

An aerial photograph of a suburban neighborhood during sunset. The sky is a warm orange and yellow. In the center, a water tower is visible with the word "SCHERTZ" on its side. The houses are mostly two-story with gabled roofs. A road with several cars is visible in the lower right. A blue vertical bar is on the left side of the image.

# Ordinance 24-S-20

UDC Amendment to Article 7- NonConforming Uses, Lots, and Structures

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# Background

- At the April 16, 2024 City Council Meeting, Resolution 24-R-41 and Resolution 24-R-42 were discussed by Council and passed starting the annexation process for properties in Comal, Guadalupe, and Bexar County based on expiring Delayed Annexation Development Agreements.
- During the discussion of Resolution 24-R-41 and 24-R-42, City Council expressed concerns about nonconforming uses and protecting agricultural uses for properties proposed to be annexed.
- The proposed UDC amendment to Article 7 is intended to resolve these concerns by defining agricultural operations and ensuring that they can continue to operate if the properties are annexed into the City of Schertz.

# Background- House Bill 1750

- Due to House Bill (HB) 1750, effective September 2023, the agricultural code was amended to remove provisions relating to the effect of a city's governmental requirements on an agricultural operation that was situated outside the city's corporate boundaries and that was later brought within the city's corporate boundaries.
- Additionally, HB 1750 defined agricultural operations and provided guidance and clarity to cities on generally accepted agricultural practices that do not pose a threat to public health.
- The definition of agricultural operations in the proposed UDC amendment comes from House Bill 1750.
- The proposed UDC amendment to Article 7, would bring the City of Schertz in line with recent changes and definitions established in the Texas Agricultural Code.

# Proposed UDC Article 7 Amendment

## **Sec. 21.7.11 Agricultural Operations.**

- A. Within the City of Schertz, there exists properties that have been utilized for Agricultural Operations prior to being annexed into the City of Schertz. Agricultural Operations per H.B. No 1750 include cultivating the soil, producing crops or growing vegetation for human food, animal feed, livestock forage, forage for wildlife management, planting seed or fiber, floriculture, viticulture, horticulture, silviculture, wildlife management, raising or keeping livestock or poultry, including veterinary services, and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop of livestock rotation procedures. Per Texas Agriculture Code Chapter 251 Section 251.0055 a city may not impose a governmental requirement that directly or indirectly prohibits the use of a generally accepted agricultural practice.

# Proposed UDC Article 7 Amendment Continued

- B. In order to ensure that properties within the City of Schertz that have been utilized for Agricultural Operations can continue the following are applicable:
  - a. Land Use: Properties can be utilized for Agricultural Operations including alternating between growing crops and raising livestock regardless of the zoning designation for the property.
  - b. Expansion of Agricultural Operations: Existing Agricultural Operations can expand to include:
    - i. Increase of field crop area or increase of livestock or change in livestock species
    - ii. Construction of Maintenance Buildings or Equipment Sheds, Barns, Accessory Buildings, Animal Cages or Corrals, Feeders or Grain Storage, or any other miscellaneous Agricultural related structure.
      - 1. Issuance of building permits will not be required for any Maintenance Buildings or Equipment Sheds, Barns, Accessory Buildings, Animal Cages or Corrals, Feeders or Grain Storage, or any other miscellaneous Agricultural related structure that is less than 2,000 square feet.
      - 2. Platting of the property and connection to sanitary sewer will not be required for construction of Maintenance Buildings or Equipment Sheds, Barns, Accessory Buildings, Animal Cages or Corrals, Feeders or Grain Storage, or any other miscellaneous Agricultural related structure.
      - 3. This does not negate the requirement to obtain any necessary building permits or any Certificate of Occupancy requirements for a commercial business that will be occupied by or serves those that do not own or work for the agricultural operation.

# Proposed UDC Article 7 Amendment Continued

- iii. Construction of additional single family detached residential dwelling units which shall only be utilized for family members or employees of the Agricultural Operations on the same property with a minimum of 5 acres per unit, up to an additional four (4) units per property.
  - 1. Issuance of building permits will be required for any additional single family detached residential dwelling units.
  - 2. Platting of the property and connection to sanitary sewer will not be required for construction of additional single family detached residential dwelling units.
- iv. Construction of new, or repair of existing agricultural fencing in conjunction with agricultural operations, including utilizing barbed wire, is permitted without obtaining a building permit as long as the proposed fencing is within the property boundaries and does not impede sight visibility.
- c. Development Process: Agricultural Operations are subject to all City of Schertz development regulations and processes to include but not limited to Platting, Site Plan, and Building Permits and Inspections with the exceptions provided within this section.

# UDC SECTION 21.4.7.D Criteria for Approval

## 1. The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;

- By defining agricultural operations in Article 7, the City is able to establish a clear procedure moving forward on how agricultural operations can continue operations as a nonconforming use. Additionally, staff used the definition of agricultural operations from House Bill Number 1750 that strengthened agricultural operations.

## 2. An amendment to the text is consistent with other policies of the UDC and the City;

- The amendments to Article 7 are meant to protect and preserve existing agricultural operations that have become nonconforming to ensure that the City does not impose governmental requirements that prohibit agricultural practice per state law.

# UDC SECTION 21.4.7.D Criteria for Approval

## **3. Any proposed amendment is consistent with the goals and objectives of this UDC and the City; and**

- The UDC and its amendments should protect, promote, improve and provide for the public health, safety and general welfare of its citizens while also ensuring the safe, orderly, and efficient development and expansion of the City. The proposed amendments to Article 7 allow agricultural operations to continue on nonconforming properties within the City of Schertz.

## **4. Other criteria 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.**

- Staff has ensured that the UDC requirements have been met for the proposed Unified Development Code Amendment, and at this time have not received any special considerations from the Planning and Zoning Commission or the City Council.

# P&Z and Staff Recommendation

Staff recommends approval of Ordinance 24-S-20 amending Part III of the Schertz Code of Ordinance, Unified Development Code (UDC) Article 7- Nonconforming Uses, Lots and Structures to add Section 21.7.11- Agricultural Operations.

The Planning and Zoning Commission met on May 8, 2024, and made a recommendation of approval with discussed modifications for clarity on when a building permit was necessary and the utilization of barbed wire fencing with a 5-2 vote.

# City Council Approval

Ordinance 24-S-20 amending Part III of the Schertz Code of Ordinance, Unified Development Code (UDC) Article 7- Nonconforming Uses, Lots and Structures to add Section 21.7.11- Agricultural Operations was heard for first reading by the City Council on June 4, 2024 and was approved as presented with a unanimous vote.

# COMMENTS AND QUESTIONS