

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 1203-15-02-24 OF THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 157 UNIFIED DEVELOPMENT CODE BY AMENDING SUBCHAPTER 1, GENERAL PROVISIONS, BY REMOVING THE SEQUENCE OF PERMITS SECTION, REPLACING THE VIOLATIONS AND PENALTY SECTIONS, AND MAKING OTHER ADMINISTRATIVE REVISIONS; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING SEVERABILITY AND REPEALER CLAUSES; PROVIDING FOR A PENALTY FOR A VIOLATION OF CHAPTER 157, SUBCHAPTER 1 AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2,000.00; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council approved the Unified Development Code on February 24, 2015, which replaced, in its entirety, the Unified Development Code adopted on September 8, 2009; and

WHEREAS, the City Council has determined that it is necessary to update and amend the Unified Development Code from time to time to ensure realization of its stated purposes and its compliance with applicable State law; and

WHEREAS, the Planning and Zoning Commission held a public hearing on November 5, 2018, and voted affirmatively in recommending approval of the proposed Unified Development Code amendments contained herein through its final report and recommendation to City Council with a vote of 6 - 0; and

WHEREAS, the City Council has determined that removing the sequence of permits section, amending the violations and penalty sections, and making other administrative revisions is in the best interest of the public health, safety and welfare and, further, that amending Subchapter 1, General Provisions of the Unified Development Code is prudent and necessary; and

WHEREAS, the City has complied with all conditions precedent necessary to take this action, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

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

Section I. Findings.

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section II.

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 157, Subchapter 1, General Provisions in its entirety to read as amended in Exhibit A, attached hereto and incorporated herein for all purposes.

Section III.

Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section IV.

Repealer.

This ordinance shall be cumulative of all other ordinances, resolutions or acts of the City of Pflugerville, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section V.

Penalty.

That a violation of this Ordinance shall be an offense punishable upon conviction as prescribed in Subchapter 1, Chapter 157 of this Code of Ordinances.

Section VI.

Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this _____ day of _____, 2018.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

Charles E. Zech, City Attorney
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

EXHIBIT A
SUBCHAPTER 1. GENERAL PROVISIONS

Subchapter 1. GENERAL PROVISIONS

<u>Section</u>	<u>Title</u>
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1.2	Authority
1.3	Purpose
1.4	Administration
1.5	Sequence of Permits <u>Reserved</u>
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SUBCHAPTER 1. GENERAL PROVISIONS

1.1 SHORT TITLE

This Chapter 157 of the Code of Ordinances shall be known, and can be cited, as the Unified Development Code of the City of Pflugerville, Texas. References to “this Chapter”, ~~or~~ “the ~~Code Chapter~~” or “the UDC” within this Chapter shall be interpreted as references to the Unified Development Code of the City of Pflugerville, Texas, unless the context clearly indicates otherwise. All references to this Code and Chapter include all amendments hereto.

1.2 AUTHORITY

Under the authority of Texas Local Government Code Chapters 211 and 212, the City’s Charter and the Texas Constitution, the City ~~of Pflugerville~~ adopts the regulations set out in this ~~Code Chapter~~ to control the use of land within the corporate limits of the City and the subdivision of land within the corporate limits of the City and its Extra-Territorial Jurisdiction (ETJ). ~~In the ETJ of the City,~~ the site development standards located in Subchapter 9 in this Code, ~~however, Chapter shall~~ serve as a guide for ~~the expectation of d~~development in the Extra-Territorial Jurisdiction that occurs. This Code is adopted pursuant to the powers granted the City and is subject to limitations imposed by the Texas Constitution, the laws of this State, the City Charter and other applicable law.

1.3 PURPOSE

The zoning and subdivision regulations and related standards are hereby established in accordance with the City's Comprehensive Plan for the purposes of promoting the health, safety, ~~morals~~ and general welfare of the present and future residents and guests of the City Pflugerville and promoting safe, orderly, and healthful development of the community. This ~~Unified Development~~ Code also regulates site development to achieve objectives of the City's Comprehensive Plan and the "SH 45 and SH 130 Corridor Study" that ~~include, but are not limited to~~:

- A. Create a series of unique places to shop, work, and live.
- B. Establish a diversified tax base.
- C. Establish an enhanced, long-term market capture.
- D. Utilize smart, healthy, and sensible design concepts.
- E. Lessen congestion in the streets.
- F. Secure safety from fire, panic, and other dangers.
- G. Ensure adequate light and air.
- H. Prevent the overcrowding of land to avoid undue concentration of population.
- I. Facilitate the adequate provision of transportation, water, sewerage, parks, open spaces, and other public requirements.
- J. Maintain property values and encourage the most appropriate use of land throughout the City corridor consistent with the Comprehensive Plan and the Corridor Plan.
- K. Establish a process that effectively and fairly applies the regulations and standards of this Code.

1.4 ADMINISTRATION

- A. The general regulations described in this Code Chapter apply uniformly to all districts, unless specifically exempted by this Code, State statute or other applicable law.
- B. ~~An~~The Administrator is ~~hereby~~ designated in Subchapter 2 of this Code to administer the provisions of this Code Chapter.
- C. The Administrator, or any person duly authorized by him/her, has the right to enter upon any premises at all reasonable times necessary to carry out their duties in the implementation and enforcement of this Chapter.
 - 1. If such premises are occupied, the Administrator shall first present proper credentials and request entry. If entry is denied, Administrator shall proceed to initiate legal process to ~~force~~ secure entry.
 - 2. If such premises are unoccupied, the Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If consent cannot be secured, Administrator shall proceed to initiate legal process to secure entry.
 - 3. If a development application has been submitted on behalf of the property owner, and property owner has signed the development application with the right of entry consent provision stated thereon, this shall permit City officials to enter upon the premises for which the development application has been submitted without further consent.
- D. Many of the standards established in this Code Chapter are dependent on the land adjacent to a designated district ~~assigned to adjacent land~~. For the purposes of determining the standards required by this Code Chapter, the City considers that:

1. Unincorporated land or land within an adjacent municipality that is not zoned is ~~to be~~ considered Agriculture/~~Conservation~~Development Reserve, regardless of the existing land use.
2. Land within another municipality's jurisdiction that is zoned, is considered to have~~has~~ a zoning classification that most closely resembles the zoning that would apply to it if the land were in the City.
- ~~2.3.~~ For properties subject to a non-annexation development agreement pursuant to Chapters 212 and 43 of the Texas Local Government Code, new on-site improvements associated with the agriculture, timber, or wildlife uses shall be governed by requirements of the Agricultural/ Development Reserve zoning district and any other on-site improvements shall be established in the non-annexation development agreement.

1.5 ~~SEQUENCE OF PERMITS~~RESERVED

- ~~A. Land shall be used or occupied in conformity with all of the regulations specified for the district in which it is located. The appropriate zoning that allows permits the use shall be in place prior to the issuance of any development permits.~~
- ~~B. Prior to the issuance of a site development permit or building permit, the developer shall follow the procedures for the subdivision process included within Subchapter 15 of this Code.~~
- ~~C. Prior to the issuance of a site development permit, the developer may apply for a site disturbance permit in accordance with the procedures established in Subchapter 3.~~
- ~~D. No fill or spoil may be transported to or from a site without a site development permit, or site disturbance permit, or construction permit for public improvements.~~
- ~~E. The City shall not approve an application for a site development permit unless the subject development is on a legally platted lot and it conforms to the standards and reflects the development guidelines standards established in this Code Chapter and by in the City cCodes that apply to the proposed development area, unless otherwise provided for in the Texas Local Government Code. —~~
- ~~F. The City shall not issue a permit for the construction of a building(s) or buildings upon any tract or lot under Chapter 150 of the City Code or any other provision of the City Code until the following conditions have occurred:~~
 - ~~1. The lot or tract is part of a plat of record, properly approved by the City, and filed in the Official Plat Records of Travis and/or Williamson Counties, Texas as applicable; and~~
 - ~~2. The plat or lot is all or part of a site plan officially approved by the Administrator and complies with the provisions and improvements approved on such site plan for all utility and drainage easements, and dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land, as applicable.~~
- ~~G. No construction plan permit, site disturbance permit, site development permit, building permit, or certificate of occupancy shall be issued, or any use of land, construction of~~

~~structures, or similar action commenced unless such action conforms to the standards and procedures of this Chapter.~~

1.6 COMPLIANCE

- A. The general regulations described in this ~~CodeChapter~~ apply uniformly to all land, unless the land is specifically exempted by this ~~CodeChapter, or~~ State statute or other applicable law.
- B. A person shall not use or occupy land, unless such activity conforms to all of the applicable regulations specified in this ~~CodeChapter~~.
- C. A person shall not erect, convert, enlarge, construct, reconstruct, structurally alter or use a building, or move a building onto a lot or tract, unless such activity complies with all of the applicable development provisions and requirements of this ~~CodeChapter~~.
- D. Within the corporate limits of the ~~e~~City, a person shall not use or occupy a building constructed, converted or structurally altered after adoption of this Chapter until the Building Official issues a ~~certificate~~ Certificate of ~~occupancy~~ Occupancy, which signifies compliance with the appropriate zoning district regulations as well as subdivision and site development regulations, as applicable.
- E. All construction and development on land shall comply with the site specific fire code requirements of Chapter 150 of the City Code as determined by the Fire Marshal.

1.7 VIOLATIONS

Any act of commission or omission contrary to the commands or directives of this Code, any breach of any duty imposed by this Code, or any failure to otherwise comply with any provision of this Code shall constitute a violation hereof. An offense under this section is subject to general penalty provisions provided under Chapter 10, Section 10.99 of this Code of Ordinances as a Class C misdemeanor, unless specifically indicated otherwise.

~~A. It is a violation of this Chapter to:~~

- ~~1. Subdivide property within the City and ETJ without first complying with the requirements of Subchapter 15, Subdivision Process unless otherwise exempted by the Texas Local Government Code.~~
- ~~2. Use any land within the corporate limits of the City without complying with the requirements of this Chapter.~~
- ~~3. Use any land within the corporate limits of the City without complying with the requirements of the approved standards for a Planned Unit Development (PUD) district, if applicable.~~
- ~~4. Use land or structures inconsistent with any conditions established by the Board of Adjustment for which a variance or special exception was granted.~~

~~5. Refuse entry by the Administrator upon any premises under the appropriate procedure provided in Section 1.4.C.~~

~~B. If a corporation is found to be in violation of this Chapter, each of its officers, agents, and/or employees who were in any way responsible for such violation are individually and severally liable for penalties herein prescribed.~~

1.8. ENFORCEMENT

A. **Enforcement Actions.** In addition to criminal enforcement actions for violations of this Chapter, or in lieu thereof, the City or any authorized person may institute any appropriate civil action or proceedings to penalize, enjoin or prevent violations or threatened violations of this Chapter. In particular, but without limitation, in the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Code, the City or any authorized person may institute any appropriate action or proceedings to penalize, enjoin or prevent: (1) such unlawful acts and to restrain, correct or abrogate such violation; (2) the occupancy of the building, structure or land; or (3) any illegal act, conduct, business or use in or about such premises, including but not limited to all remedies provided in Chapters 54, 211 and 212 of the Texas Local Government Code. The imposition of any penalty hereunder shall not preclude the City or any authorized person from instituting any appropriate criminal or administrative action or proceedings to require compliance with the provisions of this Chapter and with administrative orders and determinations made hereunder.

B. Administrative Actions.

In addition to the remedies set forth above, the City may enforce compliance with the requirements of this Chapter by:

1. Refusing to issue street addresses;
2. Withholding building permits or certificates of occupancy;
3. Not allowing connection to or disconnection of utility service; or
4. Issuing a stop work order, a violation of which shall be considered a violation of this Chapter.

~~1.8 PENALTY~~

~~A. Any individual who violates any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$1 nor more than \$2,000. Each day of such violation may constitute a separate offense. Such penalty is cumulative and not exclusive of any other rights or remedies the City may exercise.~~

~~B. The owner(s) of any building or premises, or part thereof, where anything in violation of this Chapter is placed, or exists, and any architect, engineer, builder, contractor,~~

~~agent, person, or corporation employed in connection therewith, and who can have assisted in the commission of any such violation, is guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.~~

~~C. In addition to the remedies set forth above, the City may enforce compliance with the requirements of this Chapter by:~~

- ~~1. Refusing to issue street addresses,~~
- ~~2. Withholding building permits or certificates of occupancy,~~
- ~~3. Not allowing connection to or disconnection of utility service, or~~
- ~~4. Issuing a stop work order.~~

~~D. In addition to the remedies described in subsections (A) through (C) immediately above, the City may utilize any and all remedies and relief available at law and/or equity in furtherance of the enforcement of this Chapter.~~

1.9 PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES

By the ~~adoption~~ passage of this ~~Code~~ Chapter, no currently illegal use shall be deemed to have been made legal. Depending on the particular circumstances, uses not permitted by this ~~Code~~ Chapter may be legal nonconforming uses, when so recognized according to the provisions of Subchapter 8 of this Code, or illegal uses. Furthermore, it is the intent and declared purpose of this ~~Code~~ Chapter that no offense committed, and no liability, penalty, or forfeiture, whether civil or criminal, shall be discharged or affected by the adoption of this ~~Code~~ Chapter; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or proceeded with for causes presently pending.

1.10 INTERPRETATION, ~~PURPOSE~~ AND CONFLICT

The provisions of this ~~Code~~ Chapter shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, ~~morals~~, prosperity, and general welfare. These provisions shall be construed broadly to promote the purposes for which they were adopted.

The provisions of this Code are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, code, or other provision of law except as provided in this Code. Where any provision of this Chapter imposes restrictions different than those imposed by any other law, including another provision in this Code of Ordinances, the provision which is more restrictive or imposes higher standards shall control.

In addition, the provisions of This ~~Code~~ Chapter ~~is~~ are not intended to interfere with, rescind, or invalidate any easements, covenants, or other agreements between parties, ~~or any statute, or regulation.~~ However, except that, if this ~~Code~~ Chapter imposes a greater restriction or higher standards, this ~~Code~~ Chapter controls.

1.11 SAVING OF CITY RIGHTS AND REMEDIES

All rights or remedies of the City are expressly saved as to any and all violations of previous zoning regulations or amendments thereto of the City that have accrued at the time of the effective date of this ~~CodeChapter~~; and to such accrued violations, the City and the courts have all the powers that existed prior to the effective date of this ~~CodeChapter~~; and ~~that~~ all existing violations of previous zoning regulations which would otherwise become nonconforming uses under this ~~CodeChapter~~ shall not become legal nonconforming uses under this Chapter, but shall be violations of this Chapter in the same manner that they were violations of prior zoning regulations.

~~1.12 REPEAL OF CONFLICTING ORDINANCES~~

~~All ordinances, or parts of ordinances, in conflict or inconsistent with any of the provisions of this Chapter are hereby repealed insofar as the same are in conflict with the provisions hereto and insofar as necessary to give this Chapter full force and effect.~~

~~1.13~~ 12 SEVERABILITY

If any provision, section, subsection, sentence, clause, or phrase of this ~~CodeChapter~~ (collectively “provision”), or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or ~~invalidunenforceable~~, the validity of the remaining portions of this ~~CodeChapter~~ shall not be affected thereby. ~~It, it~~ being the intent of the City Council in adopting this ~~CodeChapter~~ that no portion thereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ~~CodeChapter~~ are declared to be severable for that purpose. Moreover, it is also the intention of the City Council that in lieu of each provision, section, subsection, sentence, clause, or phrase of this Chapter, collectively “provision”, that is found to be illegal, invalid, or unenforceable, a provision be added to this ~~CodeChapter~~ which is legal, valid, and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.