

ARTICLE 17

ADMINISTRATIVE AND ENFORCEMENT REGULATIONS

Sec. 17-1. OFFICIAL ZONING MAP

The Official Zoning Map of the City of Big Sandy shall be kept in the office of the City Secretary and one copy shall be maintained in the office of the Building Inspector. It shall be the duty of the City Secretary to keep the Official Map current and the copies thereof, herein provided for, by entering on such maps any change which the City Council may from time to time order by amendments to the Zoning Ordinance.

The City Secretary, upon the adoption of this Ordinance, shall affix a certificate identifying the map in his office as the Official Zoning Map of the City of Big Sandy. He shall likewise officially identify the copies directed to be kept in the office of the Building Inspector.

Sect. 17-2. ENFORCEMENT AND APPLICATION

1. Administrative Official.

- a. The provisions of this Ordinance shall be administered and enforced by the building Inspector of the City of Big Sandy.
- b. The Building Inspector or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings of premises necessary to carry out his duties in the enforcement of this Ordinance.

c. Whenever any construction work is being done contrary to the provisions of this Ordinance, the Building Inspector may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Inspector to proceed with the work.

2. Requirements for building permit.

All applications for building permits shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing:

- a. The actual shape and dimensions of the lot be built upon.
- b. The exact sizes and locations on the lot of the buildings and accessory building then existing.
- c. The lines within which the proposed building and structure shall be erected or altered.
- d. The existing and intended use of each building or part of building.
- e. The number of families or housekeeping units the building is designed to accommodate.
- f. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.

One copy of such plot plans will be returned to the owner when such plans have been approved.

All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started.

3. Existing permits and private agreements.

This Ordinance is not intended to abrogate or annul:

a. Any permits issued before the effective date of this Ordinance.

b. Any easement, covenant, or any other private agreement.

4. Preserving rights in pending litigation and violations under existing ordinances.

By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this Ordinance; but prosecutions and suits for such offenses,

liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded within all respects.

5. Completion of authorized buildings.

Nothing in these regulations nor in any amendments hereto which change district boundaries shall require any change in the plans, construction or designated use of a building which shall be completed in its entirety within two years from the date of the passage of this Ordinance, provided such building was authorized by building permit before the passage of this Ordinance, and further provided construction shall have been started within 90 days of the passage of this Ordinance. Commitments with reference to construction of public utility buildings necessary for proposed expansion of the City made prior to the passage of this Ordinance shall be observed.

Sec. 17-3. BOARD OF ADJUSTMENT

The word "Board" when used in this Ordinance shall be constructed to mean the Board of Adjustment.

1. Organization and procedure.

- a. Establishment. A Board of Adjustment is hereby established in accordance with the provisions of Article 1011g. Revised Civil Statutes of Texas, regarding the zoning of cities and with the powers and duties as provided in said Statutes.

- b. Membership. The Board shall consist of three (3) citizens of Big Sandy each to be appointed or re-appointed by the mayor and confirmed by the City Council, for staggered terms of two years respectively. Each member of the Board shall be removable for just cause by the City Council upon written charges and after public hearings. Vacancies shall be filled by the City Council for the unexpired term of any member whose term becomes vacant. The board shall elect its own Chairman, who shall serve for a period of one year or until his successor is elected.
- c. Meetings. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.
- d. Hearings. The hearings of the Board of Adjustment shall be public. However, the Board may go into executive session for discussion but not for vote on any case before it. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest.
- e. Rules and regulations. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in

the office of the Building Inspector and shall be a public record.

The Board of Adjustment shall act by resolution in which three members must concur. The Board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the Ordinance, and shall furnish a copy of the same to the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

2. Appeals.

- a. Procedure. Appeals may be taken to and before the Board of Adjustment by any persons aggrieved, or by any officer, or department of the City. Such appeal shall be made by filing with the Building Inspector a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- b. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Board of Adjustment that by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in

which case the proceeding shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of equity, after notice of the officer from whom the appeal is taken and on due cause shown.

c. Notice of hearing on appeal. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail certified notices of such hearing to the petitioner and to the owners of property lying within 200 feet of any point of the lot or portion thereof on which variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the City of Big Sandy. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

d. Decision by board. The Board shall decide the appeal within a thirty (30) day period. Upon the hearing, any party may appear in persons or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all power of the officer or department from whom the appeal is taken.

3. Powers and duties of board.

- a. Subpoena witnesses, etc. The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- b. Appeal based on error. The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the Building Inspector in the enforcement of this Ordinance.
- c. Special Exceptions. The Board shall have the power to hear and decide special exceptions to the terms of this Ordinance upon which the Board is required to pass as follows or elsewhere in this Ordinance:
 - 1) Permit the erection and use of buildings.
 - 2) To permit a public utility or public service use of structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
 - 3) To permit a transitional use between a business or industrial and residential district where the side of a lot in a single family or multiple family district abuts

upon a lot zoned for business or industrial purposes as follows:

- a) On a lot in a single family district which sides upon a lot zoned for business or industrial purposes, the Board may permit a two-family dwelling on a lot with an area of not less than 6,000 square feet.
- b) Provided, however, that in no case shall any transitional use have a width of more than 100 feet.
- 4) To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this Ordinance.
- 5) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make necessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- 6) Permit land within 300 feet of a multi-family dwelling to be improved for the parking spaces required in connection with a multi-family dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multi-family dwelling.
- 7) To determine in cases of uncertainty the classification of any use not specifically named in this Ordinance.

d. Variances. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done, owing to and including the following special conditions:

- 1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
- 2) Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Ordinance relating to the use, construction or alterations of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or

difficulty so great as to warrant a variance from the Community Plan as established by this Ordinance, and at the same time, the surrounding property will be properly protected.

- e. Changes. The Board shall have no authority to change any provisions of this Ordinance, and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

Sec. 17-4. CERTIFICATES OF OCCUPANCY

1. Required for.

Certificates of Occupancy shall be required for any of the following:

- a. Occupancy and use of a building hereafter erected or structurally altered.
- b. Change in use of an existing building to a use of a different classification.
- c. Occupancy and use of vacant land, except agricultural use.
- d. Any change in the use of a nonconforming use.

No such occupancy, use or change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the Building Inspector.

2. Procedure for new or altered buildings.

Written application for a Certificate of Occupancy for a new building or for an existing building which to be altered shall be

made at the same time as the application for the building permit for such building. Said Certificate shall be issued within three days after a written request for the same has been made to said Building Inspector after the erection or alteration of such building or part hereof has been completed in conformity with the provisions of this Ordinance.

3. Procedures for vacant land or a change in use.

Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use, as herein provided, shall be made to said Building Inspector. If the proposed use is in conformity with the provisions of this Ordinance, the Certificate of Occupancy therefore shall be issued within three days after the application for same has been made.

4. Contents and filing of certificate of occupancy.

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Inspector and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

5. Temporary certificate.

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Inspector for a period not exceeding six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners of the City relating to the use of occupancy of the premises or any other matter covered by this Ordinance.

Sec. 17-5. AMENDMENTS

1. Petition.

Any person or corporation having a proprietary interest in any property may petition the City Council for a change, supplement or amendment to the provisions of this Ordinance or the Planning and Zoning Commission may on its own motion or on request from the City Council institute a study and proposal for changes, supplements and amendments in the public interest. ✓

2. Procedures.

- a. The City Council may, from time to time, amend, supplement, or change by ordinance the districts or the regulations herein established.
- b. Before taking action on any proposed amendment, supplement, or change, the City Council shall submit the proposed

revisions to the Planning and Zoning Commission for its recommendations and report.

The Planning and Zoning Commission shall hold a public hearing on any request for any amendment, supplement or change prior to making its recommendation and report to the City Council. (*)

- c. A certified written notice of all public hearings before the Planning and Zoning Commission on any proposed amendment, supplement, or change shall be sent to all owners of real property lying within two hundred (200) feet of the property on which the change is requested. Such notice shall be given not less than ten (10) days before the date set for hearing by posting such notice properly addressed and postage-paid to each taxpayer as the ownership appears on the last approved City tax roll.
- d. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement, or change. Notice of such hearing shall be given by publication one time in a paper of general circulation in the City of Big Sandy, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the first date of publication.
- e. Unless a proposed amendment, supplement or change has been approved by the Planning and Zoning Commission, or if a protest against such proposed amendment, supplement, or change has been filed with the City Secretary, duly signed

and acknowledge by the owners of twenty (20) percent or more of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending two hundred (200) feet therefrom, or of those directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite lots, or of those immediately adjacent on either side of the area of said lots extending two hundred (200) feet therefrom, such change shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the City Council.

3. Limitation of resubmission of petition.

No amendment, supplement, or change or repeal of any section of this Ordinance which has been legally rejected by both the City Council, and the Planning and Zoning Commission shall be again considered either by the City Council or the Planning and Zoning Commission on an appeal or petition by an appellant or request before the expiration of one (1) year from the date of the original action.

Sec. 17-6. INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements

between parties, provided, however, that where this Ordinance imposes a greater restriction upon the building or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this Ordinance shall govern.

Sec. 17-7. VIOLATION AND PENALTY

Any violation of this Ordinance shall be a misdemeanor and each day that said violation occurs shall be a separate misdemeanor and the penalty for violating the provisions of this Ordinance shall be a fine not to exceed Two Hundred and no/100 (\$200.00) Dollars.

Sec. 17-8. SEVERABILITY

If any section, subsection, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

Sec. 17-9. CONFLICTING ORDINANCES REPEALED

All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Sec. 17-7. VIOLATION AND PENALTY

Any violation of this Ordinance shall be a misdemeanor and each day that said violation occurs shall be a separate misdemeanor and the penalty for violating the provisions of this Ordinance shall be a fine not to exceed Five Hundred (\$500.00) dollars.

Sec. 17-8. SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or sentence.

Sec. 17-9. CONFLICTING ORDINANCES REPEALED

All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Sec. 17-10. EFFECTIVE DATE

This ordinance shall take effect and be in force immediately from and after its passage, and before the expiration of fifteen days after its passage, the caption and/or a summary shall be published once in a newspaper of general circulation published in the City of Big Sandy, Texas.

PASSED, APPROVED, AND ADOPTED THIS 23rd DAY OF april, 2014.

APPROVED:


NANCY CHURCH, MAYOR

ATTEST:


LAURA MOODY, CITY SECRETARY

APPROVED AS TO FORM:


BARRY WALLACE, CITY ATTORNEY