

**ORDINANCE NO. 23-0302-1**

**AN ORDINANCE OF THE CITY OF CHINA GROVE APPROVING AN AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF CHINA GROVE, TEXAS, ESTABLISHING A CONDITIONAL USE PERMIT PROCEDURE AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of China Grove (“City”) is a Texas General Law Municipality operating under the laws of the State of Texas; and

**WHEREAS**, the City is empowered by Chapter 211 of the Texas Local Government Code to establish a zoning ordinance including procedures for administration; and

**WHEREAS**, the City Council may from time to time choose to amend, supplement, change or modify the City’s zoning ordinance, regulations, boundaries, classifications, or procedures; and

**WHEREAS**, the City Council has duly held public hearings and given proper notice, as necessary, pertaining to the amendments of this zoning ordinance; and

**WHEREAS**, the City Council finds and determines that the zoning ordinance should be amended to provide for conditional use permit procedures, and this amendment is necessary for the orderly development of this community and represents the best interest of all citizens of the City of China Grove, Texas and promotes the aesthetics, health, safety, general welfare and convenience of the people.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHINA GROVE, TEXAS:**

**Section 1.** The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2.** The Zoning Ordinance of the City of China Grove, Texas is hereby amended as set forth on Exhibit A attached hereto.

**Section 3.** If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

**Section 4.** This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 5.** This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

**Section 6.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

**Section 7.** This Ordinance will take effect upon its adoption by the City Council.

**PASSED AND APPROVED** this 7th day of March, 2023.

CITY OF CHINA GROVE, TEXAS

By: Mary Ann Hajek  
Mary Ann Hajek, Mayor

ATTEST:

Susan Conaway  
Susan Conaway, City Secretary

## Exhibit A

All text which is underlined denotes addition of new text. All text which is ~~stricken through~~ denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted shall be considered unchanged. The Zoning Ordinance of the City of China Grove, Texas is hereby amended as follows:

### Section 14.1: Conditional Use Permits (CUP)

- (a.) Applicability. Conditional Use Permits (CUP) allow for discretionary city council approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this ordinance. These uses and the districts where they may be located are listed in this ordinance. Approval of a conditional use permit authorizes a property owner to submit subsequent development applications consistent with the approved CUP.
- (b.) Application requirements.
- (1.) Application Required. Any request for a CUP shall be accompanied by an application prepared in accordance with the city's development manual.
- (c.) Processing of application and decision.
- (1.) Submittal. An application for a CUP shall be submitted to the city administrator or his/her designee. The city administrator or his/her designee shall review the application for completeness. The city administrator or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city administrator 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 administrator or his/her designee shall forward a recommendation to the city council for consideration.
- (2.) Notification requirements. An application for a CUP requires the following public hearing notification:
- a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the city council.
  - b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the city council.
  - c. Public hearing notices shall be in accordance with Texas Local Government Code Ch. 211 and include the date, time, place, and topic of the public hearing.
- (3.) Decision by city council.
- a. The city council shall hold a public hearing and consider the CUP request.
  - b. The city council may vote to approve, approve with conditions, or deny the request. City council may not adopt the proposed CUP until after the 30<sup>th</sup> day after the date the public hearing notice was given. The city council may, on its own motion or by

request of the property owner, postpone consideration of the request to a stated specific date in order to review additional information or modifications which may have a direct bearing on the final decision.

- c. A majority vote of city council is required to approve a CUP request unless it is protested in accordance with the provisions below.

(4.) Protested Conditional Use Permit

- a. A proposed CUP may be protested in writing by owners of at least twenty percent (20%) of either:
  - i. The area of lots or land covered by the CUP; or
  - ii. The area of lots or land immediately adjoining the area covered by the proposed CUP and extending 200 feet from that area.
  - iii. In computing the percentage of land area, the area of streets and alleys shall be included.
- b. CUP protested in accordance with the above provisions requires the affirmative vote of at least three-fourths (3/4) of all members of the city council to approve.

(d.) Criteria for approval. The city council in considering action on a CUP should consider the following criteria:

- (1.) The proposed use at the specified location is consistent with the adopted plans and policies of the city;
- (2.) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3.) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as safety, traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
- (4.) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (5.) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed use on adjacent properties;
- (6.) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood;
- (7.) The proposed use promotes the health, safety or general welfare of the city and the safe, orderly, efficient and healthful development of the city;
- (8.) No application made under these provisions will receive final approval until all back taxes owed to the city have been paid in full; and

- (e.) Conditions. The city council, in considering action, may require such modifications in the proposed use and attach such conditions to the conditional use permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.
- (f.) Expiration, Extension, and Amendments of Conditional Use Permit. The city council may attach conditions relating to the effective date of the Conditional Use Permit, time limits for the use authorized by the Conditional Use Permit to begin, extension of time limit conditions, and amendments to the Conditional Use Permits. Any conditions and limitations shall be included in the ordinance authorizing the Conditional Use Permit. Failure to meet the conditions of the Conditional Use Permit may invalidate the Conditional Use Permit.