level** - Average lighting intensity measured at grade (in foot-candles).

**Incandescent Light** - Illumination produced by a filament, which is heated by an electric current, including quartz and halogen lights.

**Incidental Use** - Any use different from the primary use but which compliments and/or supplements the primary use, which shall not constitute more than fifteen (15) percent of the main use.

**Indoor Gun Range** - Any indoor facility open to the public and occupying all or a portion of a building where firearms are discharged for testing or recreation purposes.

**Industrial Park** - A large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

**Insurance Office** - A building or facility used for the sales, management, and administration of insurance services, including the estimation of automobile damages, but excluding on-site parking/storage of damaged vehicles.

**Lamp** - The component of a luminary that produces the actual light.

**Landfill** - A tract of land used for the burial of farm, residential, institutional, industrial, or commercial waste that is not hazardous, medical, or radioactive.

**Landscaping** - Material such as, but not limited to, grass, groundcovers, shrubs, vines, hedges, trees or palms, and non-living durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

**Laundromat** - A facility where patrons wash, dry, or dry-clean clothing and other fabrics in machines operated by the patron.

**Light Load Vehicles** - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) not greater than eleven thousand (11,000) pounds, and having no more than two (2) axles, such as pick-up trucks, vans, recreational vehicles (less than thirty-two (32) feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

**Light Pollution** - The shining of light produced by luminaries above the height of the luminaries and into the sky.

**Light Trespass** - The shining of light produced by luminaries beyond the boundaries of the property on which it is located.

**Limited Assembly and Manufacturing Use Complying with Performance Standards** - The fabrication, assembly, manufacturing, and packaging of finished products or parts, predominantly from previously prepared materials, but excluding basic industrial processing. Such operations shall be determined by Health, Fire, and Building officials not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

**Loading Space** - An off-street space or berth used for the delivery and loading or unloading of vehicles.

**Locksmith/Security System Company** - Establishments primarily engaged in providing, installing, repairing, and/or monitoring locks and electronic security systems.

**Lot** - Any plot of land occupied or intended to be occupied by one main building and the required parking, or a group of main buildings, and accessory building and uses, including such open spaces as are required by this Ordinance, and other laws or ordinances, and having its principal frontage on a public street or officially approved place.

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

**Lot, Corner** - A lot which has at least two adjacent sides abutting a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

**Lot, Depth** - The mean horizontal distance between the front and rear lot lines.

**Lot, Double Frontage** - A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

**Lot, Flag or Panhandle** - A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twenty-five (25) feet. The maximum distance of the area less than the required width from the front property line shall be one hundred ten (110) feet.

**Lot, Interior** - A lot other than a corner lot.

**Lot, Key** - A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

**Lot Frontage** - That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

**Lot Line, Front** - The narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines.

**Lot Line, Rear** - The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line.

**Lot Line, Side** - Any lot line not the front or rear lot line.

**Lot Lines or Property Lines** - The lines bounding a lot as defined herein.

**Lot of Record** - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Collin or Denton County or a lot subdivided by metes and bounds description prior to October 1984.

**Lot Width** - The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line.

**Lumen** - Unit used to express the light output of a lamp or fixture.

**Luminary** - A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

**Luminous Tube Lighting** - Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used (e.g. neon or argon).

**Machine Shop** - A workshop where metal fabrication tools, including, but not limited to, lathes, presses, and mills, are used for making, finishing, or repairing machines or machine parts.

**Major Thoroughfare** - A dedicated street or highway route designated as a Thoroughfare by the Thoroughfare Plan map of the Comprehensive Plan.

**Manufactured Home** - A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (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 with the appropriate label. The term does not include a recreational vehicle. (or as amended under Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f).

**Masonry Construction** - Unless otherwise provided for in this Ordinance, Masonry Construction constitutes clay fired brick, natural and manufactured stone, granite, marble, stucco, and architectural concrete block as exterior construction materials for all structures. Other exterior construction materials for non-residential structures are tilt wall concrete panels, sealed and painted split faced concrete block, and high impact exterior insulation and finish systems (EIFS). High impact EIFS is only permitted when installed a minimum of nine feet above grade at the base of the wall on which it is installed.

**Massage Therapy, Licensed** - Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

**Massage Therapy, Unlicensed** - Any place of business in which massage therapy is practiced by an unlicensed massage therapist. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

**Mineral Extraction** - The process of extracting sand, gravel, stone, petroleum, gas, or other minerals/natural resources from the earth. This definition does not include drilling wells for water.

**Mini-Warehouse/Public Storage** - A building(s) containing separate, individual self-storage units for rent or lease. The conduct of sales, business, or any activity other than storage shall be prohibited within any individual storage unit.

**Miscellaneous Hazardous Industrial Use** - Any industrial use not specifically defined in this section that is determined by Health, Fire, or Building officials to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

**Mobile Food Vendor** - Any person or persons who operates or sells food from a stationary cart or trailer mounted on chassis, but without an engine for period of 15 days or greater per year. Mobile food vendors who operate for 14 days or less shall be considered temporary food establishments, as defined by the Town of Prosper Health Ordinance as it exists or may be amended.

**Mobile Home** - A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (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. (or as amended under Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f).

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

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

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

**Motel** - A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, maid service, and telephone are provided. Each motel room unit has direct access to the outside. Financial consideration for Motel room units is generally calculated on a nightly basis.

**Motorcycle** - A usually two (2) wheeled self-propelled vehicle having one (1) or two (2) saddles or seats, and which may have a sidecar attached. For purposes of this Ordinance, motorbikes, motorscooters, mopeds, and similar vehicles are classified as motorcycles.

**Motorcycle Sales/Service** - The display, sale, repair, and servicing of new or used motorcycles.

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

**Multifamily Dwelling** - Attached dwelling units designed to be occupied by three or more families living independently of one another, exclusive of Hotels, Motels, or Residence Hotels.

**Municipal Uses Operated by the Town of Prosper** - Any area, land, building, structure, and/or facility owned, used, leased, or operated by the Town of Prosper, Texas, including, but not limited to, administrative office, maintenance facility, fire station, library, sewage treatment plant, police station, water tower, service center, park, heliport, helistop, and golf course.

**Museum/Art Gallery** - A building serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods.

**Net Acre** - the area within the platted limits of a lot. For the purpose of calculating residential density, Net Acreage shall not include the following:

- Right-of-way dedicated for major thoroughfares.
- Required parkland dedication.
- Detention.
- Land used for non-residential purposes.

For the purpose of calculating residential density, Net Acreage may include the following:

- Non-reclaimed floodplain.
- Private open space.
- Park dedication in excess of minimum park dedication requirements.
- Detention ponds that contain a constant water level, are landscaped, or otherwise treated as an amenity for the development, as determined by the Director of Planning or his/her designee

**Nonconforming Use** - A building, structure, or use of land lawfully occupied at the time of the effective date of this Ordinance or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

**Non-Residential Property** - Property zoned or used for other than residential purposes.

**Nursery, Major** - An establishment for the cultivation and propagation, display, storage, and sale (retail and wholesale) of large plants, shrubs, trees, and other materials used in indoor or outdoor plantings; and the contracting for installation and/or maintenance of landscape material as an accessory use. Outdoor display and storage is permitted.

**Nursery, Minor** - A retail business for the display and/or sale of trees, shrubs, flowers, ornamental plants, seeds, garden and lawn supplies, and other materials used in indoor and outdoor planting, without outside storage or display.

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

**Office and Storage Area for Public/Private Utility** - The pole yard, maintenance yard, or administrative office of public or private utilities.

**Office Center** - A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, which may include ancillary services for office workers such as a coffee shop, newspaper or candy stand.

**Office/Showroom** - A building that primarily consists of sales offices and sample display areas for products and/or services delivered or performed off-premises. Catalog and telephone sales facilities are appropriate. Incidental retail sales of products associated with the primary products and/or services are permitted. Warehousing facilities shall not exceed fifty (50) percent of the total floor area. This designation does not include contractor's shop and storage yard.

**Office/Warehouse/Distribution Center** - A building primarily devoted to storage, warehousing, and distribution of goods, merchandise, supplies, and equipment. Accessory uses may include retail and

wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

**Officially Approved Place of Access** - Access, other than a dedicated street, to a property that is approved by the Town.

**Off-Street** - Off the right of way of a public street or place.

**Open Storage (Z07-7)** - The outside storage or exhibition of goods, materials, merchandise, or equipment on a lot or tract. Open storage must meet the requirements in Chapter 4, Section 5.2(D, E).

**Ordinance** - the Zoning Ordinance of the Town, Ordinance Number 05-20, as it exists or may be amended. The term "ordinance", not capitalized, refers to any other ordinance of the Town.

**Outdoor Lighting** - The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Parking Lot** - An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

**Parking Space** - An area designated for the parking of a vehicle.

**Park or Playground** - An area developed for active play and recreation that includes, but is not limited to, open space, sports courts, play equipment, and trails.

**Pawn Shop** - An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker).

**Permitted Use** - Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Pet Day Care** - A commercial institution or place designed for the care of no more than one (1) household pet per one hundred (100) square feet of gross floor area.

**Photometric Plan** - A point-by-point plan depicting the intensity and location of lighting on the property.

**Planned Development District** - Planned associations of uses developed as integral land use units such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated or integral land use units either by a single owner or a combination of owners.

**Planning & Zoning Commission** - A board, appointed by the Town Council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the Town Council. Also referred to as the "P&Z" or the "Commission." In the event that a Commission is not appointed, the Town Council shall perform the duties and responsibilities assigned to the Commission by this Ordinance.

**Plat** - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the Town of Prosper and subject to approval by the Planning & Zoning Commission and filed in the plat records of either Collin or Denton County. The plat must be prepared by a Public Surveyor registered in the State of Texas.

**Plot** - A single unit or parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

**Portable Building Sales** - An establishment that displays and sells structures which are capable of being carried and transported to another location, not including mobile homes.

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

**Primary Use** - The principal or predominant use of any tract, lot, or building.

**Print Shop (Major)** - An establishment specializing in long-run printing operations including, but not limited to, book, magazine, and newspaper publishing using engraving, die cutting, lithography, and thermography processes.

**Print Shop (Minor)** - An establishment specializing in short-run operations to produce newsletters, flyers, resumes, maps, construction documents and plans, and similar materials using photocopying, duplicating, and blue printing processes. This definition shall include mailing and shipping services, but exclude the on-site storage of heavy load fleet vehicles.

**Private Club (Z13-0010)**- an establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, that derives thirty-five percent (35%) or more of its gross revenue from the sale or service of Alcoholic Beverages for on-premise consumption and that is located within a dry area as defined in Title 6 (Local Option Elections) of the Texas Alcoholic Beverage Code, as amended. Private Club does not include a fraternal or veteran's organization, as defined in the Texas Alcoholic Beverage Code, as amended, holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code. A Private Club does not include the holder of a food and beverage certificate, as defined in the Texas Alcoholic Beverage Code, as amended. Unless the person owning or operating the use supplies the building official with records to prove otherwise, an establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, is presumed to derive thirty-five percent (35%) or more of its gross revenue from the sale or service of Alcoholic Beverages for on-premise consumption. (*Ordinance 13-48: 9/10/13*).

**Private Recreation Center** - A recreational facility, including, but not limited to, clubhouse, swimming pool, playground, and open space, operated for the exclusive use of private residents or neighborhood groups and their guests, and not the general public.

**Private Street Development** - A development of two or more lots sharing private gated vehicular access ways that are not dedicated to the public and are not publicly maintained. Private streets and alleys may be established only under the terms of the Subdivision Ordinance. The term "Private Street" shall be inclusive of alleys.

**Private Utility (other than listed)** - A non-public utility requiring special facilities in residential areas or on public property such as electricity, natural gas, or telecommunications not customarily provided by the municipality or public utilities. All radiating equipment must comply with current Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable State and Federal regulatory agency requirements and guidelines for human safety.

**Property Line** – When the property line is the initial point of establishing measurement requirements for the sale of any type of Alcoholic Beverage, "Property Line" shall mean the nearest property line of the lot where the sale of any type of Alcoholic Beverage may occur, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, private school and/or residential zoning district, as applicable, is located. (*Ordinance 13-48: 9/10/13*).

**Protected Area** - The 100-year floodplain plus the area within three hundred (300) feet of the 100-year floodplain.

**Protected Residential Property** - Any property within the Town that meets one of the following requirements:

- The property is zoned a residential district as defined within the Zoning Ordinance or zoned a planned development for residential uses;
- The property is designated on the Comprehensive Plan as any type of residential; or
- The property is used or subdivided for use as residential.

**Railroad Track and Right-Of-Way** - The right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dockyards, or maintenance areas.

**Recreational Vehicle (RV)** - A portable or mobile living unit used for temporary human occupancy away from the place of permanent residence of the occupants and self-propelled (motorized). Also see Heavy Load Vehicle.

**Recreational Vehicle/Truck Parking Lot or Garage** - An area or structure designed for the short or long-term parking or storage of recreational vehicles, boats, or heavy load vehicles.

**Recreational Vehicle Sales and Service, New/Used** - Sales and/or leasing of new and/or used recreational vehicles or boats, including, as an accessory use, repair work of recreational vehicles and boats.

**Recycling Collection Point** - An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas such as in churches and schools.

**Recycling Center** - A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

**Recycling Plant** - A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal cans; and other products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.

**Redevelopment** - any manmade change or alteration to a design and/or layout of an existing Development(s) including repair, expansion and/or removal and replacement of existing building and/or structure, paving drainage, utilities, storage and/or agricultural uses.

**Rehabilitation Care Facility** - A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

**Rehabilitation Care Institution** - A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

**Research and Development Center** - A facility that includes laboratories and experimental equipment for medical testing, prototype design and development, and product testing. Any facility that is determined by Health, Fire, or Building officials to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation is not to be included in this category.

**Residence** - Any building or portion thereof, which is designed or used as living quarters for one or more families, but not including mobile homes.

**Residence Hotel** - A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, maid service, and telephone are provided. Residence Hotel room units are designed to be suitable for long term occupancy with financial consideration being calculated on a nightly, weekly, and/or monthly basis. Typical Residence Hotel attributes include, but are not limited to, kitchen facilities, two-story design, and external doorways into room units.

**Residential District** - District where the primary purpose is residential use.

**Residential Property** - Any property that is either zoned for or designated on the Future Land Use Plan for residential uses.

**Restaurant or Cafeteria** - An establishment where food and drink are prepared and consumed primarily on the premises. Drive-up windows are permitted.

**Restaurant, Drive-In** - An eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

**Retail/Service Incidental** - Any use different from the primary use but which compliments and/or supplements the primary use. Said use shall be operated for the benefit or convenience of the employees, visitors, or customers of the primary use. Incidental shall mean a floor area that constitutes not more than fifteen (15) percent of the main use.

**Retail Stores and Shops** - An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Retail stores and shops include, but are not limited to, art and craft store, retail bakery, bookstore, boot and shoe sales, ceramics store, clothing and apparel store, computer store, department store, fabric store, florist, grocery store, food market, hobby or toy store, leather store, meat market, medical supply store, music instrument sales, novelty or gift shop, optical store, pet shop, drugstore or pharmacy, sporting goods (including the sale of firearms) store, trophy sales, television store, and used clothing store.

**Retirement Housing** - A development with dwelling units and/or services specifically designed to provide lodging, meals, and nursing care for ambulatory elderly or handicapped persons.

**Room** - A building or portion of a building that is arranged, occupied, or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

**Salvage Yard** - Any lot upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

**Satellite Dish Antenna** - An oval or round, parabolic apparatus capable of receiving communications from a transmitter relay located in planetary orbit. Usable satellite signals shall mean satellite signals, from the major communication satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

**School District Bus Yard** - Any premises owned and/or operated by an independent school district, or designee, used for the parking and storage of motor-driven buses.

**School, Private or Parochial** - A school operated by a private or religious agency or corporation other than an independent school district, having a curriculum generally equivalent to a public elementary or secondary school.

**School, Public** - A school operated by an independent school district and providing elementary or secondary curriculum.

**Setback** - See definition for Building Line.

**Servant's Quarters** - An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or a person or persons employed on the premises by the occupant on a full time basis as domestic help, such as a maid, yard man, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections.

**Sewage Treatment Plant/Pumping Station** - A facility owned and/or operated by a private entity that is designed for the collection, removal, treatment, and/or disposal of water borne sewage.

**Sexually Oriented Uses** - An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or other use that distributes, displays, or manufactures sexually oriented materials. Sexually Oriented Uses are subject to the requirements of Prosper Ordinance No. 89-2 as it exists or may be amended.

**Shopping Center** - A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

**Single-Family Residence, Detached** - A dwelling designed and constructed for occupancy by one (1) family and having no physical connection to a building located on any other separate lot or tract.

**Small Engine Repair Shop** - A shop for the repair of lawnmowers, chainsaws, lawn equipment, and other small engine equipment and machinery.

**Stable, Commercial** - A stable used for the rental of stall space for horses and/or mules or for the sale or rental of horses and/or mules.

**Standard Masonry Construction** - Having at least seventy five (75) percent of the exterior walls of a building constructed of brick, stone or other Masonry Construction.

**Story** - That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as twelve (12) feet. Multiple stories, or portions thereof, shall be a result of the number of stories and story height of twelve (12) feet. The definition of a story does not include parapets, gables, and other normal roof structures.

**Story, Half** - A single room within a dwelling unit above the second floor. A half-story will occupy no less than two-thirds (2/3) of the area under the roof, and shall have non-operating opaque windows for facades that face adjacent properties. Transparent windows may face the front yard. A half story containing independent apartment, living quarters, or bedroom shall be counted as a full story.

**Street** - Any dedicated public thoroughfare that affords the principal means of access to abutting property.

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

**Structural Alterations** - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

**Structure** - Anything that is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

**Storage or Wholesale Warehouse** - A building used primarily for the storage of goods and materials.

**Studio Dwelling** - An accessory residence that is located in the same structure as, typically above, a commercial or office use in the Downtown Office or Downtown Commercial Districts. The minimum floor area for a studio residence shall be six-hundred fifty (650) square feet. Each individual office or commercial use may have one (1) accessory studio dwelling.

**Taxidermist** - An establishment whose principle business is the practice of preparing, stuffing, and mounting the skins of dead animals for exhibition in a lifelike state.

**Telephone Exchange** - A central switching hub servicing the public at large in which telephone lines are connected to permit communication.

**Temporary Building** - An industrialized or modular building or structure without a permanent foundation. Membrane structures shall not be considered a temporary building. Temporary Buildings may be used by a house of worship (church), public school (kindergarten (K) through twelfth (12th) grade), or government

building for a period no greater than three (3) years, subject to approval by the Building Official. Additional one (1) year extension(s), thereafter, may be approved by the Planning & Zoning Commission. Appeals for determinations made by the Building Official or Planning & Zoning Commission may be forwarded to Town Council for consideration. See Chapter 3, Section 1.4(7) Temporary Building.

**Temporary Outdoor Lighting** - The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than four (4) days with at least one-hundred and eighty (180) days passing before being used again.

**Theater, Drive-In** - An open lot devoted to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

**Theater, Neighborhood** - A building or part of a building devoted to the showing of motion pictures or for dramatic, musical, or live performances, with a maximum of ten (10) screens, stages, or combination thereof or a combined seating capacity of two thousand five hundred (2,500) or less.

**Theater, Regional** - A building or portion of a building used primarily for showing motion pictures or for dramatic, musical, or live performance having more than ten (10) screens, stages, or combination thereof or a combined seating capacity greater than two thousand five hundred (2,500).

**Town** - References to the "Town" shall mean the Town of Prosper.

**Town Council** - The governing body of the Town of Prosper, Texas.

**Townhome (Single Family Dwelling, Attached)** - A structure containing three to eight dwelling units with each unit designed for occupancy by one family and each unit attached to another by a common wall.

**Tract** - An area, parcel, site, piece of land, or property that is the subject of a zoning or development application.

**Trailer, Hauling** - A vehicle to be pulled behind a motor vehicle that is designed for hauling animals, produce, goods or commodities, including boats.

**Trailer/Mobile Home Display and Sales** - The offering for sale, storage, or display of trailers or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

**Trailer Rental** - The display and offering for rent of trailers designed to be towed by light load vehicles.

**Trailer, Travel or Camping** - A portable or mobile living unit designed to be towed behind another vehicle and used for temporary human occupancy. A Travel or Camping Trailer shall not serve as the principal place of residence of the occupants.

**Transit Center** - Any premises, including bus stations, for the loading and unloading of passengers and the temporary parking of transit vehicles between routes or during stopovers and excluding overnight parking and storage of transit vehicles.

**Tree** - Any self-supporting woody perennial plant which has one well defined trunk diameter of four and one-half (4½) inches or more in diameter when measured at a point four and one-half (4½) feet above the natural ground level and which normally attains a height of at least twelve (12) feet at maturity.

**Tree Permit** - An official document or certificate issued by the Town of Prosper authorizing the removal of a tree in accordance with Chapter 4, Section 3 of this Ordinance.

**Tree, Protected** - A tree that is determined to be healthy by the Director of Planning, or his/her designee, and meets one of the following requirements:

- Any tree, regardless of species, six (6) inches or larger in diameter when measured at a point four and one-half (4½) feet above the ground level and which normally attains a height of at least twelve (12) feet at maturity, and located within a 100-year floodplain.

- Any tree, except those species listed below, eight (8) inches or larger in diameter when measured at a point four and one-half (4½) feet above the ground level and which normally attains a height of at least twelve (12) feet at maturity, and located within three hundred (300) feet of a 100-year floodplain.
- A tree(s) twenty (20) caliper inches and larger, except those species listed below.
- A Stand of Trees, except those species listed below.

The following trees shall not be included in the above definition of Protected Trees:

Silver Leaf Maple	<i>Acer saccharinum</i>
Hackberry, Texas Sugarberry	<i>Celtis laevigata</i>
Honey Locust	<i>Gleditsia triacanthos</i>
Bois d' Arc	<i>Maclura pomifera</i>
Mimosa	<i>Mimosa sp.</i>
Mulberry	<i>Morus rubra</i>
White Poplar	<i>Populus alba</i>
Cottonwood	<i>Populus deltoides</i>
Mesquite	<i>Prosopis glandulosa</i>
Willow	<i>Willow sp.</i>

**Tree, Replacement or Transplanted** - any tree that is listed under Chapter 4, Section 3 of this Ordinance, as it exists or may be amended, and/or utilized for mitigation of Protected Trees that have been, or are required to be, removed and replaced or transplanted under the requirements of this Ordinance. A replacement tree is one that has been planted to mitigate the removal of a tree from the property. A transplanted tree is one that exists on the property and is relocated within the property. A tree must have a minimum size of three (3) inches when measured at a point twelve (12) inches above the natural ground level and will normally attain a height of at least twelve (12) feet at maturity to be considered a replacement or transplanted tree.

**Trees, Stand of** - A group of six (6) or more protected trees that have a combined caliper measurement of forty-eight (48) inches or greater and each tree is within twenty (20) linear feet of another tree within the group. The distance measurement shall occur at natural grade from edge of trunk to edge of trunk.

**Truck** - A light or heavy load vehicle (see definitions for Light and Heavy Load Vehicle).

**Truck/Bus Repair** - An establishment providing major and minor repair services to panel trucks, vans, trailers, recreational vehicles, or buses.

**Truck Sales, Heavy Trucks** - The display, storage, sale, leasing, or rental of new or used panel trucks, vans, trailers, recreational vehicles, or buses in operable condition.

**Truck Terminal** - An area and building where cargo is stored and where trucks, including tractors and trailer units, load and unload cargo on a regular basis, including facilities for the temporary storage of loads prior to shipment.

**Two Family Residence** - A detached dwelling designed with a common vertical wall between units and to be occupied by two (2) families living independently of each other.

**Units per Acre** - A measurement of residential density, the number of residential living units permitted to be developed on a Net Acre of land.

**Usable Open Space** - An area or recreational facility that is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding ten (10) percent; shall have no dimension of less than fifteen (15) feet; and may include recreational facilities, water features, required perimeter landscape areas, flood plain areas and decorative objects such as art work or fountains. Usable open space shall not include: required sidewalks, rooftops, accessory buildings, except those portions or any building designed specifically for recreational purposes, parking areas, landscaped parking requirements, driveways, turn-rounds or the right-of-way or easement for streets or alleys.

**Utility Distribution/Transmission Facility** - Facilities, including subsidiary stations, which serve to distribute, meter, transmit, transform, or reduce the pressure of gas, water, or electric current.

**Variance** - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Board of Adjustment of the Town of Prosper can grant a Variance in accordance with the State Local Government Code, Section 211.009.

**Veterinarian Clinic and/or Kennel, Indoor** - An establishment, not including outside pens, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

**Veterinarian Clinic and/or Kennel, Outdoor** - An establishment with outdoor pens, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

**Water Treatment Plant** - A facility owned and/or operated by a private entity that is used to alter the physical, chemical, or biological quality of water.

**Wind Energy System** – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10kW and is intended to reduce on-site consumption of electricity. (Z08-9)

**Winery** - A manufacturing facility designed to place wine into a bottle or other container for wholesale and limited retail distribution. A winery is subject to compliance with the Texas Alcoholic Beverage Code, as it exists or may be amended, and permitting by the Texas Alcoholic Beverage Commission.

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

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

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

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

**Zoning District Map** - The official map upon which the boundaries of the various Zoning Districts are drawn and which is an integral part of this Ordinance.