

**ORDINANCE NO. 2022-44**

**AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCES CHAPTER 118 (ENTITLED "ZONING") BY ADDING A NEW SECTION A NEW SECTION 118-9 ESTABLISHING A PROCESS TO CHANGE ZONING CLASSIFICATION AND ZONING CLASSIFICATION RULES; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the authority provided by Texas Local Government Code Chapter 211 City Council has established zoning district classifications and have designated the land within the City's corporate limits in said zoning districts; and

**WHEREAS**, City Council has codified Chapter 118 of the City Code of Ordinances to govern the City's zoning authority; and

**WHEREAS**, Texas Local Government Code Chapter 211, prescribes the notice and hearing requirements by which an amendment to the Code changes zoning classification or zoning classification rules; and

**WHEREAS**, the purpose of this ordinance is to prescribe processes for consideration of said proposed amendment by City Council and the Planning and Zoning Commission in a manner consistent with Texas Local Government Code Chapter 211 requirements; and

**WHEREAS**, City Council deems this ordinance to be of benefit to the general welfare, health and safety of the public as it codifies longstanding practices, clarifies code ambiguities; and provides greater flexibility to address future development of the City; and

**WHEREAS**, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and.

**WHEREAS**, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

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

**Section one. Code amendment.** City Code Chapter 118 (entitled "zoning"), is hereby amended by the adoption of a new Section 118-9 (entitled "*process to change zoning classification and zoning classification rules*") to read as follows:

**Section 118-9 Process to change zoning classification and zoning classification rules.**

- (a) *Authority.* City Council may change a zoning classification of a district, or a property or properties, or change the rules governing a zoning classification, as provide in Chapter 211 of the Texas Local Government Code.
- (b) *Initiation.*
  - (1) A change of zoning classification may be initiated by:
    - (A) City Council; or
    - (B) by direction of the City Manager; or
    - (C) an owner of the property or properties that is the subject of the reclassification by submission of written application and payment of all applicable fees.
  - (2) A change to the rules affecting a zoning classification may be initiated by:
    - (A) by direction of City Council; or
    - (B) by direction of the City Manager.
- (c) *Prerequisites.* A change to zoning classification, or a change to the rules governing a zoning classification, shall be adopted by Ordinance. City Council's action to adopt such Ordinance shall be subject to the following:
  - (1) compliance with the notice and public hearing requirements required by state law and this chapter; and
  - (2) City Council's receipt of the Planning and Zoning Commission's report on the merits of the proposed Ordinance; and
  - (3) if applicable, the Planning and Zoning Commission and City Council's receipt of written responses to any notices mailed to property owners; and
  - (4) public hearing testimony and comments; and
  - (5) other factors City Council determines to be relevant.
- (d) *Planning and Zoning Commission Report.*
  - (1) After conducting a public hearing and receiving information from city staff, the Planning and Zoning Commission shall deliberate and make a report to City Council on the merits of the proposed Ordinance reclassifying a district, property, or properties, or changing the rules governing zoning classifications.

- (2) The report may be made by recommendation of approval or disapproval of the proposed Ordinance. In the event the Planning and Zoning Commission fail to act to recommend approval of the proposed Ordinance, for any reason, it shall be reported to City Council that the Planning and Zoning Commission failed to approve the proposed Ordinance; and, City Council may proceed with its public hearing on the matter.
  - (3) If the Planning and Zoning Commission determines additional information is required, action on the Report may be tabled until its next meeting; but failure to act at that meeting shall constitute a report that the Planning and Zoning Commission failed to recommend approval of the proposed Ordinance; and, City Council may proceed with its public hearing on the matter.
- (e) *Presentation of the Planning and Zoning Commission Report to City Council.* At the meeting City Council conducts a public hearing on the merits of the proposed Ordinance, city staff shall advise City Council of the Planning and Zoning Commission's report as follows:
- (1) should the report consist of specific recommendations regarding the merits of the proposed Ordinance, City staff shall report such recommendations; or
  - (2) should the report consist only of a recommendation to approval or disapproval of the proposed Ordinance, city staff shall report the vote of the Planning and Zoning Commission's members on the motion recommending approve or disapprove; or
  - (3) should the report consist only of the failure of the Planning or Zoning Commission to take action to recommend either approval or disapproval of the proposed Ordinance; city staff shall report the basis of such failure.
- (f) *City Council Final Action on Change of Zoning Classification.* In consideration of an Ordinance changing the zoning classification of a property, or properties, City Council may adopt the Ordinance, deny the Ordinance, or modify the Ordinance to approve a change of zoning classification different than the change proposed, including the issuance of a conditional use permit allowing a specific use the property sought by an application; provided the modification to the proposed Ordinance:
- (1) does not downzone the property, or properties, to a use classification less intense than the existing use classification; or
  - (2) does not upzone the property, or properties, to a use classification more intense than the proposed use classification.

**Section two. Recitals.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

**Section three. Penalty.** A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

**Section four. Cumulative.** This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled “Repealer”) shall be controlling.

**Section five. Repealer.** All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**Section six. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

**Section seven. Effective Date.** This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 27<sup>th</sup> day of September, 2022

Passed, approved, and adopted on the 25<sup>th</sup> day of October, 2022

CITY OF BURNET

  
Crista Goble Bromley, Mayor

ATTEST:

  
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Kelly Dix, City Secretary

