

## **ORDINANCE NO. 368**

**AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT IN THE NEIGHBORHOOD SERVICES ZONING DISTRICT FOR THE PROPERTY LOCATED AT 15500 WEST STATE HIGHWAY 71, BEE CAVE, TEXAS; DESCRIBED AS BUILDING B, SUITE 300, LOT 4, BLOCK A, SUMMIT 56 SUBDIVISION; PROVIDING FOR CERTAIN CONDITIONS; PROVIDING FOR PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FINDINGS OF FACT; SEVERABILITY; REPEALER; AND PROPER NOTICE AND MEETING.**

**WHEREAS**, an application has been submitted to add Restaurant use as a Conditional Use to the Neighborhood Services zoning district for the property located at 15500 West State Highway 71, Bee Cave, Texas, described as Building B, Suite 300, Lot 4, Block A, Summit 56 Subdivision (the "Property"); and

**WHEREAS**, the Property is currently zoned as Neighborhood Services and, pursuant to the chart of uses provided under Section 32.04.001, Chapter 32 of the Code of Ordinances of the City of Bee Cave, use of the Property as a Restaurant is conditional in that zoning district;

**WHEREAS**, the property owner has submitted a Concept Plan depicting the proposed uses of the Property as a Restaurant, as the term is defined under Section 32.05.014, Chapter 32 of the Code of Ordinances of the City of Bee Cave, and the terms and conditions of this Ordinance are sufficient to make this proposed use compatible with other Neighborhood Services uses on adjacent property;

**WHEREAS**, the notice as required by the City's Zoning Ordinance has been published in the official newspaper and given to adjacent property owners;

**WHEREAS**, the Planning and Zoning Commission and the City Council has each conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application;

**WHEREAS**, the City Council finds that the use of the Property as depicted in the Concept Plan and in accordance with this Ordinance as a Restaurant is an appropriate use for the Property;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:**

**SECTION 1.** Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2. Findings.** The City Council finds that the information submitted in the Application for a Conditional Use Permit submitted by Applicant meets the requirements of the City of Bee Cave Zoning Ordinance for the Property as depicted on the Concept Plan attached hereto and incorporated herein as Exhibit “A”.

**SECTION 3. Uses.** A Conditional Use Permit is hereby granted, subject to the conditions listed in Section 5 herein described, to authorize a Restaurant use on the Property as depicted in Exhibit “A” and in conjunction with any other permitted uses authorized in Neighborhood Services zoning districts.

**SECTION 4. Concept Plan.** The Concept Plan attached hereto as Exhibit “A” depicting the building in which the Restaurant will be located is hereby approved contingent upon the property owner(s) and operator(s) meeting the conditions contained within Section 5.

**SECTION 5. Conditional Use Permit.** The City Council hereby approves a Conditional Use Permit (“CUP”) to the property owner (hereinafter “Permittee”) upon the following terms and conditions:

1. Permittee shall schedule a walk-through with the City's building official within 30 days of permit issuance for the permit to be considered valid. The City's building official may require evidence that adequate controls, measures, or devices have been provided to ensure and protect the public interest, health, safety, and general welfare and that the conditions of this CUP have been met. This includes, but is not limited to approval from the Travis County Fire and Rescue. In the case of a new restaurant tenant or any subsequent tenant changes, Permittee shall not commence the restaurant use until Permittee has obtained a Certificate of Occupancy from the City.
2. If portions of the development of the subject Property requested in the application are not approved herein by the Council, or are not depicted in Exhibit “A”, then that portion of Permittee's application is specifically denied.
3. Amendments to development for this Property in the future shall comply with Neighborhood Services zoning except as may be approved by this Conditional Use Permit or as same may be amended.
4. This Conditional Use Permit authorizes development of the subject property only as a Restaurant.
5. The Restaurant shall not provide a drive-through ordering system nor a drive-through window service. No outdoor seating is authorized and no outdoor music or outdoor amplified intercom is authorized.

6. Permittee shall inform the City any time there is a new tenant to ensure compliance with the requirements of this CUP. If Permittee fails to do so, the City may revoke this CUP and require Permittee to reapply for a new CUP.
5. This CUP shall apply only to the space occupied by the Restaurant in Building B, Suite 300, located at 15500 West State Highway 71, as such space is configured on the date of this permit.

**SECTION 6. Penalties.** That any person, firm or corporation violating any of the provisions of this Ordinance or Chapter 32, Zoning, of the Code of Ordinances, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Bee Cave, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day of any such violation shall be deemed to constitute a separate offense, in accordance with Section 1.01.009 of the City's Code of Ordinances.

**SECTION 7. Ordinance not invalidated.** If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsection, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**SECTION 8. Prior Ordinances Repealed.** All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

**SECTION 9. Proper Meeting.** It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION 10. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication as required by law.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF BEE CAVE:**

\_\_\_\_\_  
Caroline Murphy, Mayor

**ATTEST:**

\_\_\_\_\_  
Kaylynn Holloway, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Patty L. Akers, City Attorney

**EXHIBIT “A”**