

ORDINANCE NO. 23-S-78

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 5 ZONING DISTRICTS, SUBSECTION 21.5.4 ZONING CHANGE/ZONING MAP AMENDMENT.

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on September 27, 2023, the Planning and Zoning Commission conducted public hearings and, thereafter recommended approval; and

WHEREAS, on October 17, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The current UDC is hereby amended as set forth in Exhibit A hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein..

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this

Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit A

Unified Development Code (UDC) Amendments

Article 5 Section 21.5.4 – Zoning Change/Zoning Map Amendment

Sec. 21.5.4. Zoning Change/Zoning Map Amendment.

A. *Applicability.*

1. The City Council may, from time to time, on its own motion, by request of the City Manager or his/her designee, or by application from a property owner, establish or amend the boundaries shown on the Official Zoning Map of the City. A zoning change or zoning map amendment is required to establish the use of land and the development associated with the proposed zoning classification for the purpose of establishing and maintaining sound, stable and desirable development within the City.
2. Approval of a zoning change or zoning map amendment authorizes a property owner to submit subsequent development applications consistent with the amendment.

B. *Application Requirements.*

1. *Application Required.* Any request for a zoning change or zoning map amendment shall be accompanied by an application and zoning exhibit prepared in accordance with the Development Manual.
2. *Accompanying Applications.* A request for a zoning change or zoning map amendment may be accompanied by an application for amendment of the Future Land Use Map or by a Subdivision Master Plan. Approval of a zoning change or zoning map amendment shall require all subsequent development applications to be consistent with the approved amendments.
3. *Tax Certificate Required.* All applications made as a request for a zoning change or zoning map amendment shall be accompanied by a copy of a Tax Certificate.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a zoning change or zoning map amendment shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other City Department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the Planning and Zoning Commission for consideration.
2. *Notification Requirements.* An application for a zoning change or zoning map amendment requires the following notification in accordance with section 21.4.3:
 - a. written notice prior to consideration by the Planning and Zoning Commission; and
 - b. published notice prior to consideration by the City Council.
 - c. posted notice prior to consideration by the Planning and Zoning Commission and prior to consideration by the City Council.
3. *Commission Recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 and make a written recommendation regarding a proposed zoning change or zoning map amendment to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the amendment. The Planning and Zoning Commission may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the recommendation to the City Council.

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4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed zoning change or zoning map amendment and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4. The City Council may vote to approve, approve with conditions, or deny the amendment. The City Council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 5. *Consideration of Previously Denied Amendments.* A request for a zoning change or zoning map amendment for a tract of land shall not be considered by the Planning and Zoning Commission or the City Council within six (6) months after the Council's decision to deny the request unless the request is to a different zoning classification or there has been a substantial change in the conditions surrounding the parcel since the initial request. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties. The City Manager or his/her designee shall have the authority to determine whether the request is substantially different from the initial request.
- D. *Criteria for Approval.* The Planning and Zoning Commission, in making its recommendation, and the City Council, in considering final action on a zoning change or zoning map amendment, should consider the following criteria:
1. Whether the proposed zoning change or zoning map amendment implements the policies of the adopted Comprehensive Land Plan, including the land use classification of the property on the Future Land Use Map;
 2. Whether the proposed zoning change or zoning map amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 3. Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
 4. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;
 5. Whether there have been environmental and/or economical changes which warrant the requested change;
 6. Whether there is an error in the original zoning of the property for which a change is requested;
 7. Whether all of the applicant's back taxes owed to the City have been paid in full (no application will receive final approval until all back taxes are paid in full); and,
 8. Whether other criteria are met, which, at the discretion of the Planning and Zoning Commission and the City Council, are deemed relevant and important in the consideration of the amendment.
- E. *Protests.*
1. If a proposed zoning change or zoning map amendment is protested in accordance with this section, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The protest must be written and signed by the owners of at least twenty percent (20%) of either:
 - a. The area of the lots or land covered by the proposed zoning change or zoning map amendment;
 - or

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- b. The area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area.
 2. In computing the percentage of land area under section 21.5.4.E.1 above, the area of streets and alleys shall be included.
 3. In determining property ownership under section 21.5.4.E.1 above, the property owner shall be the owner as indicated on the most recently approved municipal tax roll, unless the property has been bought or sold since the last approved municipal tax roll. The City Manager or his/her designee determines property ownership in the above-mentioned municipal tax roll from the County Appraisal District.
 - a. If a property has recently been purchased and the County Appraisal District has not updated their public records to reflect the now current property owner, the new property owner must submit proof of ownership with their written protest to demonstrate ownership for the protest to be counted under section 21.5.4.E.1.
 - b. In the event of a conflict in property ownership, the City Manager or his/her designee shall determine who the owner of the property is for the purposes of calculating written protest.
 - c. The written protest will only be counted if signed by the owner of the property. Written protests from tenants or lessees will not be counted toward the written protest calculations under section 21.5.4.E.1.
 4. The following deadlines apply to the receipt and calculation of written protest:
 - a. *First Reading.* Written protest must be received before noon (12pm) on the Friday before the first reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - b. *Second Reading.* Written protest must be received before noon (12pm) on the Friday before the second reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - c. Written protest received prior to the First Reading deadline will also be included in the Second Reading written protest calculation.
 - d. In calculating the written protest described by section 21.5.4.E.1., only the most recent written protest received prior to the deadline above will be counted per property.
 - e. In the event a federal, state, or local holiday prevents staff from receiving votes on the Friday before the City Council reading, the deadline will be extended to noon (12pm) on the next business day.

(Ord. No. 17-S-42 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)