

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 4, ZONING DISTRICTS AND USE REGULATIONS, BY UPDATING PROVISIONS RELATING TO TEMPORARY USES AND STRUCTURES, INTEGRATING MOBILE FOOD VENDOR PROVISIONS, AND ESTABLISHING A TEMPORARY USE PERMIT PROCESS IN SECTION 4.7; AMENDING PROVISIONS RELATING TO MOBILE FOOD VENDORS AND PARKS IN SECTIONS 4.9 AND 4.10; AMENDING SUBCHAPTER 20, DEFINITIONS, BY ADDING CORRESPONDING DEFINITIONS; AND REPEALING TITLE IX GENERAL REGULATIONS, CHAPTER 98 TEMPORARY STORAGE STRUCTURES IN ITS ENTIRETY; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING SEVERABILITY AND REPEALER CLAUSES; PROVIDING FOR A PENALTY FOR A VIOLATION OF CHAPTER 157, SUBCHAPTER 4 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 the realization of its stated purposes and its compliance with applicable State law; and

WHEREAS, the Planning and Zoning Commission held a public hearing on February 3, 2020, 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 7 - 0; and

WHEREAS, the City Council finds that amendments to Chapter 157, Subchapter 4 and Subchapter 20 are necessary to ensure public health and safety and appropriateness of temporary uses, temporary structures, and mobile food vendors and parks; and

WHEREAS, the City Council finds that repealing Chapter 98 Temporary Storage Structures is prudent as such standards are necessary to be included within Chapter 157, Subchapter 4 of the Unified Development Code which addresses temporary uses and structures; 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 4, Zoning Districts and Use Regulations, Section 4.7 Temporary Uses, Structures, and Permits, Section 4.9 Mobile Food Vendor, and Section 4.10 Mobile Food Park to read as amended in Exhibit A, attached hereto and incorporated herein for all purposes.

Section III.

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 157, Subchapter 20, Definitions, by adding definitions to read as follows:

Subchapter 20 – DEFINITIONS

Farmer's Market. Means a designated location used primarily for the distribution and sale directly to consumers of food by farmers or other producers.

Special Event. Means a planned temporary aggregation of people or attractions for a common purpose, including street fairs, arts and crafts shows, carnivals, public entertainments, or other similar events or attractions.

Temporary Uses. Means short-term or seasonal uses that are not otherwise allowed by the zoning district and land use condition regulations or are specific uses articulated in Section 4.7 of Subchapter 4 of this Code.

Section IV.

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by repealing Chapter 98, Temporary Storage Structures, in its entirety.

~~CHAPTER 98: TEMPORARY STORAGE STRUCTURES~~

~~§ 98.01 — RESIDENTIAL.~~

~~TEMPORARY STORAGE STRUCTURE means a structure designed for temporary storage use and not permanently attached to the ground.~~

~~(A) — No more than one (1) temporary structure shall be allowed per dwelling unit in a residentially zoned [sic] or on a lot that is residential in use and shall not remain on the site longer than ten (10) consecutive days.~~

~~(B) — No more than four (4) temporary structures may be placed on a residentially zoned [sic] or on a lot that is residential in use per calendar year and there shall be a minimum of sixty (60) days between the placement.~~

~~(C) — No temporary structure shall exceed a height of eight feet (8'), a width of eight feet (8'), or floor area of 128 square feet.~~

~~(D) — Temporary structures shall be placed on improved surfaces of concrete, asphalt or brick or screened from view of the right-of-way and adjacent properties by a screening fence at least six feet (6') in height.~~

~~(E) — Temporary structures shall be placed outside the site triangle.~~

~~§ 98.02 — COMMERCIAL.~~

~~TEMPORARY STORAGE STRUCTURE means a structure designed for temporary storage use and not permanently attached to the ground.~~

~~(A) — No more than one (1) temporary structure shall be allowed per platted lot in an area that is zoned commercial or on a lot that is commercial in use and shall not remain on the site longer than ten (10) consecutive days without a permit.~~

~~(B) — No more than four (4) temporary structures may be placed on a commercially zoned [sic] or on a lot that is commercial in use per calendar year and there shall be a minimum of sixty (60) days between the placement.~~

~~(C) — No temporary structure shall exceed a height of eight feet (8'), a width of eight feet (8'), or floor area of 128 square feet.~~

~~(D) — Temporary structures shall be placed on improved surfaces of concrete, asphalt or brick or screened from view of the right-of-way and adjacent properties by a screening fence at least six feet (6') in height.~~

~~(E) — Temporary structures shall be placed outside the site triangle.~~

~~(F) — No more than four (4) permits may be issued to a property per calendar year and there shall be a minimum of sixty (60) days between the issuance of permits.~~

~~(G) — Permits may be approved for up to one hundred eighty (180) days. Permits shall be issued by the building official or his designee. Permits shall be posted in view from the right-of-way for the duration of the use. Permits shall cost fifteen dollars (\$15.00).~~

~~§ 98.03 — NONCONFORMING USE.~~

~~Temporary storage structures located within the boundaries of the Central Business District on or before June 1, 2007, shall be permitted as a nonconforming use. The individual claiming the nonconforming use shall register their temporary storage structure with the building official by August 3, 2007. The nonconforming use is not assignable and shall terminate in the event the temporary structure is removed from the premises, damaged by more than fifty percent (50%) or destroyed. In the event the owner or lessee of the premises transfers ownership or ceases to rent or lease the premises on which they were registered as a nonconforming use the nonconforming use shall terminate.~~

~~§ 98.04 — PENALTY.~~

~~Any person who shall violate any of the provisions of this chapter or fail to comply therewith shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined not less than \$1.00 nor more than \$500.00. This offense is hereby declared to be a strict liability offense and the culpable mental state required by Chapter 6.02 of the Texas Penal Code is hereby specifically negated and clearly dispensed with. Each day that the violation occurs shall constitute a distinct and separate offense.~~

Section V.

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 VI.

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 VII.

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 VIII.

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 _____, 2020.

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

CHAPTER 157

SUBCHAPTER 4. ZONING DISTRICTS AND USE REGULATIONS

SECTION 4.7 TEMPORARY USES, STRUCTURES, AND PERMITS; AND

SECTION 4.9 MOBILE FOOD VENDOR (MFV); AND

SECTION 4.10 MOBILE FOOD PARK (MFP)