

CITY OF DRIPPING SPRINGS

ORDINANCE No. 2019-41

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS AMENDING THE CITY OF DRIPPING SPRINGS CODE OF ORDINANCES; CHAPTER 30, EXHIBIT A, SECTIONS 2: PROCEDURES & ADMINISTRATION AND 3: ZONING DISTRICTS; MODIFYING THE STRUCTURE, OBJECTIVES, AND DUTIES OF THE CITY'S BOARD OF ADJUSTMENT; AMENDING ZONING APPEAL PROCESS; PROVIDING FOR AMENDMENTS TO CERTAIN SECTIONS WITHIN CHAPTER 30: EXHIBIT A: SECTIONS 2 AND 3 AND PROVIDING FOR: FINDINGS OF FACT; ENACTMENT; AMENDMENT; REPEALER; SEVERABILITY; PROPER NOTICE & MEETING; AND EFFECTIVE DATE.

WHEREAS, the 86th Texas Legislature passed House Bill 2497 to require cities to allow additional individuals to appeal zoning decisions to the board of adjustment and the City of Dripping Springs (the "City") City Council seeks to ensure compliance with House Bill 2497; and

WHEREAS, the City of Dripping Springs desires to amend its Code of Ordinances, Chapter 30, Exhibit A, Sections 2 and 3 to provide for board of adjustment appeals; and

WHEREAS, this Ordinance must be amended to comply with House Bill 2497; and

WHEREAS, the City of Dripping Springs desires to amend its Code of Ordinances, Chapter 30, Exhibit A, Section 2 to clarify procedures for zoning amendments; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the Planning and Zoning Commission had a meeting and a public hearing on October 22, 2019 and recommended approval; and

WHEREAS, the City Council had a meeting and a public hearing on November 12, 2019; and

WHEREAS, the City Council finds that the amendment proposed is reasonable, necessary, and proper for the good government of the City of Dripping Springs.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs, Texas:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Chapter 30 of the City of Dripping Springs Code of Ordinances are hereby amended so to read in accordance with Attachment "A", which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on Attachment A.

3. REPEALER

This ordinance repeals inconsistent sections of Chapter 30 of the City of Dripping Springs Code of Ordinances.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

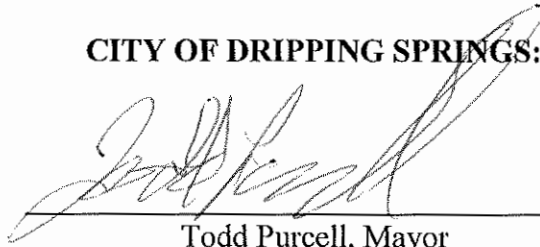
This Ordinance shall be effective immediately upon passage and publication of caption.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, and Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

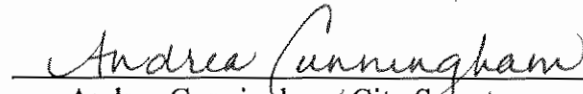
PASSED & APPROVED this, the 12th day of November 2019, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:



Todd Purcell, Mayor

ATTEST:



Andrea Cunningham, City Secretary



CITY OF DRIPPING SPRINGS
AMENDMENT TO THE CODE OF ORDINANCES
CHAPTER 30: ZONING
EXHIBIT A ZONING ORDINANCE
SECTION 2: PROCEDURES & ADMINISTRATION
C. BOARD OF ADJUSTMENT*

2.25 Appeals to the BOA

~~The appellant must file, with the BOA and the official from whom the appeal is taken, a written notice of appeal specifying the grounds for the appeal.~~

2.25.1 Appeal to BOA under this chapter.

- (1) Any of the following persons may appeal to the BOA a decision made by an administrative official that is not related to a specific application, address, or project under Chapter 30 of this Code:

(A) a person aggrieved by the decision; or

(B) any officer, department, board, or bureau of the municipality affected by the decision.

- (2) Any of the following persons may appeal to the BOA a decision made by an administrative official that is related to a specific application, address, or project under chapter 30 of the Code:

(A) a person who filed the application that is the subject of the decision;

(B) a person who is the owner or representative of the owner of the property that is the subject of the decision; or

(C) any person who is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

(D) any officer, department, or board of the city affected by the decision.

- 2.25.2** The appeal must be filed ~~within sixty (60) days~~ not later than the 20th day after the decision has been rendered.

- 2.25.3 Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the BOA all papers constituting the record of action that is appealed.
- 2.25.4 An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the BOA facts supporting the official's opinion that a stay would cause imminent peril to life or property.
- 2.25.5 The appellant party may appear at the appeal hearing in person, by agent or attorney, or in absentia.
- 2.25.6 The BOA shall decide to appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed ~~decide the appeal within four (4) weeks after the written request (notice of appeal) was received~~, after which time the written request shall be deemed automatically approved if no formal action is taken.
- 2.25.7 The BOA may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.
- 2.25.8 A member or members of the BOA may not bring an appeal on behalf of a property owner, other than himself/herself, to the Board of Adjustment. An appeal must be requested by the owner of the property being considered.

2.26 Procedures

- 2.26.1 Application & Fee: An application for a special exception shall be made in writing using forms prescribed by the City, and shall be accompanied by an application fee, a site plan and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.
- 2.26.2 Administrative Report by the City: The City Administrator shall visit the site where the proposed special exception will apply and the surrounding area, and shall report findings to the BOA.
- 2.26.3 Public Hearings: The BOA shall hold a public hearing for consideration of the written special exception request no later than forty-five (45) days after the date the application for action, or an appeal, is filed.
- 2.26.4 Notice: Notice of the hearing shall be provided to all property owners within three hundred feet (300') of the affected property no more than thirty nor less than fifteen (15) days prior to the public hearing. Notice of the hearing must be published in the

City's official newspaper no more than thirty (30) nor less than fifteen (15) days prior to the first hearing at P&Z. Weather-resistant signs shall be erected on the property under application for the purposes of advertising the special exception request.

- (a) The signs shall be provided by the City.
- (b) Signs placed on the property involved must be within ten (10) feet of any property line paralleling any established or proposed street, and must be visible from that street.
- (c) All required signs shall remain on the property until final disposition of the special exception request is determined.

* * *

2.34 P&Z Consideration

2.34.1 The P&Z shall hold a public hearing on a zoning an amendment to the Zoning Ordinance. After all public input has been received and the public hearing closed, the P&Z shall make its recommendations on the proposed zoning request and concept plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan. The P&Z may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the P&Z elects to postpone or defer its hearing on the request, such action shall specifically state the time period of the postponement by citing the meeting date whereon the request will reappear on the P&Z's agenda.

2.34.2 When the P&Z is ready to act upon the zoning request, it may recommend:

- (a) approval of the request as it was submitted by the applicant;
- (b) approval of the request subject to certain conditions as in the case of a Planned Development District (PDD) or a Conditional Use Permit (CUP); or
- (c) disapproval of the request.

2.34.3 ~~If the P&Z's recommendation is to approve the request either as submitted or with additional conditions, then the request will be automatically forwarded to the City Council for a second public hearing thereon.~~

2.34.4 ~~If the P&Z recommends denial of the zoning change request, it shall provide written notice of the applicant's right to appeal.~~

2.35 Council Consideration

2.35.1 Approved Council Review by P&Z: Every application or proposal which is recommended for approval or approval with conditions by the P&Z shall be automatically forwarded, along with the P&Z's recommendation, to the City Council for setting and holding of public hearing thereon following appropriate public hearing notification, as prescribed in Subsection 2.32. The City Council may then approve the request, approve it with conditions, or disapprove it by a simple majority vote of the City Council members present and voting, except where super majority is required as listed below.

2.35.2 Unanimously Denied by P&Z: ~~An application which is recommended by the P&Z for denial shall not be forwarded to the City Council unless the applicant files a written appeal with the City Secretary within ten (10) business days after the P&Z's decision. Said appeal will, in that instance, be forwarded to the City Council along with the P&Z's reasons for denial of the request. The appeal shall be scheduled for the next possible City Council agenda, following appropriate public notification as prescribed in Subsection 2.32. Generally, ultimate approval of the request will require a simple majority vote of the City Council. However, If P&Z unanimously recommends denial, approval by the City Council shall require an affirmative vote by a two-thirds majority of those present and voting. No zoning change shall become effective until after the adoption of an ordinance for same.~~

~~2.35.3 Reapplication to P&Z after Denial: If the P&Z denies the request, and the applicant chooses not to appeal or fails to appeal P&Z's decision to the City Council, then no other zoning application may be filed for (all or part of) the subject tract of land, or for that portion of this Chapter, in the case of a text amendment request submitted by a property owner or citizen, for a waiting period of six (6) months following the denial, unless the request was initiated by the City Council.~~

2.36 Council Action

2.36.1 After a public hearing is held before the City Council regarding the zoning application, the City Council may:

- (a) approve the request in whole or in part;
- (b) deny the request in whole or in part;
- (c) continue the application to a future meeting, specifically citing the City Council meeting to which it was continued; or
- (d) refer the application back to the P&Z for further study.

2.36.2 If the City Council denies the request, then no other zoning application may be filed for (all or part of) the subject tract of land, or for that portion of this Chapter, in the

case of a text amendment request submitted by a property owner or citizen, for a waiting period of six (6) months following the denial. In the instance that the request was initiated by the City Council and involved a proposed amendment to the text of this Chapter, then there is no waiting period before the request can be reconsidered. This section shall not apply to applications for the same tract of land proposing a different zoning change than that which was previously denied, provided no more than three (3) applications are submitted for the same tract within a twelve (12) month period.

- 2.36.3 The City Council may, at its option, waive the six (6) month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

* * *

3.17.14 Ag Ed Short Form CUP Approval:

- (a) The City Council seeks to promote youth education programs, particularly those furthering activities related to farming, ranching, and animal husbandry.
- (b) The City Council finds that FFA and 4-H Club programs are vital educational opportunities for the City's youth and an important link to the City's rural way of life.
- (c) The City Council has determined that the typical standards for receipt of a Conditional Use Permit for Domestic Farm Animals can be unduly burdensome for participants in FFA and 4-H programs; and
- (d) The process for application and receipt of a CUP for Domestic Farm Animals shall be abbreviated for educational agricultural programs:
 - (1) Definitions: Agricultural Educational Programs ("Ag Ed Programs") shall mean any activity organized by an accredited school system or nonprofit organization serving children. Examples of Ag Ed Programs include the Future Farmers of America (FFA) and the 4-H Club.
 - (2) Qualified Applicant: Only primary or secondary school students enrolled in an, or members of, an Ag Ed Program are qualified to apply for Ag Ed Short Form approval for a CUP. To be qualified, an Applicant must be precluded from boarding the Applicant's livestock at the school's facility.
 - (3) Applications: Applicants for Educational Short Form Approval of a CUP for Domestic Farm Animals shall include written verification from the Ag Ed Program. The verification must be on letterhead signed by an adult supervisor of the Ag Ed Program. The verification must also attest to the fact that the livestock school's facility is full and lacks the capacity to

accommodate the Applicant's animal. Both the Applicant's parental guardian and the owner of the property subject to the CUP must submit a letter with the application accepting financial responsibility and legal liability for the animal.

- (4) Approvals: CUP applications submitted to the City by Qualified Applicants shall be reviewed by the City Administrator.
- (5) Fees: Qualified Applicants are exempt from payment of any administrative fees otherwise assessed for CUPs.
- (6) Appeals: Decisions of the City Administrator may be appealed to the BOA ~~City Council~~. Petitions for appeal must be submitted to the City in writing within twenty (20) ~~fifteen (15)~~ days of the Administrator's decision.
- (7) Duration: A CUP granted through the Ag Ed Short Form process provided by this section shall expire seven (7) months after issuance. The City Administrator shall have the authority to extend the SUP [CUP] for an additional period of two (2) months upon receipt by the City of a written application for an extension by a Qualified Applicant.

San Marcos Publishing, LP Wimberley View • Century News

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Received

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County of Hays

NOV 20 2019

City of Dripping Springs

Before me, the undersigned authority, on this day personally appeared Dalton Sweat, who being by me here and now duly sworn, upon oath says:

My name is Dalton Sweat, and I am the General Manager, of the The Wimberley View & The Dripping Springs Century News, a newspaper of general circulation in Hays County, Texas, and a newspaper which has been regularly and continuously published in Wimberley, Hays County, Texas, for a period of more than one year immediately preceding the date of publications of the following, and that the said notice, a copy of which follows, was published in the regular edition of said newspaper for a period of Week on the following dates:

November 21 2019

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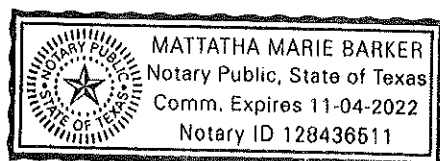
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The said General Manager, Dalton Sweat further states that the rate charged for this publication is the lowest rate charged to commercial advertisers for the same class as advertising for a like amount of space.

[Signature]
Signature of Affiant

Subscribed and Sworn to me, by the said General Manager Dalton Sweat this 28th day of November, 2019 to certify which witness my hand and seal of office.



[Signature]
NOTARY PUBLIC in and for Hays County, Texas

**City of Dripping Springs
Public Notice of Approved Ordinance
Board of Adjustment & Zoning
Appeal Process**

Effective Date: November 21, 2019

Ordinance No. 2019-41

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS AMENDING THE CITY OF DRIPPING SPRINGS CODE OF ORDINANCES; CHAPTER 30, EXHIBIT A, SECTIONS 2: PROCEDURES & ADMINISTRATION AND 3: ZONING DISTRICTS; MODIFYING THE STRUCTURE, OBJECTIVES, AND DUTIES OF THE CITY'S BOARD OF ADJUSTMENT; AMENDING ZONING APPEAL PROCESS; PROVIDING FOR AMENDMENTS TO CERTAIN SECTIONS WITHIN CHAPTER 30: EXHIBIT A: SECTIONS 2 AND 3 AND PROVIDING FOR: FINDINGS OF FACT; ENACTMENT; AMENDMENT; REPEALER; SEVERABILITY; PROPER NOTICE & MEETING; AND EFFECTIVE DATE.