



CITY OF BURNET

PLANNING AND ZONING

ITEM BRIEF

Meeting Date

June 2, 2025

Agenda Item

Public hearing and action: Ordinance No. 2025-23: L. Kimbler

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") BY AMENDING ARTICLE IV (ENTITLED "ADMINISTRATION"); PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PENALTY NOT TO EXCEED \$2000.00; AND PROVIDING AN EFFECTIVE DATE

1. Staff Presentation
2. Public Hearing
3. Discuss and consider action

Information

Chapter 118 of the Code of Ordinances sets forth the zoning regulations for property located within the city limits. Article IV, of Chapter 118, sets forth the administration of the zoning districts and regulations. Within this article, the code gives certain authority to the "Zoning Administrator", who is designated by the City Manager, to administer the zoning code and ensure compliance.

The proposed ordinance would amend Article IV of Chapter 118 to add a new section titled "Administrative Interpretations." This addition is intended to clarify the process for interpreting provisions of the zoning code when there is uncertainty about their meaning or intent.

Currently, the zoning regulations require that any unlisted use be reviewed and determined by the Planning and Zoning Commission and the City Council, based on whether it is closely related and similar to permitted uses. Under the proposed amendment, the zoning administrator would be granted the authority to determine whether an unlisted use is sufficiently similar to a permitted use within the commercial and industrial zoning districts only. This interpretation would guide how the provision is administered.

To ensure oversight and transparency:

- The zoning administrator must submit a written interpretation to the city manager for review and approval.
- If approved, the interpretation will be posted publicly on the City's website.
- If the city manager does not concur, the matter will be referred to the Planning and Zoning Commission for a recommendation and then to the City Council for final action.

This process aims to streamline zoning decisions while maintaining proper checks and balances.

The proposed ordinance also clarifies that any zoning application submitted must be thoroughly reviewed by all pertinent departments before being forwarded to the Planning and Zoning Commission for its recommendations.

Fiscal Impact

None.

Recommendation

Open the public hearing. At the conclusion of the public hearing, discuss and consider the draft ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") BY AMENDING ARTICLE II (ENTITLED "ZONING DISTRICTS AND REGULATIONS") AND ARTICLE IV (ENTITLED "ADMINISTRATION"); PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PENALTY NOT TO EXCEED \$2000.00; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to the authority provided by Texas Local Government Code Chapter 211, City Council has adopted zoning districts and regulations within Chapter 118 of the City Code; and

WHEREAS, the City Council approved Ordinance No. 2021-001 affixing the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, Article IV, of Chapter 118, sets forth the administration of the zoning districts and regulations for each and every property located within the city, and

WHEREAS, City Council determines it appropriate to amend Chapter 118, Article IV, to allow the Zoning Administrator and City Manager to provide administrative interpretations where questions may arise concerning the meaning or intent of the chapter, or a use not contemplated in the lists of authorized uses; 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. Section 118-72 (entitled "*General*") of the Code of Ordinances of the City of Burnet is hereby amended by replacing the existing text in its entirety with the following:

Sec. 118-72. General.

The city manager shall appoint the zoning administrator to administer the provisions of this chapter and in furtherance of such authority, the zoning administrator's duties and authority shall be as follows:

- (a) *Records.* Maintain permanent and current records with respect to this chapter, including amendments thereto in accordance with the charter of the city and applicable state law.

- (b) *Applications.* Receive, file, and review all zoning applications to determine whether such application complies with this chapter.
- (c) *Commission.* Forward zoning applications to the commission as required by this chapter, together with its recommendations thereon. Nothing in this section shall be interpreted to require an application to be presented to the Commission prior to a thorough review by the city departments, including but not limited to planning, police, fire, and public works.
- (d) *Council.* Forward zoning applications to the council, together with the recommendations of the commission and the city staff.
- (e) *Implementation.* Make such other determinations and decisions as may be required of the city by this chapter, the commission or the council; and enforce and implement this chapter and the final decisions by the commission and city council.

Section Two. Code Amendment. Section 118-73 (entitled “*Ordinance interpretation*”) of the Code of Ordinances of the City of Burnet is hereby amended by replacing the existing text in its entirety with the following:

Sec. 118-73. Ordinance interpretation.

- (a) *Standards.* In the interpretation and application of the terms and provisions of this chapter, standards to be employed are as follows:
 - (1) *Liberally construed.* In the city's interpretation and application, the provisions of this chapter shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, morals and welfare. This chapter shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
 - (2) *Highest standards govern.* Whenever a provision of this chapter and any other provision of this chapter, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
 - (3) *State law.* The terms, provisions and conditions of this chapter shall be interpreted and applied in a manner consistent with state law.
 - (4) *Comprehensive Plan.* All zoning applications shall conform to the Comprehensive Plan for the community and be consistent with all of the elements thereof.
 - (A) The proposed zoning application must be consistent with the Comprehensive Plan.
 - (B) Where the proposed zoning application for a zoning district or category that is inconsistent with the Comprehensive Plan, the applicant shall propose an amendment to the Comprehensive Plan and provide information and documentation in support of such amendment.

- (5) Consistency with the subdivision ordinance. All development projects within the corporate limits of the city shall be in conformance with the city's subdivision ordinance. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval required for the proposed development would comply with this chapter.
- (b) *Administrative interpretations.*
 - (1) Generally. Where there arises a question concerning the meaning or intent of a provision of this chapter, the zoning administrator may provide an interpretation setting forth the manner in which said provision shall be interpreted and administered.
 - (2) Zoning classification. The zoning administrator is authorized to make an interpretation that a use, not contemplated in the lists of authorized uses, is sufficiently closely related to a listed authorized use to be allowed in the same zoning district as the closely related use. Such determinations are subject to the following:
 - (A) This authority is limited to questions arising regarding Commercial and Industrial Zones, including but not limited to: NC, C-1, C-2, C-3, I-1, and I-2 zoning districts; and
 - (B) In making an affirmative interpretation the zoning administrator must find the proposed use is not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted.
 - (3) Process. Interpretations made under this section shall be in writing and shall be subject to the following:
 - (A) All interpretations made under this section shall be in writing.
 - (B) Prior public release of any written interpretation under this section the zoning administrator shall submit the proposed written interpretation to the city manager for approval. Should the city manager not concur with the proposed written interpretation, the city manager may submit the issue to the commission for recommendation and the city council for final determination.
 - (C) Upon the city manager's concurrence, the zoning administrator shall stamp the written interpretation "*Approved For Public Release*" and: (i) publish the written interpretation on the city's web site; and (ii) if applicable, provide a copy to the requestor.
 - (D) *Written decisions binding.* Any final written decision made as provided in subsection (c) above shall govern interpretation of this chapter until such time as an amendment of this chapter shall nullify such decision, or the decision is over-ruled by

subsequent administrative interpretations; or overruled or rescinded by the city council.

- (E) *Appeal*. An appeal of a written interpretation may be made to the board of adjustment pursuant to Section 211.010 of the Texas Local Government Code. For the purposes of such appeal, “*the date the decision is made*” is the date of publication. See, Sec. 118-73(b)(3)(C).

Section Three. Code Amendment. Section 118-44 (entitled “*Neighborhood commercial – District “NC”*”) of the Code of Ordinances of the City of Burnet, is hereby amended by deleting the language that is stricken (stricken) from Sec. 118-44(a) as follows:

~~(21) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted.~~

Note to Publisher: Existing Sec. 118-44(a) shall be recodified so that the remaining subsections are numbered consecutively. This note shall not be included in the code publication.

Section Four. Code Amendment. Section 118-45 (entitled “*Light commercial – District “C-1”*”) of the Code of Ordinances of the City of Burnet, is hereby amended by deleting the language that is stricken (stricken) from Sec. 118-45(a) as follows:

~~(12) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted.~~

Note to Publisher: Existing Sec. 118-45(a) shall be recodified so that the remaining subsections are numbered consecutively. This note shall not be included in the code publication.

Section Five. Code Amendment. Section 118-46 (entitled “*Medium commercial – District “C-2”*”) of the Code of Ordinances of the City of Burnet, is hereby amended by deleting the language that is stricken (stricken) from Sec. 118-46(a) as follows:

~~(34) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and~~

~~distribute goods and materials, and are in general dependent on raw materials refined elsewhere~~

Note to Publisher: Existing Sec. 118-46(a) shall be recodified so that the remaining subsections are numbered consecutively. This note shall not be included in the code publication.

Section Six. Code Amendment. Section 118-47 (entitled “*Heavy commercial – District “C-3”*”) of the Code of Ordinances of the City of Burnet, is hereby amended by deleting the language that is stricken (~~stricken~~) from Sec. 118-47(a) as follows:

~~(19) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.~~

Note to Publisher: Existing Sec. 118-47(a) shall be recodified so that the remaining subsections are numbered consecutively. This note shall not be included in the code publication.

Section Seven. Findings. 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 Council.

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

Section Eight. 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 Nine. 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 Ten. 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 Eleven. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section Twelve. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof.

PASSED, APPROVED, AND ADOPTED on this 10th day of June 2025.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary