

ORDINANCE

AN ORDINANCE AMENDING APPENDIX B, “ZONING”, OF THE CITY OF BURLESON, TEXAS CODE OF ORDINANCES BY AMENDING VARIOUS SECTIONS OF ARTICLE V “SUPPLEMENTAL REGULATIONS”; PROVIDING FOR THE INCORPORATION OF THE RECITALS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE CODICIATION INTO THE CODE OF ORDINANCES; FINDING THAT MEETINGS AT WHICH THIS ORDINANCE WERE PASSED COMPLIED WITH LAW; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas ("City"), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Burleson has adopted Ordinance B-582 (A0508), being Appendix B - Zoning Ordinance, Code of Ordinances, City of Burleson, which establishes zoning regulations and districts in accordance with the City's comprehensive land use plan in order to promote health, safety, morals and the general welfare within the City of Burleson; and

WHEREAS, the City Council finds that the Planning and Zoning Commission of Burleson, Texas, held a public hearing, notice for said hearing having been given not less than ten (10) days before the date set for the hearing by publication in the Fort Worth Star Telegram, Fort Worth, Texas, a newspaper of general circulation in such municipality, and voted ___ to ___ to recommend approval to the City Council of Burleson, Texas, that the ordinance be approved; and

WHEREAS, the City Council finds that the City Council held a public hearing, said notice was given of the further public hearing to consider the advisability of amending the Zoning Ordinance as recommended by the Planning and Zoning Commission, and all citizens and parties at interest were notified that they would have an opportunity to be heard, such notice of the time and place of such hearing having been given at least fifteen (15) days prior to such hearing by publication in the Fort Worth Star Telegram, Fort Worth, Texas, a newspaper of general circulation in such municipality, and by posting such notice to the City's Internet website; and

WHEREAS, the City Council finds that the City has complied with the notification requirements of the Texas Local Government Code and the Burleson Zoning Ordinance; and

WHEREAS, the City Council finds that all citizens and parties at interest have been given an opportunity to be heard on all the matter of the proposed zoning amendment and the City Council of the City of Burleson, Texas, have found and determined that this amendatory Ordinance should be enacted since its provisions are in the public interest and will promote the health, safety and welfare of the community.

WHEREAS, pursuant to Section 2-4(b) of the Code of Ordinances, City of Burleson, Texas, the City Council must consider and approve ordinance amendments at two separate sessions of the City Council unless an exception applies, and no such exception applies to amendments of the City's zoning ordinance; and

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

SECTION 1.

Section 131-105, "Site plan requirements generally", of Section 131, "Site plan requirements", of Article V, "Supplemental Regulations" of Appendix B, "Zoning," of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

131-105 Site plan requirements generally.

Whenever a site plan is required by this ordinance, such site plan must conform to the requirements of this section. ~~Except as otherwise provided herein, all site plans must be approved by the city council upon recommendation of the planning and zoning commission.~~ The site plan submitted in support of an application ~~(form provided by the building official)~~ shall satisfy the requirements for site plan submittals as set forth by the development assistance committee. Site plans shall be reviewed by the development assistance committee at the next scheduled meeting after submittal. Comments shall be returned within five working days after the review by the development assistance committee. In no event shall the review process exceed 15 working days after submittal. The submittal date of the site plan shall be the date upon which the site plan is found to be in compliance with the provisions of the site plan application by the development assistance committee.

SECTION 2.

Section 131-115, "Changes to the site plan", of Section 131, "Site plan requirements", of Article V, "Supplemental Regulations" of Appendix B, "Zoning," of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

131-115 Changes to the site plan.

Changes to the site plan shall be processed in the same manner as the original approved site plan.

- (a) Except as otherwise provided in subsection 131-115, changes to site plan (c), any site plan that is amended shall require approval as provided in subsection 131-120.
- (b) Changes to the site plan which will affect the use of the land may require either an amendment to a PD or a rezoning of property, whichever applies.
- (c) Changes of details within a site plan which do not alter the basic physical relationship of the property to adjacent properties; do not alter the use permitted; increase the density, floor area, height, or reduce the yards provided at the boundary of the site as indicated on the approved site plan, may be authorized by the ~~community~~-development services director or his/her designee. An aggrieved party may appeal the decision of the ~~community~~ development services director or his/her designee to the planning and zoning commission ~~board of adjustment~~ in accordance with the provisions of this ordinance.

SECTION 3.

Section 131-125, "Site plan content", of Section 131, "Site plan requirements", of Article V, "Supplemental Regulations" of Appendix B, "Zoning," of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

131-125

Site plan content.

The site plan shall contain the information listed below and any or all of the required features may be incorporated on a single drawing if the drawing is clear and capable of evaluation by the planning and zoning commission, the city council, and the staff personnel required to enforce and interpret this ordinance:

- (a) The boundary lines and dimensions of the property, existing subdivision lots, available utilities, and when applicable, the location and full extents of any on-site sewage facility (OSSF). easements, roadways, sidewalks, emergency access easements and public rights-of-way.
- ~~(b)~~ ~~Topography of the property proposed for development in contours of not less than two feet, together with any proposed grade elevations, if different from existing elevations.~~
- ~~(e)~~(b) Floodplains, water courses, marshes, drainage areas, and other significant environmental features including, but not limited to, rock outcroppings and major tree groupings.
- ~~(d)~~(c) The location and use of all existing and proposed buildings or structures, including all refuse storage areas, and the minimum distance between buildings. Where building complexes are proposed, the location of each building and the minimum distances between buildings, and between buildings and the property line, street line, and/or alley.
- ~~(e)~~(d) Total number, location and arrangement of off-street parking and loading spaces, where required.
- ~~(f)~~(e) All points of vehicular ingress, egress, and circulation within the property and all special traffic regulation facilities proposed or required to assure the safe function of the circulation plan.
- ~~(g)~~(f) Setbacks, lot coverage, and when relevant, the relationship of the setbacks provided and the height of any existing or proposed building or structure.
- ~~(h)~~(g) The location, size, and arrangement of all outdoor signs, exterior auditory speakers, and lighting.
- ~~(i)~~(h) The type, location, and quantity of all plant material used for landscaping, and the type, location, and height of fences or screening and the plantings around them.
- ~~(j)~~(i) If multiple types of land uses are proposed, a delineation of the specific areas to be devoted to various land uses.
- ~~(k)~~(j) Vicinity map, north point, scale, name of development, name of owner, name of

- planner, total acreage of project, street address or common description of the property.
- (+)(k) Current land uses and zoning district of the property and current land uses and zoning districts of contiguous properties.
- (+)(l) Buildings on the exterior of the site and within 25 feet of all property lines.
- (+)(m) The location and size of existing and proposed surface and subsurface drainage facilities, including culverts, drains, and detention ponds, showing size and direction of flow.
- (+)(n) The number of square feet of the property after construction which will constitute impervious area or impervious surface and vegetated areas.

SECTION 4.

Section 132-115, “Accessory building and structure yard regulations”, of Section 132, “General yard requirements”, of Article V, “Supplemental Regulations” of Appendix B, “Zoning,” of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

132-115 Accessory building and structure yard regulations.

(a) Front yard.

Attached accessory buildings or structures shall have a front yard not less than the main building. ~~Detached accessory buildings or structures shall be located in the area defined as the rear yard.~~

(b) Side yard.

A side yard of three feet shall be maintained for any accessory building or structure located in a residential district as measured from the side lot line; except that adjacent to a side street the accessory building side yard shall be not less than ten feet and a garage or carport entered from and opening onto the side shall provide a side yard of not less than 20 feet.

(c) Rear yard.

- (1) There shall be a rear yard for accessory buildings or structures of not less than three feet measured from the rear lot line. In residential districts, the main building and all accessory buildings shall not cover more than 50 percent of that portion of the lot lying to the rear of a line joining the midpoint of one side lot line with the midpoint of the opposite side lot line. Detached carports, garages, or other detached accessory buildings located within this rear portion of the lot shall not be located closer than six feet to the main building or nearer than three feet to any side lot line, (See Appendix Illustration 3).
- (2) Where a garage or carport is designed and constructed to be entered from an alley

or side street, the garage or carport shall be set back from the side street or alley a minimum distance of ~~20~~18 feet.

SECTION 5.

Section 133-100, “Generally”, of Section 133, “General height requirements”, of Article V, “Supplemental Regulations” of Appendix B, “Zoning,” of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

133-100

Generally.

The following height requirements shall apply:

- (a) Cooling towers, roof gables, chimneys, and vent stacks may extend for an additional height not to exceed 40 feet above the average grade line of a building. Water standpipes and tanks, religious institution steeples, domes and spires, school buildings, and institutional buildings may exceed three stories in height in residential districts restricted to two or three stories in height, provided that one additional foot is added to the width and depth of side and rear yards for each foot that a structure exceeds 35 feet in height.
- (b) In the GR, CC, C and I districts a building may exceed a height of 35 feet if the following conditions are met:
 - (1) A site plan is provided; and
 - (2) For every one foot above the height of 35 proposed, an additional one foot of set back is provided on the front, side, and rear yards. The maximum height shall not exceed 60 feet.
- (c) Height regulations do not apply to steeples, domes and spires, or other architectural design elements, communication towers and/or antennas. (For antenna and tower regulations see section 137, antenna facilities.)
- (d) ~~Applicable H~~height restrictions identified in the ~~IH35, 35 overlay district~~ ~~Spinks Airport Air Hazard Zoning Ordinance as adopted by Resolution No. 503~~ shall be observed.

SECTION 6.

Section 136-103, “Seasonal uses”, of Section 136, “Temporary use regulations”, of Article V, “Supplemental Regulations” of Appendix B, “Zoning,” of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

136-103

Seasonal uses.

A permit for a seasonal use shall be granted only for farmers markets ~~and snow cone stands~~. They~~se~~ shall be permitted as follows:

- a. The duration of the permit shall be for a period between April 1st and October 31st.
- b. Such events shall be on a site in the A, NS, GR, CC, C or I zoning districts.
- c. Adequate parking and sanitary facilities shall be made available to the satisfaction of the ~~community~~ development services director or designee and/or code enforcement officer.

SECTION 7.

Section 136-105, “Temporary outdoor sales”, of Section 136, “Temporary use regulations”, of Article V, “Supplemental Regulations” of Appendix B, “Zoning,” of the Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

136-105

Temporary outdoor sales.

Temporary outdoor sales are defined as any temporary outdoor sales event that is not classified as a special event, seasonal use, holiday sales, a mobile food vendor ~~or stationary food vendor~~. These temporary uses shall be permitted as follows:

- a. They shall only be permitted on properties in the A, NS, GR, CC, C, or I zoning districts.
- b. Temporary outdoor sales will only be conducted by the existing occupants of existing businesses on the property where the sales will be held.
- c. The duration of a temporary outdoor sale shall not exceed 30 days upon the application and granting of a temporary use permit. In no event shall any temporary outdoor sales be allowed for more than 30 consecutive days for more than once per year for each property (lot, tract or parcel).
- d. Adequate parking and sanitary facilities shall be made available to the satisfaction of the community development director or designee and/or code enforcement officer.
- e. All sales shall meet the special conditions, if any imposed by the code enforcement officer and/or fire marshal for the protection of the public health, safety and welfare.
- f. No tent or similar structure shall be erected in any required setbacks or designated easements. Tents shall conform to the Uniform Fire Code and no tent shall be erected without first obtaining a permit. No use of property, for temporary outdoor sales, will be allowed except by the existing occupants of the property. This includes parking of vehicles for a purpose other than conducting business on the premises.

SECTION 8.

Section 136-106, “Stationary food vendors”, of Section 136, “Temporary use regulations”, of Article V, “Supplemental Regulations” of Appendix B, “Zoning,” of the Code of Ordinances, City of Burleson, Texas, is hereby deleted in its entirety:

Stationary food vendors.

~~Stationary food vendors are defined as food vendors with temporary structures that are stationary at one location. These stationary food vendors shall be permitted as follows:~~

- ~~a. Stationary food vendors shall only be permitted on properties in the C, or I zoning districts.~~
- ~~b. Stationary food vendors will only be allowed:~~
 - ~~1. With a special events permit; and/or~~
 - ~~2. Within the building footprint of a 80,000 square feet or greater business with the business owners written permission.~~
- ~~c. Adequate parking and sanitary facilities shall be made available to the satisfaction of the community development director or designee and/or code enforcement officer.~~
- ~~d. All stationary food vendors shall meet the special conditions, if any imposed by the code enforcement officer and/or fire marshal for the protection of the public health, safety and welfare.~~
- ~~e. Mobile food vendors shall be regulated by a separate ordinance and not permitted through the zoning ordinance.~~

SECTION 9.

The recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 10.

This Ordinance shall be cumulative of all provisions of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 11.

The terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

SECTION 12.

Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or

pursuant to any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 13.

It is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

SECTION 14.

It is hereby officially found and determined that the meetings at which this ordinance is passed were open to the public and that public notice of the time, place, and purpose of said meetings were given as required by law.

SECTION 15.

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in V.T.C.A. Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

SECTION 16.

Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city's website.

AND IT SO ORDAINED.

PASSED AND APPROVED: the _____ day of _____, 20____.

First Reading: the _____ day of _____, 20____.

Final Reading: the _____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

Amanda Campos, City Secretary

APPROVED AS TO FORM & LEGALITY:

E. Allen Taylor, Jr., City Attorney