

ORDINANCE NUMBER 89-11

SITE DEVELOPMENT ORDINANCE

AN ORDINANCE OF THE VILLAGE OF BEE CAVE, TEXAS,
PRESCRIBING RULES AND REGULATIONS GOVERNING THE
DEVELOPMENT OF APPROVED SUBDIVIDED LAND WITHIN
THE VILLAGE OF BEE CAVE, TEXAS, CONTAINING SPECIAL
PROVISIONS PROHIBITING THE ISSUANCE OF BUILDING
PERMITS FOR STRUCTURES LOCATED ON ANY LOT OR LOTS
IN A FINAL PLATTED SUBDIVISION. ESTABLISHING FEES
FOR THE REVIEW AND PROCESSING OF CERTAIN
APPLICATIONS AND PERMITS UNDER THIS ORDINANCE.

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ESTABLISHING FEES FOR THE REVIEW AND PROCESSING OF CERTAIN APPLICATIONS AND PERMITS UNDER THIS ORDINANCE. BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BEE CAVE, TEXAS.

SECTION 1. AUTHORITY:

This Ordinance is adopted under the authority of the Constitution and Laws of the State of Texas, including Chapters 149, Acts of the 70th Legislature Regular Session 1987 (Local Government Code).

SECTION 2. PURPOSE:

The purpose of this Ordinance is to provide for the orderly safe and healthful development within the Village and to promote the health, safety, morals, general welfare and small town look to continue.

SECTION 3. GENERAL PROVISIONS:

SECTION 3-A SITE PLAN REQUIRED

Except as exempted by Section 3-D, or as provided by Section 3-H, the use of property may not be changed. No development activity, including the construction of buildings, roads, paved storage areas, and parking lots may take place until a site plan has been approved and released in accordance with this Ordinance. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling, and grading, mining, and dredging.

SECTION 3-B JURISDICTION

The Village Administrator shall act on all administrative site plan applications processed under the guide lines of Ordinance #87-2, Section 6-B. The Planning and Zoning Commission shall act on all site plans processed under this Ordinance and on appeals of the Village Administrator's decisions concerning administrative site plans. The Village Commission shall act on appeals of the Planning and Zoning Commission's decisions concerning site plans.

SECTION 3-C

SITE PLANS AND ZONING; HISTORIC

DESIGNATION (a) No site plan shall be approved or released unless the proposed use is authorized in the zoning district. (b) Development, removal, or demolition of property, signs, buildings, or other structures zoned historic, or of property, signs, buildings, or other structures located within a National Register District designated by the State Historical Commission, is a violation of this Ordinance unless the Village Administrator has certified the development, removal, or demolition complies with regulations of this Ordinance applicable to property zoned historic or within a National Register District.

SECTION 3-D

SITE PLAN EXEMPTIONS

- (a) A site plan shall not be required for the following:
- (1) Construction, alteration, or an addition to a single family, single-family attached, or duplex residential structure or an accessory use to such a structure where one (1) structure is constructed per legal lot and the lot is not crossed or adjacent to a waterway;
 - (2) Removal of a tree not protected by this Ordinance.
 - (3) Interior alteration of an existing building when the alteration does not increase the square footage, area or height of the building.
 - (4) Application for a certificate of occupancy for a change to another permitted use which does not increase off-street parking requirements from the existing use or all required parking is existing and in compliance with current codes;
 - (5) Construction of a fence, but no exemption is granted by this subsection for construction of a retaining wall or for a fence that may obstruct the flow of water;
 - (6) Clearing an area no greater than ten (10) feet in width for surveying and testing where trees greater than eight (8) inches in diameter are not removed;
 - (7) Substantial restoration within a period of twelve (12) months of a building damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind;
 - (8) Demolition of a structure or foundation covering no more than ten thousand (10,000) square feet of site area pursuant to a demolition permit issued in accordance with this Ordinance with no disturbance of trees greater than eight inches (8") in diameter and no site clearing;

(9) Any development located outside the Village's zoning jurisdiction and exempt from all watershed protection requirements of this Ordinance;

(10) Small additions to developed sites which meet all of the following criteria:

a. The additional square footage does not exceed twentyfive (25) percent of the existing paved or floor area or one-thousand (1,000) square feet, whichever is less, except that the following items may exceed the area limitations of this subsection:

1. enclosure of an existing staircase or porch;
2. a carport for less than (10) ten cars placed over existing parking spaces;
3. a ground level deck of less than 5,000 square feet which is for open space use constructed of wooden slats;
4. the replacement of an existing roof where height is not increased by more than five (5) feet;
5. the remodeling of an exterior facade where new construction is limited to the addition of columns or awnings for windows or entrance ways.

b. The addition complies with all applicable codes and restrictions of the Village of Bee Cave including the Compatibility Standards requirements in this Ordinance.

c. The addition or change in use is not for the purpose of an adult-oriented business as defined by Ordinance Number 88-5.

d. The addition does not increase the degree of any existing non-compliance.

e. The addition will not create a drive-in service or increase the number of lanes of an existing drive-in service.

f. No trees eight inches (8") in diameter or larger are proposed to be removed.

g. The addition is not located within the 100 year flood plain.

(11) any other minor site activities similar to those listed above, as determined by the Village Administrator.

(b) The Village Administrator shall require the minimum information believed necessary, in the Village Administrator's discretion, to determine that a project is entitled to an exemption under this section.

(c) An exemption pursuant to this section does not authorize any development in violation of this Ordinance or other applicable laws or Ordinances of the Village. Any previously released site plan pertaining to the site proposed for development shall be revised pursuant to Section 3-I if deemed necessary by the Village Administrator.

SECTION 3-E SMALL PROJECTS

(a) The following are defined as small projects for purposes of this section:

(1) New additions to a building or a parking area, or a combination thereof, totalling less than five thousand (5000) square feet, and which are not located in the 100 year flood plain and not located within five hundred forty (540) feet from property used for any residential use permitted.

(2) construction of storm sewers less than or equal to thirty (30) inches in diameter located entirely within a public right-of-way or an easement;

(3) construction of utility lines equal or less than eight (8) in diameter located totally within a public right-of-way;

(4) construction of turning lanes from each side of a median on a divided arterial;

(5) construction of intersection improvements;

(6) widening a public street to provide a deceleration lane where no additional right-of-way is required;

(7) clearing of brush and trees less than eight (8) inches in diameter;

(8) depositing less than two (2) feet of earth fill on sites not located in the one-hundred year floodplain, and where no fill will be deposited within the dripline of a protected trees;

(9) construction or reconstruction of a retaining wall less than twenty feet in length and six feet in height, with backfill which does not reclaim any land except that which has eroded due to failure of an existing retaining wall.

(10) any other minor site activities similar to those listed above, as determined by the Village Administrator.

(b) The Village Administrator may waive any submission requirements for a small project which, in the Village Administrator's opinion, is not essential in a particular application for the applicant to demonstrate compliance with this Ordinance. The Village Administrator shall maintain a record of the submission requirements which were waived.

SECTION 3-F **NOTICE OF APPLICATION**

Notice of the filing of an application for site plan approval shall be given pursuant to Subdivision Ordinance Number 87-2 Section 6. Notice of the filing of an application requiring Village Commission approval, pursuant to Section 3-P shall also be provided by posting signs ten days prior to the public hearing, mail notice to property owners (of public record), defining the subject property. No notice shall be required for small project site plans as defined by Section 3-E.

SECTION 3 G **SITE PLAN RELEASE**

(a) No site plan shall be released until all the following have occurred.

(1) the site plan has Final Approval by the Village Commission.

(2) The development, if completed as proposed, will comply with all applicable provisions of the Ordinance and any conditions imposed by the Planning Comm. or the Village Commission

(3) the applicant has provided all fiscal security required by this Ordinance.

(4) the time period for filing an appeal of the approval has expired.

(b) The approved plans for land use, drainage, water quality, and landscaping are incorporated into the released site plan. Development of property subject to a released site plan shall require a site development permit in accordance with the released site plan.

SECTION 3-H **PHASED DEVELOPMENT**

Development designed and intended to be constructed in phases or stages shall be identified by the applicant by plans that clearly identify the particular phases or stages of the proposed development. The applicant shall propose the expiration dates for the first and last site plans in the phased development. If the deadlines exceed those listed in Section 3-J shall apply to each phase or stage as if it were the entire development.

SECTION 3-I

REVISIONS TO RELEASED SITE PLANS

(a) Minor deviations or designs modification requiring changes in released site plans may be approved by the Village Administrator without formal application or public hearing. For purposes of this subsection, minor deviations or designs modifications have no significant impact on neighboring properties, the public, or persons who will occupy or use the proposed development. An applicant requesting changes to a site plan shall submit a written request identifying the requested changes to the Village Administrator. Any changes approved by the Village Administrator shall be in writing.

(b) All other request for modifications to a released site plan shall be processed as a new application. If the Planning Commission acts on the request, new conditions may be imposed in accordance with Section 3-U, but the applicant may reject the additional conditions by withdrawing the request for an amendment and proceeding in accordance with the previously released site plan. Release of a plan voids any previous site plan on the property.

SECTION 3-J

EXPIRATION OF RELEASED SITE PLAN

(a) Unless a longer time is specifically established as a condition of approval, a released site plan expires and becomes void three years after the date of its approval. For purposes of this section, a site plan is approved on the last day of an appeal period, final approval is by the Village Commission. A released site plan does not expire, if before its expiration any one of the following conditions are met, a building permit is issued and work has commenced, site work is commenced and diligently pursued to completion, a certificate of occupancy is issued for the use shown on the site plan, a certificate of compliance is issued if no building permit or certificate of occupancy is required, or a request for extension is filed with the Village Administrator pursuant to subsection (b) or (c) of this section.

(b) An unexpired released site plan approved by the Village Administrator may be extended once for a period of one year. A written request for extention shall be filed with the Village Administrator. The Village Administrator may extend the site plan, for good cause presented by the applicant, if there is no significant change in regulations affecting the site plan and the site plan continues to meet applicable criteria for its approval and release. A refusal to extend the site plan may be appealed to the Planning and Zoning Commission.

(c) After an extension has previously been granted, the Commission, after a public hearing with notice provided pursuant to Section 3-Q, may extend the expiration date for a site plan beyond that permitted by this chapter if there has been no significant change in the regulations applicable to the site plan when it was initially approved, the site plan substantially meets the criteria which would apply if it were considered as a new application, and the commission is satisfied that (i) the original application was filed in good faith, and (ii) the additional extension is in the public interest.

(d) A decision of the Planning and Zoning Commission to subsection (b), or (c) of this section may be appealed to the Village Commission by an interested party.

(e) No permit, certificate of occupancy, or certificate of compliance shall be issued and no use of the land shall be permitted pursuant to an expired released site plan.

SECTION 3-K **APPEAL OF ACTION**

Approval or denial of a site plan by the Planning Commission on appeal to this section may be appealed to the Commission and Mayor in accordance with the following procedures. The applicant or interested party may appeal the decision by submitting in writing, to the Village Administrator, within thirty (30) calendar days, the reason for the appeal, and referring to applicable provisions of this Ordinance.

SECTION 3-L **RESERVED**

SECTION 3-M **PUBLIC HEARING AND NOTICE**

The Planning Commission shall hold a public hearing on each site plan application it considers. Notice of the public hearing shall be given pursuant to the Texas Local Government Codes.

SECTION 3-N **REPORT TO THE VILLAGE ADMINISTRATOR**

(a) An application for site plan approval under this Division shall be reviewed for compliance with requirements of this Ordinance, including the Village Administrator's findings and recommendation to the Planning and Zoning Commission concerning the applicable criteria of Section 3-O. All review comments from City departments shall be returned to the Village Administrator no later than twenty one (21) days after the application is filed.

(b) The Village Administrator shall provide a written report to the applicant and any other interested party no later than twenty eight (28) days after the application is filed. This report shall be provided to the Planning and Zoning Commission prior to the hearing.

SECTION 3-0 REVIEW AND EVALUATION CRITERIA

(a) The Planning and Zoning Commission shall not approve a site plan for development of a conditional use if it finds the proposed development:

- (1) does not conform with applicable regulations and standards established by this Ordinance;
 - (2) is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features;
 - (3) creates greater potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use;
 - (4) adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity;
 - (5) fails to protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;
 - (6) fails to provide adequate and convenient off-street parking and loading facilities;
 - (7) fails to conform with this Ordinance and the purposes of the zoning district in which the development is located;
- or
- (8) fails to demonstrate adequate water and waste water service can be provided to the site.

(b) all other site plans considered by the Planning Commission shall be approved when the Commission finds that the development, if completed as proposed, will comply with all development, if completed as proposed, will comply with all applicable provisions of the Ordinance.

SECTION 3-P ACTION BY THE PLANNING COMMISSION

The commission shall act on the application no later than fourteen (14) days after closing the public hearing. The Planning Commission may approve the site plan as considered, may approve pending compliance with the requirements of this ordinance or conditions imposed pursuant to Section 3-Q, or may deny the application. The Village Administrator shall notify the applicant of the Commission's decision by mail.

SECTION 3-Q CONDITIONS OF APPROVAL

The Planning Commission may establish conditions of approval for site plans reviewed using the criteria set forth in Section 3-O. Conditions may include without limitation requirements for special yards, open spaces, buffers, fences, walls, or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other conditions as the Planning Commission may deem necessary to insure compatibility with surrounding uses, to preserve the public health, safety, and welfare, and to enable the Planning Commission to make findings required for approval under Section 3-O.

SECTION 3-R APPEAL TO THE VILLAGE COMMISSION

Approval or denial of a site plan by the Planning Commission may be appealed to the Village Commission.

**SECTION 3-S UPDATES REQUIRED FOR PLANNING COMMISSION
APPROVAL & EXPIRATION OF SITE PLANS
APPROVED BY PLANNING OR VILLAGE COMMISSION**

(a) No later than sixty (60) days after approval of a site plan by the Planning Commission, or by the Village Commission if approved after an appeal, the applicant shall submit an update which addresses the conditions of approval to obtain the release of a site plan. If no update is submitted, the approval shall expire and the site plan shall be denied.

(b) The Village Administrator shall notify the applicant of his or her decision concerning release of an updated site plan no later than twenty one (21) days after receiving an update. Notice of the decision shall be mailed by certified mail, return receipt requested, and shall include a description of inadequacies or deficiencies.

(c) No subsequent update shall be accepted later than one hundred eighty (180) days after the site plan is approved by the Planning Commission or Village Commission. If an approved site plan including all updates, cannot be released pursuant to Section 3-H on or before one-hundred eighty (180) days after it is approved by the Planning Commission or Village Commission, the approval shall expire and the site plan shall be denied.

SECTION 3-T NEW APPLICATION

Following the denial or revocation of a conditional use site plan, no application for the same or substantially the same conditional use on the same or substantially the same site shall be filled within one (1) year from the date of denial or revocation.

SECTION 3-U PERMIT FEES

Permit Fees for the review of Site Development Plans shall be determined by the Village Commission on the recommendation of the Village Administrator and Staff.

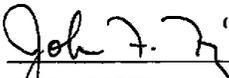
SECTION 3-V thru 3-Z RESERVED

PASSED AND APPROVED, this the 9th day of December 1989.



BOYD FREITAG, MAYOR

ATTEST:



JOHN FIGER