

ORDINANCE NO. 2019-37

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CITY CODE OF ORDINANCES, CHAPTER 14, "ZONING," EXHIBIT A, "ZONING ORDINANCE," SECTION 33 – "CUP OR C – CONDITIONAL USE PERMIT"; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, ENFORCEMENT, A REPEALER, AND SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, House Bill 3167 of the 86th Session of the Texas Legislature requires that a subdivision development plan, subdivision construction plan, site plan, land development application, site development plan, preliminary plat, general plan, final plat, and replat be approved, approved with conditions, or disapproved by staff and/or Planning & Zoning Commission within 30 days of submission or it is deemed approved by inaction; and

WHEREAS, Chapter 211 – Municipal Zoning Authority of the Local Government Code is not subject to the 30-day requirement of House Bill 3167; and

WHEREAS, In order to ensure compliance with House Bill 3167, portions of Chapter 14, Section 33 – CUP or C – Conditional Use Permit will need to be amended; and

WHEREAS, The City's current Code of Ordinances specifies that a site plan be submitted with an application for a Conditional Use Permit which would be subject to the 30-day requirement; and

WHEREAS, Application requirements for a Conditional Use Permit need to be clearly defined and compliant with Chapter 211 of the Local Government Code.

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

SECTION 1. FINDINGS OF FACT

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

SECTION 2. ENACTMENT

That Chapter 14, "Zoning," of the Code of Ordinances, Exhibit A, "Zoning Ordinance," Section 33 – "CUP or C – Conditional Use Permit" is amended to read as described and attached hereto as Exhibit "A."

SECTION 3. REPEALER

In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

SECTION 5. ENFORCEMENT

The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

SECTION 6. EFFECTIVE DATE

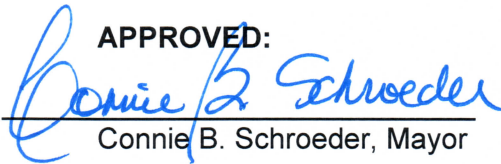
This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. OPEN MEETINGS

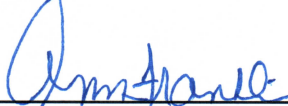
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

READ & ACKNOWLEDGED on First Reading on the 14th day of August 2019.

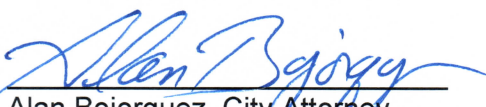
READ & APPROVED on the Second Reading on the 27th day of August 2019.

APPROVED:
by 
Connie B. Schroeder, Mayor

ATTEST:


Ann Franklin, City Secretary

APPROVED AS TO FORM:


Alan Bojorquez, City Attorney

City of Bastrop Code of Ordinances

Chapter 14 Zoning

Exhibit A Zoning Ordinances

SECTION 33 - CUP or C - CONDITIONAL USE PERMITS

33.1 – GENERAL PURPOSE AND DESCRIPTION:

The purpose of this section is to allow certain uses in districts that under most circumstances would not be compatible with other permitted uses but with certain conditions and development restrictions may be compatible.

33.2 – PERMITTED USES:

Uses permitted by CUP are specified in Section 36 (Use Charts).

33.3 - CONDITIONAL USE PERMIT REGULATIONS:

- A. In recommending that a Conditional Use Permit for the premises under consideration be granted, the City shall determine that such uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, screening and open space, heights of structures, and compatibility of buildings. In approving a requested CUP, the Planning and Zoning Commission and City Council may consider the following:
 - 1. The use is harmonious and compatible with surrounding existing uses or proposed uses;
 - 2. The activities requested by the applicant are normally associated with the permitted uses in the base district;
 - 3. The nature of the use is reasonable;
 - 4. Any negative impact on the surrounding area has been mitigated;
 - 5. That any additional conditions specified ensure that the intent of the district purposes are being upheld.
- B. In granting a Conditional Use Permit, the Planning and Zoning Commission and City Council may impose conditions which shall be complied with by the owner or grantee before a Certificate of Occupancy may be issued by the Building Official for use of the building on such property pursuant to such Conditional Use Permit and such conditions precedent to the granting of the Certificate of Occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the Certificate of Occupancy.
- C. No Conditional Use Permit shall be granted unless the applicant, owner and grantee of the Conditional Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the Conditional Use Permit, as attached to the Zoning

Concept Scheme and reviewed by the Planning and Zoning Commission and approved by the City Council.

- D. A building permit or Certificate of Occupancy shall be applied for and secured within one (1) year from the time of granting the Conditional Use Permit, provided however, that the City Council may authorize an extension of up to one (1) year. After one (1) year from the date of approval has elapsed, the Planning and Zoning Commission and City Council may review the Zoning Concept Scheme for compliance. If an extension is not authorized and the concept scheme is determined to be invalid, the property owner(s) must submit a new or revised concept scheme for approval prior to any construction or application for building permit for the area designated for the Conditional Use Permit.
- E. No building, premise, or land used under a Conditional Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless an amended Conditional Use Permit is granted for such enlargement, modification, structural alteration, or change. Minor changes or alterations may be approved by the Director of Planning and Development.
- F. The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any Conditional Use Permit.
- G. The Planning and Development Department shall keep an updated map of the Conditional Use Permits authorized by approval of the City Council.

33.4 – APPROVAL PROCESS AND PROCEDURE:

The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the Planning and Zoning Commission that the uses are in general conformance with the Comprehensive Plan and general objectives of the City and containing such requirements and safeguards as are necessary to protect adjoining property, authorize certain uses by a Conditional Use Permit (CUP or C). The procedure for approving a CUP shall follow the procedure for zoning amendments as set forth in Section 10.

33.5 – CONDITIONAL USE PERMIT REQUIREMENTS:

- A. Applications shall be accompanied by a Zoning Concept Scheme – The concept scheme shall be submitted by the applicant at the time of the CUP request. The scheme shall show the applicant's intent for the use of the property in a graphic manner and as may be required, supported by written documentation of a purpose statement. The City may prepare application form(s) which further describe and explain the following requirements:
 - 1. The Zoning Concept Scheme shall include:
 - a. Boundary of the proposed area
 - b. A scaled drawing showing types and location of proposed uses
 - c. Thoroughfares and preliminary lot arrangements
 - d. A sketch drawing that shows the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and project scheduling
 - e. Physical features of the site including a scaled drawing showing major existing vegetation, natural water courses, creeks or bodies of water and an analysis

of planned changes in such natural features as a result of the development. This shall include a delineation of any flood prone areas

- f. Any existing thoroughfares and easements
- g. Location of proposed public open spaces or civic spaces
- h. The points of ingress and egress from existing and proposed streets
- i. A landscape plan showing turf areas, screening walls, ornamental planting, wooded areas to be preserved, and trees to be planted. The landscape plan should provide types of plantings to be used and give a general landscape design scheme for the development
- j. A conceptual infrastructure plan showing the location of any existing or proposed utilities needed to adequately serve the development
- k. Architectural drawings (elevations, etc.) showing elevations and architectural style to be used throughout the development
- l. A parks and trails plan showing any proposed parks, trails, hardscape, playscape, water feature or any other proposed improvements to any civic or open space
- m. A Conceptual Drainage Plan as required by Appendix A of the City of Bastrop Stormwater Drainage Design Manual

33.6 – PRIOR CUP ORDINANCES REMAINING IN EFFECT:

Prior to adoption of this Ordinance, the City Council had established various Conditional Use Permits, some of which are to be continued in full force and effect. The permits or parts of permits approved prior to this Ordinance shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective Conditional Use Permits as previously approved by City Council.