

ORDINANCE NO. XXXX

AN ORDINANCE AMENDING SECTION 84-54 "TERMINATION OF NONCONFORMING USES" OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF EULESS, TEXAS, PROVIDING THAT A NONCONFORMING USE OF PROPERTY SHALL BE CHANGED TO A CONFORMING USE BY ISSUANCE OF A SPECIFIC USE PERMIT; PROVIDING FOR THE TERMINATION OF A USE UPON REVOCATION OR EXPIRATION OF A SPECIFIC USE PERMIT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Euless, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City of Euless has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential and other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, the City Council previously adopted regulations governing the nonconforming status of property within the City as part of the comprehensive zoning ordinance; and

WHEREAS, the City Council desires to amend those regulations governing the nonconforming status of property to clarify that if a specific use permit is applied for and granted for a property that was previously nonconforming, the property shall become conforming effective the date the specific use permit is issued; and

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on June 21, 2016, in conjunction with the amendment herein, and has rendered a recommendation to the City Council with respect to this case; and

WHEREAS, the City Council has conducted a public hearing on August 16, 2016, considered the recommendation of the Planning and Zoning Commission, and has determined that the proposed change is in the best interest of the general welfare of the City of Euless;

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Texas Local Government Code.

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

SECTION 1.

Section 84-54, "Termination of nonconforming uses" of the Eules Code of Ordinances, is hereby amended by revising subsection (2)g "Time limitation" to read as follows:

"Sec. 84-54 Termination of nonconforming uses

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(2) Right to operate. The right to operate a nonconforming use shall cease and such use shall be terminated under any of the following circumstances:

* * * *

g. Approval of specific use permit. Any use which is permitted as a specific use permit by the city council in accordance with the provisions of this chapter shall, upon its establishment, be considered a conforming use in that zoning district and shall not thereafter be changed back to a nonconforming use, provided that this regulation shall not be so interpreted as to waive any conditions placed on the specific use permit by the city council. Whenever a specified term for a specific use permit has expired, the use shall not be deemed to be a nonconforming use and the property may only be used for a use permitted in the applicable zoning district unless an extension of the term of the specific use permit is approved by the city council. If a specific use permit is revoked in accordance with Section 84-157, the use shall not be deemed to be a nonconforming use and the property may only be used for a use permitted in the applicable zoning district.

SECTION 2.

CUMULATIVE CLAUSE. This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Eules, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 3.

SEVERABILITY CLAUSE. That 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 invalid or unconstitutional by the valid judgment or

decree of any court of competent jurisdiction, such invalidity or 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 invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

PENALTY CLAUSE. Any person, firm, or corporation violating any of the terms or provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1, "General Provisions," Section 1-12, "General Penalty," Eules Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

SECTION 5.

SAVINGS CLAUSE. All rights and remedies of the City of Eules are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances related to zoning that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

PUBLICATION CLAUSE. The City Secretary of the City of Eules is hereby directed to publish the caption, penalty clause, and effective date of this ordinance in the official newspaper of the City of Eules, as required by Section 12 of Article II of the Charter of the City of Eules.

SECTION 7.

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication as provided by the Eules City Charter and the laws of the State of Texas.

PRESENTED AND PASSED ON FIRST AND FINAL READING at a regular meeting of the Eules City Council on August 16, 2016, by a vote of ____ ayes, ____ nays, and ____ abstentions.

APPROVED:

Linda Martin, Mayor

ATTEST:

Kim Sutter, TRMC, City Secretary

APPROVED AS TO FORM:

Wayne Olson, City Attorney