

CITY OF ROCKWALL

ORDINANCE NO. 17-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING SECTION 4, *SPECIFIC USE PERMITS*, OF ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 04-38*] has been initiated by the City Council of the City of Rockwall to amend Section 4, *Specific Use Permits*, of Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] and,

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 04-38*] should be amended as follows:

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

Section 1. That Section 4, *Specific Use Permits*, of Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibits 'A'* of this ordinance.

Section 2. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars* (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

Section 3. That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

Section 4. That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS,
THIS THE 20th DAY OF MARCH, 2017.



For
Jim Pruitt, Mayor

ATTEST:



Kristy Cole, City Secretary



APPROVED AS TO FORM:



Frank J. Garza, City Attorney

1st Reading: 03-06-17

2nd Reading: 03-20-17

Exhibit 'A'
*Article IV, Permissible Uses,
Unified Development Code*

Section 4. Specific Use Permits

~~A specific use permit (SUP) is required for any use identified in the land use table as requiring one. The procedure for requesting an SUP is set out in article XI [of this Unified Development Code], Zoning Related Applications and Procedures.~~

Section 4.1, Purpose

The purpose of a Specific Use Permit (SUP) is to allow discretionary consideration of certain uses that would typically be considered incompatible within certain locations of a zoning district, but may become compatible with the addition of special provisions, conditions or restrictions. A SUP does not change the base zoning; it allows a particular use that would not normally be permitted in that zoning district. The SUP requirement for any land use is identified in the *Permitted Land Use* table contained in Article IV, *Permissible Uses*, of this Unified Development Code. The discretionary SUP procedure is designed to enable the Planning and Zoning Commission and the City Council to impose conditions upon such uses and structures that are designed to avoid, minimize or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure, and to deny requests for a SUP when it is apparent that a proposed use or structure will or may occasionally harm the community or cause injury to the value, lawful use, and reasonable enjoyment of other properties in the vicinity of the proposed use or structure

Section 4.2, Operational Conditions

In considering a SUP, staff and/or the Planning and Zoning Commission may recommend and the City Council may adopt additional conditions and operational constraints to ensure compatibility with adjacent land uses. These additional conditions and operational constraints will be incorporated into the SUP ordinance, and may relate to: (1) a property's specific site conditions, (2) increased performance standards, (3) compatibility with adjacent properties, (4) mitigation of potentially negative or adverse effects of a request, and (5) anything that could have a negative impact on the public's health, safety and general welfare.

Section 4.3, Compliance

- (1) In considering a Special Use permit application, the Planning and Zoning Commission may recommend, and the City Council may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to avoid, minimize, or mitigate any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Such conditions shall be set out in the Ordinance approving the SUP.
- (2) Prior to a SUP being issued, the property owner of the affected property shall agree, comply and be bound to the conditions and operational constraints approved by the City Council and contained in the SUP ordinance.
- (3) A SUP is considered to be transferable from property owner to property owner; however, the conditions and operational constraints of the SUP shall remain in effect and be applicable to the new property owner(s) and/or occupant(s). SUP's cannot be transferred from property to property.

Exhibit 'A'
*Article IV, Permissible Uses,
Unified Development Code*

Section 4.4, *Abandonment, Expiration and Revocation of a Specific Use Permit (SUP)*

- (1) *Abandonment.* A SUP approved by the City Council that remains vacant or inactive for a period of one (1) year shall be deemed to be abandoned and shall automatically expire. Vacancy or inactivity can be determined by the following:
 - (a) The water and/or electrical services have been disconnected or discontinued on the property; and/or
 - (b) The subject property (*e.g. lease space, parcel or parcels of land, lot, tract etc.*) is unoccupied; and/or
 - (c) The use is abandon due to the issuance of a Certificate of Occupancy (CO) for a use other than (*and exclusive from*) the use approved with the SUP.
- (2) *Expiration.* A Specific Use Permit (SUP) shall automatically expire due to inactivity if:
 - (a) A building permit has not been issued within (1) year of the approval date of the SUP ordinance, and/or a Certificate of Occupancy (CO) has not been issued within one (1) year of a building permit due to inactivity on the site (*inactivity in this case is defined as no progress towards construction for six [6] months*) -- *or one (1) year of the approval date of this ordinance if no building permit is necessary*; or
 - (b) A building permit or Certificate of Occupancy (CO) expires, is terminated or revoked under the requirements of the Codes of the City of Rockwall.
- (3) *Revocation.* The City Council reserves the right to revoke or rescind any SUP in which the business, property or property owner operating under the guidelines of the SUP ordinance fails to meet the minimum operation requirements set forth in the Specific Use Permit (SUP) ordinance and/or outlined in the Unified Development Code or the Rockwall Municipal Code of Ordinances. The procedure for revocation or rescinding a Specific Use Permit (SUP) shall be the same procedure for requesting a new Specific Use Permit (SUP).

Section 4.5, *Extension of a Specific Use Permit (SUP)*

Upon recommendation from the Planning and Zoning Commission, the City Council may grant a one (1) time extension to the expiration requirements stated above for a period not to exceed one (1) year. To apply for an extension a property owner shall file a written request with the Director of Planning or his designee at least 90 days prior to the expiration date. Extension requests shall not require a public hearing. No additional extension shall be granted without complying with the notice and hearing requirements for an initial application for a SUP.

Section 4.6, *Existing Specific Use Permits (SUP) and Conditional Use Permits (CUP)*

Specific Use Permits (SUP) and Conditional Use Permits (CUP) in existence at the time this section was adopted by the City Council shall automatically terminate one (1) year from the adoption date of this section if a building permit -- *or a Certificate of Occupancy (CO) if no building permit is necessary* -- has not been issued or an extension is not requested under Section 4.5 of this Ordinance.