

ORDINANCE NO. 2016-008

AN ORDINANCE OF THE CITY OF CLUTE, BRAZORIA COUNTY, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING SECTIONS VI AND VII OF THE APPENDIX TO THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY TO REVISE THE REGULATIONS FOR THE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT AND THE C-2 BUSINESS DISTRICT, RESPECTIVELY; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING AND ZONING COMMISSION OF SAID CITY OR THE CITY COUNCIL, OR BOTH; PROVIDING THAT ANY PERSON VIOLATING SAID ORDINANCE, AS AMENDED BY THIS ORDINANCE, SHALL BE GUILTY OF A MISDEMEANOR AND ASSESSED A FINE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE XVI, SECTION 16.1 OF SAID ORDINANCE; PROVIDING THAT EACH DAY ANY SUCH VIOLATION OCCURS AND EACH PART OF ANY DAY ANY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING SAVINGS CLAUSES; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THIS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, the City of Clute, Texas, is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (23) of Section 5.02 of the Home Rule Charter of the City of Clute authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City of Clute has determined and do here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of said City and is necessary to conform the comprehensive zoning plan of said City to the current zoning conditions which exist therein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLUTE, BRAZORIA COUNTY, TEXAS:

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City of Clute, Brazoria County, Texas, makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by the Zoning Enabling Act of the State of Texas, codified as Section 211.001, et seq., of the Texas Local Government Code, and the present Comprehensive Zoning Ordinance of the City of Clute, Texas, read, passed and approved as Ordinance No. 75-45 on the 6th day of

December, 1975, have been conducted in the manner and at the time required.

Second, that not less than fifteen (15) days prior to the date of such hearings, public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of said City, stating the date, time and place of such hearings.

Third, that not less than ten (10) days before the date of such hearings, written notice of the proposed changes was given to all owners of property within said City located within two hundred (200') feet of all property which will be affected by any of such changes.

Fourth, that after considering evidence submitted at such hearings, the City Council of the City of Clute is of the opinion and finds that the changes in the comprehensive zoning ordinance of said City set forth below are necessary to conform the comprehensive zoning plan of said City to the current zoning conditions which exist therein.

Fifth, that the health, safety, morals and general welfare of the inhabitants of the City of Clute, Texas, will best be served by the adoption of this ordinance making the change in zoning uses and the other regulations hereinafter mentioned.

SECTION TWO--Comprehensive Zoning Ordinance Amended

The Comprehensive Zoning Ordinance of the City of Clute, Texas, read, passed and approved as Ordinance No. 75-45 on the 6th day of December, 1975, and hereinafter called "the Ordinance," is hereby amended as follows:

First, Section VI of the Appendix to the Ordinance is hereby amended to read as follows:

"Section VI - Neighborhood Commercial District

(A) Purpose. This district includes land which is used primarily for retail business establishments designed to serve the residents of the area adjacent to it.

(B) Permitted uses. In the C-1 district, no buildings or land shall be used and no building shall be erected or converted to any use other than:

- (1) Automobile parking lots.
- (2) Bakery, retail only.
- (3) Bank.
- (4) Barber and beauty shops.
- (5) Bookstore.
- (6) Cafeteria.

- (7) Child care facilities, as defined by state.
- (8) Christmas tree lot.
- (9) Clinic, other than veterinary.
- (10) Cleaning and pressing shops.
- (11) Computer sales/repair - Cell phone - electronics
- (12) Drug store/pharmacy.
- (13) Filling station - Convenient Store
- (14) Fitness center.
- (15) Florists shops.
- (16) Grocery stores.
- (17) Ice retail distributing; no manufacture.
- (18) Mortuaries.
- (19) Motels/hotels.
- (20) Moving picture (motion picture) theater, not including Drive-in theaters.
- (21) Office.
- (22) Private club.
- (23) Radio/TV repair and sales.
- (24) Radio/TV studio (excluding tower).
- (25) Real estate office.
- (26) Restaurants.
- (27) Shoe repair.
- (28) Small appliance repair/sales.
- (29) Stores and shops for the sale indoors of products at retail only (exception: occasional sidewalk/parking lot sales by established indoor business on its premises).
- (30) Studio (art, music, photo).
- (31) Taxidermist.
- (32) Video tape sales/rental.
- (33) Washeteria.  
Garden Center  
Lumber Yard
- (34) A residential apartment may be located above any business; and, by specific use permit, a ground floor residential apartment at any business to be occupied by the owner or owner's agent and the immediate family of the owner or owner's agent.
- (35) Any other commercial use, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, smell, gas, fumes or vibrations which can be seen, smelled, heard or felt on the adjoining land of another person but excluding such uses as are enumerated in section VIII(A) (2) below in the M-1 industrial district. Provided, however, a specific use permit must be obtained for any such other commercial use.

(C) Height regulations. No building hereafter erected or structurally altered shall exceed 22 stories or 35 feet. See section X for special exceptions.

(D) Area regulation.

- (1) Front yard. Same as required in R-1 district.
- (2) Rear yard. There shall be a rear yard having a depth of not less than 15 feet from the property line. Accessory buildings not exceeding one story in height may occupy as much as 50 percent of a required rear yard. Accessory buildings exceeding one story in height may occupy as much as 40 percent of a required rear yard; provided however that no part of an accessory building may extend over the rear property line.
- (3) Side yard. For additional uses in this district, no side yards are required, except that on a corner lot the side yard on the street side shall not be less than 122 feet in width. If side yards are provided, on interior lots, they shall be not less than five feet in width. The side yard of a lot which abuts upon property zoned for R-1 or R-2 use shall have a minimum width of five feet on the

- abutting side, and conform to article VI, section 6.3.
- (4) Lot area. There are no minimum lot area or lot width requirements for other uses permitted in this district.

(E) Parking. See schedule [of] minimum off-street parking requirements, section XII.

(F) Materials of construction. Uses allowed in a C-1 district, all customary material of construction may be used so as to conform to the Standard Building Code with the following exceptions:

- (1) Corrugated tin; and
- (2) Transite.

(G) Screening fences. Screening fences shall be required as in section 6.3 of this ordinance."

(H) Specific uses permitted. Refer to section XIII below.

Second, Section VII of the Appendix to the Ordinance is hereby amended to read as follows:

"Sec. VII. - C-2 Business district

(A) Purpose. This district includes land which is used primarily for retail businesses and other nonindustrial commercial establishments which serve the entire community and its visitors.

(B) Permitted uses. In the C-2 district, no land shall be used and no building shall be erected or converted to any use other than:

- (1) Any use permitted in the C-1 neighborhood commercial district.
- (2) Air conditioning, heating, plumbing and electrical supply and/or service.
- (3) Automobile and automobile component repair.
- (4) Boat sales/repair.
- (5) Carpenter/cabinet shop.
- (6) Carpet cleaning if dust-proof rooms and dust catching washing and scouring equipment are provided.
- (7) Ice manufacturer.
- (8) Drive-in theaters.
- (9) Equipment rental.
- (10) Garden center/nursery.
- (11) New/used car lot.
- (12) Lumber yard (building materials).
- (13) Service station.
- (14) Sheet metal shop.
- (15) Stone monument works, retail only.
- (16) Storage warehouse including mini-self-storage warehouse (all storage enclosed in building).
- (17) Veterinary clinic or boarding kennel/small animal.
- (18) Wholesale commodities warehouse.
- (19) Automotive repair yard.
- (20) Sexually oriented business by specific use permit only.

Hotels  
Parking Lots  
Convention Center  
Home Improvement Store

- (21) Any other commercial use, provided such use is not noxious or offensive by reason of the emission of odors, dust, soot, smell, gas, fumes or vibrations which can be seen, smelled, heard or felt

on the adjoining land of another person but excluding such uses as are enumerated in section VIII(A) (2) below in the M-1 M-2 industrial district. Provided, however, a specific use permit must be obtained for any such other commercial use.

(C) Height. In the business district, the height and size of buildings shall be as follows; provided, however, that buildings erected or structurally altered and used exclusively for dwelling purposes shall comply with the front, side and rear yard, and lot area per family regulations of the R-3 residence use [apartment] district, for apartments incidental to uses included in this zone:

Any building hereafter constructed shall have no less than a ten-foot setback line from the street right-of-way line for a single-story building to allow for sidewalks; however, four feet may be added to the height of the building for each one foot that the building is set back from the required distance and the minimum required yard lines.

(D) Area regulations.

- (1) Front yard. Minimum ten feet required.
- (2) Side yard. No side yard required except on that side of a lot abutting upon the side of a lot zoned for dwelling purposes in which case there shall be a side yard of not less than five feet.
- (3) Rear yard. Minimum 15 feet required.
- (4) Corner lot. Minimum ten feet required on both street fronts.

(E) Parking regulations. See minimum off-street parking requirements, Section XII.

(F) Screening fences. Screening fences shall be required as in section 6.3 of this ordinance.

(G) Specific uses permitted. Refer to section XIII below.

(H) Any new or existing structure used for a sexually oriented business must be connected to city utility services."

#### SECTION THREE--Ratification and Confirmation

The City Council of the City of Clute, Brazoria County, Texas, hereby ratifies and confirms any and all action taken by the Planning and Zoning Commission of said City or the City Council of said City, or both, in connection with the change in zoning classification evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act and said Ordinance No. 75-45, the giving of public notice of such hearings, the giving of written notice to the owners of property which is the subject of such and to the adjoining property owners, the making of preliminary and final reports with respect to such change and the conducting of the public hearings required by said Act and said Ordinance.

#### SECTION FOUR--Savings Clauses

- (a) Nothing contained in this ordinance shall cause any rights heretofore

vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

(b) This ordinance is cumulative of and in addition to all other ordinances of the City of Clute, Texas, on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this ordinance and another ordinance conflict or overlap, this ordinance shall prevail.

(c) No offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

SECTION FIVE--Penalty and Continuing Violations

Any person violating the Comprehensive Zoning of Ordinances of the City of Clute, Texas, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine as prescribed in Article XVI, Section 16.1 of said ordinance; and each day such violation occurs and each part of any day any such violation continues shall constitute a separate offense.

SECTION SIX--Severance Clause.

In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

SECTION SEVEN--Effective Date.

This ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts.

READ, PASSED AND ADOPTED this 24<sup>th</sup> day of March, 2016.

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Calvin Shiflet, Mayor,  
City of Clute, Texas

ATTEST:

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Rosie Poitevint, City Clerk,  
City of Clute, Texas

APPROVED AS TO FORM ONLY:

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Wallace Shaw, City Attorney  
City of Clute, Texas

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