

ORDINANCE NO. 05-09-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO, TEXAS, AMENDING ORDINANCE NO. 4-6-2004-1, "THE CITY OF CHICO ZONING ORDINANCE" BY REPLACING THE PLANNING AND ZONING COMMISSION AND THE ZONING BOARD OF ADJUSTMENT WITH THE CITY COUNCIL; AMENDING PROCEDURES TO ACCOMMODATE THESE CHANGES; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCE NO. 3-2009-1 AMENDING ZONING ORDINANCE APPROVED AT MARCH 3, 2009 COUNCIL MEETING; REPEALING CONFLICTING ORDINANCES; ESTABLISHING AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Chico, Texas, is a Type A general law municipality in the State of Texas; and

WHEREAS, Texas Local Government Code § 211.007(e) allows the City Council to exercise zoning authority without a planning and zoning commission; and

WHEREAS, Texas Local Government Code § 211.008(g) allows the City Council to exercise the duties of Zoning Board of Adjustment; and

WHEREAS, the City Council finds it necessary to abolish the Planning and Zoning Commission and the Zoning Board of Adjustment; and

WHEREAS, Ordinance 3-2009-1 amending Zoning Ordinance No. 4-6-2004-1 approved on March 3, 2009 without first holding a public hearing on the amendment is hereby repealed.

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

SECTION 1. The recitals contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2. Ordinance No. 4-6-2004-1, hereinafter referred to as "The Zoning Ordinance," is hereby amended by amending the following sections:

- (A) Section 7.2 of the Zoning Ordinance is hereby amended to read as follows: "Building Permits Prohibited without Plat. No permit for the construction or placement of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly approved by the City Council and filed in the Plat Records of county or counties in which the plot or tract is located."
- (B) Section 28.1.1 of the Zoning Ordinance is hereby amended to read as follows: "As permitted under the provisions of this ordinance, a property owner may apply

- (B) Section 28.1.1 of the Zoning Ordinance is hereby amended to read as follows: "As permitted under the provisions of this ordinance, a property owner may apply for a specific use of property, as authorized by the zoning district in which the property is located. "
- (C) Section 28.2.1 of the Zoning Ordinance is hereby repealed.
- (D) Section 32.1.1 of the Zoning Ordinance is hereby amended to read as follows: "The Zoning Administrator shall refer the questions concerning any new or unlisted use to the City Council as to the zoning classification(s) into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated, and the general requirements for public utilities such as water and sanitary sewer."
- (E) Section 32.1.2 of the Zoning Ordinance shall be amended to read as follows: "The City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, in determining the zoning district or districts within which such use should be permitted."
- (F) Section 35 of the Zoning Ordinance is hereby amended by changing the title of the Section to read as follows: "City Council Exercises Zoning Authority."
- (G) Section 35.1 of the Zoning Ordinance entitled "Organization and Appointment" is hereby replaced with the following language to read as follows: "Pursuant to Section 211.006 of the Texas Local Government Code, the Chico City Council shall exercise zoning authority without the appointment of a Planning and Zoning Commission. The Planning and Zoning Commission is hereby repealed. Any duty in the Zoning Ordinance or amendment thereto that purports to grant rights to the Planning and Zoning Commission shall be exercised by the City Council."
- (H) Sections 35.1.1, 35.1.2, 35.1.3, and 35.1.4 of the Zoning Ordinance are hereby repealed.
- (I) The Duties and Authority listed in Section 35.2 of the Zoning Ordinance shall be performed by the City Council. However, decisions of the City Council shall be final.
- (J) Section 36 of the Zoning Ordinance is hereby amended by changing the title of the Section to read as follows: "City Council Exercises Zoning Authority of Zoning Board of Adjustment."
- (K) Section 36.1.1 of the Zoning Ordinance entitled "Zoning Board of Adjustment Established" is hereby replaced with the following language to read as follows:

"Pursuant to Section 211.008 of the Texas Local Government Code, the Chico City Council shall act as the Zoning Board of Adjustment pursuant to Chapter 211 of the Texas Local Government Code. The Zoning Board of Adjustment is hereby repealed. Any duty in the Zoning Ordinance or amendment thereto that purports to grant rights to the Zoning Board of Adjustment shall be exercised by the City Council."

- (L) Sections 36.1.2 of the Zoning Ordinance is hereby repealed.
- (M) Section 36.1.3 of the Zoning Ordinance shall be amended to read as follows: "Hearings. Hearings shall be public. The City Council 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 permit is pending, and shall also hear any other parties in interest. All hearings are to be heard by at least four (4) members of the City Council."
- (N) Section 36.1.4 of the Zoning Ordinance shall be amended to read as follows: "Meetings. Regular Meetings shall be held at such times as the City Council may determine. Special meetings of the City Council performing the duties of a zoning board of adjustment shall be held at the call of the Mayor or at the written request of two City Councilpersons, or city staff, and said request to be submitted to the Mayor."
- (O) Section 36.1.5 of the Zoning Ordinance shall be amended to read as follows: "Rules and Regulations. The City Council shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Secretary and shall be public record, except for matters allowed to be kept from public disclosure. The City Council performing the duties of a zoning board of adjustment may only act with the concurrence of five members of the City Council. The City Council may adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the Zoning Ordinance, and shall furnish a copy of the same to the Zoning Administrator and the Building Inspector, all of which rules and regulations shall operate uniformly in all cases."
- (P) The powers, duties, actions, and requirements listed in Sections 36.2, 36.3, and 36.4 of the Zoning Ordinance shall be performed by the City Council. Decisions of the City Council shall be final.
- (Q) Section 36.5 of the Zoning Ordinance is hereby repealed.
- (R) Section 37.2 of the Zoning Ordinance is hereby amended by adding section 37.2.104 to read as follows: "City Council – The City Council of the City of Chico, Texas."

- (S) Section 39.2 of the Zoning Ordinance is hereby amended by deleting the reference to the Planning and Zoning Commission.
- (T) Section 39.2.1 of the Zoning Ordinance entitled "Initiating Zoning Changes" is hereby amended to read as follows: "The City Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. Any Ordinance regulations or zoning district boundary amendment may be ordered for the consideration by the City Council or be requested by the owner of real property, or the authorized representative of an owner of real property."
- (U) Section 39.3.1 of the Zoning Ordinance is hereby amended to read as follows: "Upon filing an application for an amendment to the zoning ordinance and map, the City Council shall hold a public hearing on said application."
- (V) Sections 39.4.1 and 39.4.2 of the Zoning Ordinance are hereby repealed.
- (W) Section 39.2.2 of the Zoning Ordinance is hereby amended by adding the following language: "Notice of the time and place of the hearing shall be given by providing one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing."
- (X) Sections 39.5.1 and 39.5.3 of the Zoning Ordinance are hereby repealed.
- (Y) Section 39.5.2 of the Zoning Ordinance shall be amended to read as follows: "The City Council may adopt or deny any change in zoning request by a majority vote of the Councilpersons present and voting."
- (Z) Section 39.5.4 of the Zoning Ordinance shall be amended to read as follows: "In the case of a protest against an amendment to the Zoning Ordinance signed by the owners of twenty percent (20%) or more, either of the area or of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area included in the proposed change and extending two (200) feet from that area, such amendment shall not become effective except by the favorable vote of three-fourths of all members of the City Council."
- (AA) Section 39.5 of the Zoning Ordinance is hereby amended to add the Section 39.5.7 to read as follows: "The City Council may not adopt the proposed zoning change until after the 30th day after the date the notice required by Section 39.3 is given."

SECTION 3. Severability. It is hereby declared 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 or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and


section of this ordinance, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4. Publication. The City Council hereby directs the City Secretary to publish this ordinance in accordance with the Texas Local Government Code.

SECTION 5. All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

SECTION 6. Effective Date. This ordinance shall take effect immediately from and after its adoption and it is accordingly so ordained.

APPROVED this 5 day of May, 2009.



Mayor Pro Tem

ATTEST:



Patricia Payne, City Secretary