

**ORDINANCE NO. 2017-012**

**AN ORDINANCE OF THE CITY COUNCIL OF CASTROVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE ARTICLE X BY ADDING A NEW SECTION 2 “CLASSIFICATION OF NEW AND UNLISTED USES”; PROVIDING FOR SEVERABILITY; PROVIDING A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Castroville is authorized to regulate zoning pursuant to Texas Local Government Code Chapter 211; and

**WHEREAS**, pursuant to such statutory authority the City Council has adopted the Comprehensive Zoning Ordinance, which is published by the City as a separate document from the Code of Ordinances published by the Municode Corporation, and

**WHEREAS**, City Council deems it appropriate to amend the Comprehensive Zoning Ordinance, Article X, *Interpretation, Purpose and Conflict*, to add a new Section 2, *Classification of New and Unlisted Uses*; and

**WHEREAS**, on the 11<sup>th</sup> day of January, 2017, after conducting a properly advertised public hearing to receive citizen comments and testimony, the Planning and Zoning Commission made a recommendation to approve the amendment to the Comprehensive Zoning Ordinance; and

**WHEREAS**, on the 24<sup>th</sup> day of January, 2017, the City Council conducted a properly advertised public hearing to receive citizen comments and testimony regarding the proposed amendment to the Comprehensive Zoning Ordinance, Article X, *Interpretation, Purpose and Conflict*.

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

**Section one.** Recitals adopted. City Council finds the above stated recitals to be true and correct and said recitals are adopted herein for all purposes.

**Section two.** Establishment. There is hereby established in Article X (entitled “*Interpretation, Purpose and Conflict*”) of the Comprehensive Zoning Ordinance a new Section 2 (entitled “*Classification of New and Unlisted Uses*”).

**Section three.** Adoption of New Section 2. A new Section 2 (entitled “*Classification of New and Unlisted Uses*”) is hereby adopted by inclusion of the substantive language as attached in **Exhibit “A”**, hereto, which is incorporated by reference herein for all purposes.

**Section four.** Directive to publisher of the Code of Ordinances. The publisher of the City of Castroville’s Code of Ordinances is hereby directed and authorized to remove Chapter 23 from said code.

**Section five.** Directive to the City Secretary. The City Secretary is hereby directed and authorized to revise and republish the Comprehensive Zoning Ordinance to include **Exhibit "A"** hereto.

**Section six.** Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Castroville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

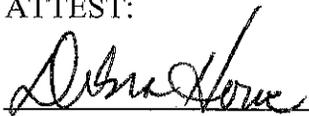
**Section seven.** Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such 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 unconstitutional phrase, clause, sentence, paragraph or section.

**Section eight.** Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED this the 24th day of January, 2017.

  
\_\_\_\_\_  
Jeffrey S. Gardner, Mayor  
City of Castroville

ATTEST:

  
\_\_\_\_\_  
Debra Howe, City Secretary  
City of Castroville

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BNRBH&Z P.C., City Attorney  
City of Castroville

ARTICLE X  
INTERPRETATION, PURPOSE AND CONFLICT

Section 1. Interpretation

Section 2. Classification of New and Unlisted Uses

It is recognized that new types of land uses will arise in the future and forms of land use not presently anticipated may seek to locate in the City of Castroville. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Schedule of Uses (Article II, Section 1 of this Ordinance) shall be made as follows.

1. A new and unlisted use may be interpreted by the Community Development Director as similar to the listed use.
  - a. In making such determination the Community Development Director shall consider if the unlisted use possesses a majority of characteristics of a listed use, based on the following:
    1. The nature of the use and whether the use involves dwelling activity, sales, services or processing;
    2. The type of product sold or produced under the use;
    3. Whether the use has enclosed or open storage and the amount and nature of the storage;
    4. Anticipated employment typical in relation to the use;
    5. Transportation requirement similar to the use;
    6. The nature and time of occupancy and operation of the premises;
    7. The off-street and loading requirements;
    8. The amount of noise, odor, fumes, dust, toxic materials and vibrations likely to be generated; and
    9. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required.
  - b. If the unlisted use is deemed similar to a listed use, no amendment of the Schedule of Uses is required.
  - c. If the unlisted use is not found to be substantially similar to a listed use, the applicant may request an amendment to the Comprehensive Zoning Ordinance to include a definition for such previously unlisted use and determine in which zoning districts such use shall be permitted or permitted with a Specific Use Permit.
  - d. Any party adversely impacted by the Community Development Director's determination under this section may appeal such determination to the Board of Adjustment; provided such appeal is made within 10 days of the date the decision is made.