

ORDINANCE NO. 2012-06

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2008-14 AND ALL AMENDING ORDINANCES THEREOF, IN THEIR ENTIRETY, AMENDING CHAPTER 118 OF THE BURNET CODE OF ORDINANCES, ADDING A ZONING DISTRICT CONVERSION TABLE; AMENDING SECTION 44 LIGHT COMMERCIAL DISTRICT; AMENDING SECTION 64 CONDITIONAL USE PERMITS; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the ordinances of the City establishing zoning districts within the City limits should be amended to better provide an attractive living environment and to protect the health, safety, morals and welfare of the present and future residents of the City;

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

Section 1. Findings of Fact. The findings and recitations set out hereinabove are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Repeal of Conflicting Ordinances. All Ordinances or parts thereof in conflict herewith are amended to the extent of such conflict only.

Section 3. Amendment of the Code of Ordinance. Ordinance No. 2007-28, and including all amending ordinances thereof, and Section 118 of the Code of Ordinances of the City are hereby amended, repealing and replaced in their entirety with Exhibit "A" attached herewith.

Section 4. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 5. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

Section 6. Effective Date. This ordinance shall take effect immediately upon its

EXHIBIT "A"

ZONING REGULATIONS

THE ZONING CODE OF THE CITY OF BURNET

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ARTICLE I GENERAL.

Section 1. Authority. This Ordinance is adopted pursuant to the police powers of the City of Burnet and under the authority of the Constitution and general laws of the State of Texas, including particularly *Chapter 211 of the Texas Local Government Code*.

Section 2. Title. This Ordinance shall be known, and may be cited, as the Zoning Ordinance of the City of Burnet, Texas.

Section 3. General Purpose and Intent. Purpose. The primary purposes of this Ordinance are to promote the public health, safety, morals and the general welfare of the City and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the public health, safety, morals and general welfare of the present and future citizens of the City; and to establish a framework of zoning guidelines and criteria which will provide for and support the development of a quality living and work environment by incorporating provisions requiring all future development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations. This Ordinance should be administered and applied to result in development superior to that otherwise achievable and to promote the following purposes:

- (a) Assist the safe, orderly, healthful and coordinated development of the City;
- (b) Conserve existing and future neighborhoods;
- (c) Protect and conserve the value of real property throughout the community;
- (d) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
- (e) Protect and preserve places and areas of historical and cultural importance and significance to the community;
- (f) Prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality development and innovative design;
- (g) Lessen congestion in the streets and provide convenient, safe and efficient circulation of vehicular and pedestrian traffic;
- (h) Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- (i) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;

(j) Promote compatible residential, commercial and industrial uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of adjoining properties;

(k) Standardize the procedure and requirements for zoning, building permits and certificates of occupancy to provide administrative efficiency and property owner rights; and

(l) Provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the City.

Section 4. Jurisdiction and Intent. The requirements of this Ordinance shall apply to all property within the City; provide for the implementation of the site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the City of Burnet Master Plan. This Ordinance has been made with reasonable consideration among other things, for the character of the district and its peculiar suitability for the particular uses specified, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City consistent with the City of Burnet Master Plan. Nothing herein shall be construed to grant a “permanent” zoning.

- (a) The intent of this Ordinance is to supplement the minimum standards for the development of land within the City as contained in the City's Subdivision Ordinance, applicable building, plumbing and electrical codes, and City Standard Details and Specifications. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. Such will produce a monotonous urban setting and is not encouraged.
- (b) Zoning Districts in the City of Burnet are renamed as shown in Table 4.1 below. The new standards set forth in this Code for the renamed Districts shall apply to all properties located within that specific zoning district.
- (c) Any legal nonconformity under the previous zoning regulations shall be a legal nonconformity under this ordinance, as long as the situation that resulted in the nonconforming status under the previous zoning regulations continues to exist. If a nonconformity under the previous ordinances and regulations becomes conforming because of the adoption of this Code, then the situation shall no longer be treated as a nonconformity.

Table 4.1: District Name Changes			
RESIDENTIAL ZONING DISTRICTS			
CURRENT ZONE	CURRENT USE	NEW ZONE	NEW USE
A, Div 1, 2, & 3	Agriculture	A	Agriculture
R-1	Single Family Residential	R-1	Single Family Residential
		R-1E	Single Family Estate
R-2	Duplex	R-2	Duplex
R-3	Multi-Family	R-3	Multi-Family

RM-1	Manufactured Home District	M-1	Manufactured Home District
RM-2	Manufactured Home Subdivision	M-2	Manufactured Home Park
RM-3	RV Parks	C-3	Heavy Commercial
NON-RESIDENTIAL ZONING DISTRICTS			
		NC	Neighborhood Commercial
C-1	Commercial	C-1	Light Commercial
C-2	Commercial	C-2	Medium Commercial
C-3	Commercial	C-3	Heavy Commercial
C-4	Commercial	Actual zoning will change so as to be applicable to the actual land use, or C-2 if not developed.	
C-5	Limited High Tech Commercial		
CM-1	Commercial Mixed Use	C-1/MX	Light Commercial w/mixed use overlay
CM-2	Commercial Mixed Use	C-2/MX	Medium Commercial w/mixed use overlay.
GR	General Retail	C-1	Light Commercial
O	Office	NC	Neighborhood Commercial
M-1	Light Manufacturing	I-1	Light Industrial
M-2	Medium Manufacturing	I-2	Heavy Industrial
M-3	Heavy Manufacturing	I-2	Heavy Industrial
		G	Governmental/Public Institutional
		PUD	Planned Unit Development
		OS	Open Space
SPECIAL ZONING DISTRICTS/OVERLAYS			
		MX	Commercial Mixed Use Overlay
		H	Historical District Overlay
		IR	Infill Redevelopment Overlay
		AH	Airport Hazard Overlay

Section 5. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this Ordinance. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership and an incorporated or unincorporated association. The words "used or occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied. Any definition not expressly prescribed herein shall, until defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

Access means a way of approaching or entering a property.

Accessory Use means a use that is customarily a part of the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof. See: Accessory Structure.

Accessory Structure means, in a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, bath or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any long-term or paying guests.

Adjacent means abutting and directly connected to or bordering.

Alcoholic Beverages-Off-Premises means the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.

Alcoholic Beverages-On-Premises means the standard use listing which will solely allow the serving of beer for on-premise consumption.

Alcoholic Beverages-Mixed Drinks means the typical use listing which will allow the serving of alcoholic beverages for on-premise consumption as an incidental use where the gross revenue from the on-premise sales of alcoholic beverages is less than 75% of total gross revenue.

Alley means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

All Weather Surface means a surface paved with concrete, asphalt, paving stones or other similar solid impervious surfaces (this includes such surfaces as pervious concrete). Compacted gravel, while meeting the Texas TDA requirements for accessibility standards, **DOES NOT MEET** the requirements for an All Weather Surface.

Amortization means a method of eliminating non-conforming uses by requiring the termination of the non-conforming use after a specified period.

Amusement (Indoor) means an amusement enterprise wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, including a bowling alley, billiard parlor, and similar activities.

Amusement (Outdoor) means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including a golf driving range, archery range, miniature golf course and similar activities.

Annexation means the incorporation of land area into the City with a resulting change in the boundaries of the City.

Animal(s) means any animate being that is not a human.

Antique Shop means a business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

Apartment means a room or group of rooms used as a dwelling for one (1) family unit that includes full kitchen facilities for the preparation of meals and cooking therein.

Apartment Hotel means a building used or intended to be used as a home for twelve (12) or more families, who are permanent residents, living independently of each other, in which building may be located on the first floor living units for transient guests, and/or retail sales and service.

Apartment House or Apartment Building or Apartments means a building or portion thereof used or intended to be used as a home for five (5) or more families or households living independently of each other and equipped for preparation of food.

Applicant means a person applying for zoning approval under this Ordinance.

Approval means the final approval in a series of required actions. For instance, the approval date of a planned unit development zoning application is the date of Council approval of the Final Site Plan.

Architectural Harmony means all buildings on the same lot shall have similar design as the main structure.

Art Studio or Gallery means a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

Assisted-Retirement Living means a use providing 24-hour supervision and assisted living for more than 15 residents not requiring regular ongoing medical attention. This classification includes personal care homes for the physically impaired, and persons 60 years of age or older.

Attendant Building means a building used to house the work place of the manager or attendant of a public or private parking lot.

Attendant Documents means materials needed to address the specific requirements of this Ordinance, which the applicant feels necessary to explain the submittal.

Auto Repair (Major) means a business specializing in major repair of motor vehicles entirely within an enclosed building, including any use listed below, as well as any use not listed as minor vehicle servicing.

- (a) Auto glass, seat cover and muffler shop;

- (b) Auto painting or body rebuilding shop;
- (c) Tire retreading and capping;
- (d) Body, fender, clutch, transmission, differential, axle, spring and frame repairs;
- (e) Major overhauling of engines requiring removal there from of cylinder head or crankcase pan and any associated engine rebuilding;

- (f) Repair of radiator requiring removal from the vehicle;

- (g) Repair of truck, trailer, farm or industrial equipment, or other machinery/supplies;

- (h) Brake work, other than minor maintenance such as disc pad replacement and minor brake adjustment.

Auto Repair (Minor) means a business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle conducted entirely within an enclosed building, including the following:

- (a) Servicing of spark plugs, batteries, distributors and distributor parts and including minor engine tune-ups;
- (b) Tire servicing and flat repair but not recapping or regrooving;
- (c) Radiator cleaning and flushing (on vehicle);
- (d) Fuel pump, oil pump and related maintenance;
- (e) Minor servicing of carburetors;
- (f) Emergency wiring repairs;
- (g) Minor motor adjustment not involving removal of head or crankcase;
- (h) Quick oil and filter change;
- (i) Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios;
- (j) Lubrication, greasing and washing;
- (k) Disc pad replacement and minor brake adjustment.

Auto Sales (Outdoor) means an open, dust-free, all weather area, other than a street, alley or other public place, used for the display and sales of new or used automobiles. Where no repair work, except those actions normally associated with vehicle operator service, is done on the cars to be displayed and sold on the premises. A sales office is normally located on the premises and such shall be limited to an area less than 10% of the total sales lot.

Auto Sales Facility means one or more buildings and an open, dust-free, all weather surface other than a street, alley, or other public place, used for the display, wholesale or retail sale, with repair and renovation authorized entirely within an enclosed building, and temporary storage of vehicles for repairs or renovation not to exceed ninety (90) days.

Bar means any business establishment required to have a state license for the sale of alcoholic beverages other than beer, for on-premises consumption.

Bed and Breakfast means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight transient guests on a paying basis. Or means a historic or otherwise architecturally unique building where lodging for overnight transient guests is provided by prearrangement for definite periods, for compensation, for not more than seven rooms to let and where breakfast is included in the rates charged to guests. Lodging of transient guest is generally for periods of less than thirty (30) days.

Billboard means a sign advertising products not made, sold, used or served on the premises displaying such sign.

Block means an area enclosed by streets, normally to be divided into lots to be occupied by or intended for buildings; or if the same word is used as a term of measurement, it shall mean the distance along one side of a street between the nearest two streets which intersect said street on said side.

Board means the Board of Adjustments of the City of Burnet, Texas.

Board of Adjustments means a committee appointed by the Council to consider appeals from certain administrative actions pursuant to § 211.008 of the Texas Local Government Code and that is given the authority set forth in this Ordinance and in § 211.009 of the Texas Local Government Code.

Boarding House means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

Buffer means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building Area means the gross area covered by a structure when placed on the lot.

Building Footprint means the foundation, base or support of a building or structure.

Building Ordinance means the building codes and related ordinances of the City providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the City, including, but not limited to, the electrical code, plumbing code, building code and minimum housing code, adopted by the City Council from time to time.

Building Permit means a permit issued by the City which is required prior to commencing construction or reconstruction of any structure.

Building Plot means the land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

Building Setback Line means a line or lines designating the interior limit of the area of a lot within which the building footprint of structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

Cafe or Cafeteria means a commercial establishment where snacks or meals are vended for consumption indoors or on the premises.

Carport means an accessory structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles, being not more than 1,000 square feet. A carport is not an accessory structure if built as an integral part of the original primary structure having an indistinguishable, continuous roof structure.

Caliper means the trunk diameter of a tree at three (3) feet above natural grade.

Cemetery means land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery. Burial outside of human remains outside of a cemetery shall be prohibited except those authorized with a conditional use permit.

Centerline of a Waterway means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

Child Care Center (Small) means a private residence where the occupant provides custodial care and supervision during daylight hours for a maximum six (6) children at any one time. The maximum of six (6) children includes the family's natural or adopted children under the age of fourteen (14). The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

Child Care Center (Intermediate) means a facility (including non-residential structures) which provides custodial care and supervision for less than 24 hours a day for between seven (7) and twelve (12) children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

Child Care Center (Large) means a facility where over twelve (12) children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

Child Care or Child Development Facilities means any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four (4) or more children under sixteen years of age at any one time, who are not members of the immediate family or any natural person operating any such place, during any part or all of the twenty-four hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under sixteen years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, twenty-four hours a day.

Church or Rectory means a place of worship and religious training of recognized religions including on site housing of ministers, rabbis, priests, nuns and similar staff personnel.

City means the City of Burnet, Texas.

City Manager means the chief administrative officer designated by City Council, or his designee.

City Building Official or Building Official means the designated Building Official for the City or his or her designated representative

City Council or Council means the City Council of the City.

City Engineer means the City Engineer for the City or his or her designated representative.

City Limits or Within the City means the, or within the, incorporated boundaries of the City.

City Staff means the officers, employees and agents of the City assigned and designated from time to time by the City Administrator and/or Council, including but not limited to the City Engineer, to review, comment and/or report on zoning applications.

City Standard Details and Specifications means a library of City approved drawings and technical data representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenances to be constructed for City acceptance.

Cleaning or Laundry Self Service Shop means an establishment providing customers with self-service laundry and/or dry cleaning facilities, and does not include a commercial laundry or cleaning plant.

Cleaning Shop or Laundry (Small) means a custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area.

Clinic means a public or private station or establishment for the examination and treatment of outpatients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

Clothing Manufacture means cutting, sewing and forming garments, millinery and accessories, when no noise, dust, vibration, odor or other undesirable or obnoxious condition is created to affect adjacent property.

Club. See: Social Club.

Cold Storage Plant means a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or to commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

College or University means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

Commercial Amusement (Indoors) means an enterprise conducted solely within one or more buildings or permanently enclosed area whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (indoors) include zoos, carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests, rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool parlors, and similar enterprises.

Commercial Amusement (Outdoors) means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (outdoors) include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows and similar enterprises.

Commercial Vehicles means any vehicle having axle or gross weight limit as established by Section 621.101, Texas Transportation Code, that is not a passenger car or light pickup truck.

Commission means the Planning and Zoning Commission of the City.

Common Area means privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

Common Open Space means that portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

Communication Services means an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms (excludes broadcast towers).

Community Center (Public) means a building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

Community Center (Private) means a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, subdivision, planned unit development, or membership group.

Compounding or Fabrication (Light) means the making of jewelry, compounding of perfume, small instruments or pharmaceuticals, and similar work or processes.

Comprehensive or Master Plan means the comprehensive plan of the City and adjoining areas adopted by the commission and approved by the City Council, including all its revisions as defined by Chapter 219 of the *Texas Local Government Code*. The plan may indicate the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water and sewer facilities. Such plan is the overall development plan for the community adopted to provide long-range development policies and may include all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services. The comprehensive or master plan does not constitute zoning regulations or establish zoning district boundaries.

Conditional Use means an additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the City Council. No conditional use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

Condominium means a building or group of buildings in which dwelling units are owned individually, while the structure and common areas and facilities are owned by all the owners on a proportional, individual basis in compliance with the Texas Uniform Condominium Act, *Chapt. 82, Tex. Prop. Code*, with individual apartments or units having a minimum of 700 square feet living area, inclusive of separate sleeping, living and kitchen facilities.