

ORDINANCE NO. 727

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEDWIG VILLAGE, TEXAS AMENDING ARTICLE V, ZONING REGULATIONS, SECTION 506, BUSINESS DISTRICT B, SUBSECTION A, USE OF PROPERTY, OF THE HEDWIG VILLAGE PLANNING AND ZONING CODE RELATING TO USES OF PROPERTY WITHIN THE BUSINESS DISTRICTS OF THE CITY.

WHEREAS, pursuant to Section 705 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas and the Planning and Zoning Commission of the City of Hedwig Village, Texas have held a joint public hearing to consider a possible amendment to the Hedwig Village Planning and Zoning Code; and

WHEREAS, pursuant to Section 710 of the Hedwig Village Planning and Zoning Code, the Planning and Zoning Commission of the City of Hedwig Village, Texas submitted its written recommendation to the City Council of the City of Hedwig Village, Texas concerning a proposed amendment to Article V, Zoning Regulations, Section 506, Business District B, Subsection A, Use of Property, of the Hedwig Village Planning and Zoning Code; and

WHEREAS, pursuant to Sections 711 and 712 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas, has considered the recommendation of the Planning and Zoning Commission, concerning the proposed amendment to the City's Planning and Zoning Code relating to uses of property within the Business Districts of the City; and

WHEREAS, the City Council of the City of Hedwig Village, Texas, has concluded that a change in circumstances or conditions exists warranting an amendment to Article V, Zoning Regulations, Section 506, Business District B, Subsection A, Use of Property, of the City's Planning and Zoning Code and that this proposed amendment is in compliance with the comprehensive plan of the City.

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

Section 1. The Recitals set forth above are found to be true and correct and are adopted as the findings of fact of the City.

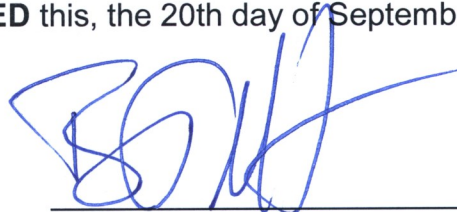
Section 2. Article V, Zoning Regulations, Section 506, Business District B, Subsection A, Use of Property, of the Planning and Zoning Code of the City of Hedwig Village, Texas is amended to read as set out in Appendix A, attached hereto. All other portions of the Planning and Zoning Code not specifically amended hereby remain in full force and effect.

Section 3. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.


Section 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

PASSED, APPROVED and ADOPTED this, the 20th day of September, 2018.



Brian T. Muecke, Mayor
City of Hedwig Village, Texas

ATTEST:



Kelly Johnson, City Secretary
City of Hedwig Village, Texas

Appendix A

Appendix A – PLANNING AND ZONING CODE
Article V. – ZONING REGULATIONS
Section 506. – Business district B

A. *Use of property.*

1. *Uses permitted:*

a. *General.* In business district B, all business shall be conducted from, and all merchandise stored, kept or displayed within a conforming building except that restaurants may provide a patio for outside dining sales provided that such area shall be counted as part of the building area in calculating setback, coverage, parking or other incidental requirements. Allowed businesses are those permitted as provided in Section A(1)(f) below and those that are not specifically prohibited in 506.A.2 (below or in the Code of Ordinances.) A business use is determined by whether 50% or more of the revenue of the business is derived by the sale of the designated goods or services. Incidental sales of goods (ie. which comprise less than 50% of the revenue of the business) which are not prohibited below may be allowed with the approval of the Building Official. The Building Official shall maintain a more detailed list of specific approved business uses in the Business Districts.

b. *Business district B-1.* No property shall be used and no building shall be hereafter used, erected, reconstructed, altered, or enlarged, unless otherwise provided in this code, except for one or more of the following uses or uses which are equivalent thereto as determined by the planning and zoning commission:

- (1) At least 85% of the aggregate net leasable space of the ground floor of a building or 85% of the aggregate net leasable space of the ground floors of buildings which comprise a retail center or business office complex shall be used for sales tax generating businesses;
- (2) Businesses on floors above the ground floor are not required to be sales tax generating businesses;
- (3) Healthcare, medical, and social assistance offices must not exceed 30% of overall square footage of the building.

c. *Business districts B-2.* No property shall be used and no building shall be hereafter used, erected, reconstructed, altered, or enlarged unless otherwise provided in this code, except for one or more of the following uses or uses which are equivalent thereto as determined by the planning and zoning commission:

- (1) At least 50% of the aggregate net leasable space of the ground floor(s) of a building or 50% of the aggregate net leasable space of the ground floors of . buildings.) which comprise a retail center or business office complex shall be used for sales tax generating businesses;
- (2) Businesses on floors above the ground floor are not required to be sales tax generating businesses;

- (3) Single-Family Homes on individually platted lots in a Medium Density Development along a public or private street.
- (4) Healthcare, medical, and social assistance offices must not exceed 30% of overall square footage of the building.

d. *Business districts B-3.* No property shall be used and no building shall be hereafter used, erected, reconstructed, altered, or enlarged unless otherwise provided in this code, except for one or more of the following uses or uses which are equivalent thereto as determined by the planning and zoning commission:

- (1) At least 85% of the aggregate net leasable space of the ground floor of a building or 85% of the aggregate net leasable space of the ground floors . of . buildings constituting a retail center or business office complex shall be used for sales tax generating businesses;
- (2) Businesses on floors above the ground floor are not required to be sales tax generating businesses;
- (3) A planned unit development, subject to limits specifically defined for Business District B-3, may be developed.
- (4) Healthcare, medical, and social assistance offices must not exceed 30% of overall square footage of the building.

e. *Business districts B-4.* No property shall be used and no building shall be hereafter used, erected, reconstructed, altered, or enlarged unless otherwise provided in this code, except for one or more of the following uses or uses which are equivalent thereto as determined by the planning and zoning commission:

- (1) At least 75% of the aggregate net leasable space of the ground floor of a building or 75% of the aggregate net leasable space of the ground floors of . of buildings which constitute a retail center or business office complex shall be used for sales tax generating businesses;
- (2) Businesses on floors above the ground floor are not required to be sales tax generating businesses;
- (3) A planned unit development, subject to limits specifically defined for Business district B-4, may be developed.
- (4) Healthcare, medical, and social assistance offices must not exceed 30% of overall square footage of the building.

f. *Permitted uses list.*

Business districts B-1, B-2, B-3, B-4. No property shall be used and no building shall be hereafter used, erected, reconstructed, altered, or enlarged unless otherwise provided in this code, except for one or more of the following uses or uses which are equivalent thereto as determined by the planning and zoning commission:

NOTE: (RS) denotes "Retail Sales" tax generating businesses

(NRS) denotes "Non-Retail Sales" which generates no sales tax revenues for the city

- (1) Administrative and support services; (NRS)
- (2) Antique stores; (RS)
- (3) Art supplies or galleries; (RS)
- (4) Banks, Financial, and Insurance service institutions; (NRS)
- (5) Bar: first class for consuming alcohol on premise; (RS)
- (6) Book stores; (RS)
- (7) Beauty store, salon or spa; (RS)
- (8) Building contractors, office only, no materials or equipment on premises; (RS)
- (9) Cigar, tobacco shops; (RS)
- (10) Cleaners, tailors and laundries, retail; (RS)
- (11) Clothing stores: Men's, Women's, Children's and/or Babies'; (RS)
- (12) Computer, and electronics stores; (RS)
- (13) Dancing studios, exercise classes; (RS)
- (14) Department stores, except discount department stores; (RS)
- (15) Drug stores and pharmacies; (RS/NRS)
- (16) Educational services and learning centers; (NRS)
- (17) Florist and flower shops; (RS)
- (18) Gas station with no automotive repair; (RS)
- (19) Greeting cards and stationery stores; (RS)
- (20) Hardware store including tools; (RS)
- (21) Healthcare, medical, and social assistance offices; (NRS)
- (22) Hobby, model shops; (RS)
- (23) Home good stores; (RS)
- (24) Hotels; high-end, boutique only; (RS)
- (25) Jewelers; jewelry stores; (RS)
- (26) Libraries; (NRS)
- (27) Liquor stores, excluding drive up or pickup services; (RS)
- (28) Museums; (NRS)
- (29) Musical instruments and supply stores; (RS)
- (30) Numismatic, money and precious metal stores; (RS)
- (31) Other Services (except Public Administration); (NRS/RS)
- (32) Office supplies; (RS)
- (33) Optical goods; (RS)
- (34) Parking garages in connection with permitted on-site office or retail buildings; (RS)
- (35) Pet and pet supply stores; (RS)
- (36) Pool service stores; (RS/NRS)
- (37) Professional, scientific and technical services; (NRS)
- (38) Public Administration Services; serving the City of Hedwig Village performing municipal responsibilities (NRS)
- (39) Real estate and rental and leasing offices; (NRS)
- (40) Restaurants, full service and limited service, delicatessens; (RS)
- (41) Retail sale of automotive fuels, lubricants and related products; (RS)
- (42) Specialty food stores; (RS/NRS)
- (43) Sporting goods sales, not including boats, boat motors, mopeds, recreational vehicles, ATVs, golf carts, motorcycles, or motor bikes; (RS)
- (44) Supermarkets; (NRS/RS)
- (45) Toy sales; (RS)
- (46) Veterinarian Services

2. *Uses specifically prohibited.* Except to the extent specifically permitted in section 506.A.1 of this code, property in business district B shall not be used for the following:

(a) Manufacturing, which includes the production of one or more articles from scrap, salvage, or junk material, as well as from new or raw material, by processing, formulating, manipulating, or changing the form of an article or by combining or assembling two or more articles.

(b) The storage or keeping of equipment, earth, signs, vehicles, trailers, tanks, supplies, or other property outside an enclosed building approved by the planning and zoning commission, except to the extent that such items may be necessary in connection with construction on the property and then only during such construction.

(c) The take-off, landing, parking, or storage of helicopters or other aircraft of any sort other than emergency or law enforcement craft.

(d) The keeping or displaying of automobiles, trucks or other vehicles on site, with the intent of selling or marketing the same.

(e) The storing or selling of used or secondhand merchandise excluding antiques or collectibles, requiring more than 20 percent of the floor area of the business. Further, the listing of any retail business in section 506.A.1 of this code is not intended to include or permit the sale of such used or secondhand merchandise.

(f) Discount stores which advertise and sell goods below a certain price;

(g) Drive-through facilities; however, subject to the approval by the building official, drive-through facilities may be constructed in district B4 upon corner tracts abutting two roadways for use in the sale of food provided that such facility is required to be attached to the business's building, be architecturally consistent with the business's building, be aesthetically landscaped, and traffic control "islands" are required to be established to guide traffic flow and ensure safety for adjacent vehicular traffic and pedestrians. The building official shall require a traffic study specific to the proposed drive-through facility, which must demonstrate that traffic safety, traffic flow, traffic "stacking," TxDot requirements, and other appropriate criteria have been satisfied by the proposed design in order to ensure public safety.

(h) Credit access businesses that obtain credit for a consumer from an independent third-party lender in the form of a deferred presentment transaction or a motor vehicle title loan, more commonly referred to as "payday loans" or "title loans."