

ORDINANCE NO. 2020-31

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AMENDING THE CODE OF ORDINANCES CHAPTER 118 (ENTITLED "ZONING") SECTION 118-64 (ENTITLED "CONDITIONAL USE PERMITS") BY EXPANDING CITY COUNCIL'S AUTHORITY TO GRANT A CONDITIONAL USE PERMIT IN COMMERCIAL AND INDUSTRIAL DISTRICTS AND PROVIDING A CRITERIA FOR GRANTS OF CONDITIONAL USE PERMITS; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on December 7, 2020, did conduct a public hearing for the purpose of taking public comment regarding proposed amendment to the City's Code of Ordinances Chapter 118 (entitled "Zoning") Section 118-64 (entitled "Conditional Use Permit"). The proposed amendment would expand City Council's authority to grant conditional use permits in all commercial and industrial districts and provide a criteria for granting a conditions use permit as shown in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that proposed amendments to be consistent with the City's adopted comprehensive plan and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommended approval of the proposed amendments as shown in Exhibit A; and

WHEREAS, The City Council of the City of Burnet, on December 8, 2020 did conduct its own public hearing for the purpose of taking public comment regarding proposed amendment to the City's Code of Ordinances Chapter 118 (entitled "Zoning") Section 118-64 (entitled "Conditional Use Permit"). The proposed amendment would expand City Council's authority to grant conditional use permits in all commercial and industrial districts and provide a criteria for granting a conditions use permit as shown in Exhibit A; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, as well as its own deliberations, did determine that the proposed amendments to be consistent with the City's adopted comprehensive plan and consistent with the best public interest;

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

Section 1. Findings. The foregoing recitals are hereby 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. Zoning Code Amendments. The Code of Ordinances, Chapter 118 (entitled "zoning") Section 118-64 (entitled "conditional use permits") is amended by adding the underlined (underlined) language shown in blue font and deleting the stricken (~~stricken~~) language shown in red font as shown in Exhibit A.

Section 3. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 4. Severability. Should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

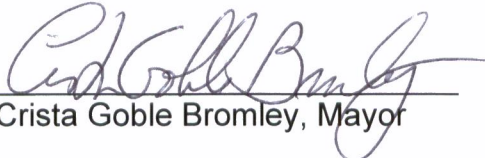
Section 5. Effective Date. This ordinance shall become effective upon passage, adoption and publication as required by law.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

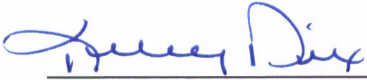
PASSED AND APPROVED on First Reading this 8th day of December 2020.

FINALLY PASSED AND APPROVED on this 12th day of January 2021.

CITY OF BURNET, TEXAS


Crista Goble Bromley, Mayor

ATTEST:


Kelly Dix, City Secretary

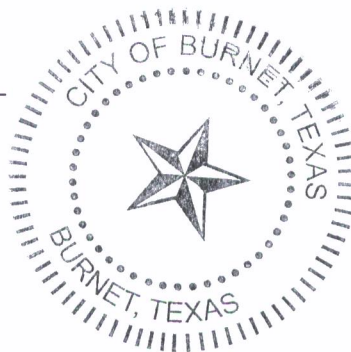


Exhibit "A" Zoning Code Amendments

Sec. 118-64. - Conditional use permits.

- (a) *Purpose.* Conditional use permits provide a planning mechanism to authorize certain uses, which, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right; but which may, under the right set of circumstances and conditions be acceptable in certain specific locations. These uses are permitted only through the issuance of conditional use authorization by city council after ensuring that the use can be appropriately accommodated on the specific property, will be in conformance with the comprehensive plan, can be constructed and operated in a manner which is compatible with the surrounding land uses and overall character of the community, and that the public interest and general welfare of the citizens of the city will be protected. No inherent right exists to receive a conditional use authorization; and such authorization shall only be granted by the city council under a specific set of circumstances and conditions, and each application and situation is unique. (b) *Applicability.* Provided the procedures, criteria and conditions prescribed in this Section are met, the following listed conditional uses, and those indicated in a specific zoning district as a permitted use with a conditional use permit, and none other, may be authorized as a conditional use:
- (1) A use authorized in Sec. 118-45 in a Light Commercial – District "C-1" may be authorized in a Neighborhood commercial—District "NC" with a Conditional Use Permit.
 - (2) A used authorized in Sec. 118-46 in a 118-46. - Medium commercial—District "C-2" may be authorized in a Light Commercial – District "C-1" with a Conditional Use Permit.
 - (3) A used authorized in Sec. 118-47 in a Heavy commercial—District "C-3" may be authorized in Medium commercial—District "C-2" with a Conditional Use Permit.
 - (4) A used authorized in Sec. 118-48 in a Light industrial—District "I-1" may be authorized in Heavy commercial—District "C-3" with a Conditional Use Permit.
 - (5) A used authorized in Sec. 118-49 in a Heavy industrial—District "I-2" may be authorized in Light Industrial—District "I-1" with Conditional Use Permit.
 - (6) Uses that may only be authorized by Conditional Use Permit are as follows:
 - (a) Airport, landing field, landing strip or heliport for aircraft; municipal service facilities and buildings.
 - (b) Amusement park, but not within 300 feet of any residential district.

- (c) Circus, carnival or zoo grounds, but not within 300 feet of any residential district.
 - (d) Commercial, recreational or amusement development for temporary or seasonal periods.
 - (e) Hospital, clinic or institution, provided that any hospital or institution permitted in any residential district shall be located on a site of not less than five acres, shall not occupy more than ten percent of the total lot area and shall be set back from all property lines at least two feet for each foot of building height.
 - (f) Horse race track and riding stables.
 - (g) Private operated community building or recreation field.
 - (h) Radio or television broadcasting towers or station.
 - (i) Cemeteries.
 - (j) Schools—Public and denominational.
 - (k) Gasoline sales.
 - (l) Alcoholic beverages-on premises and alcoholic beverages-mixed drink for those specific uses and in the specific zoning districts as provided by this chapter, including a bar, nightclub, tavern and private club.
 - (m) Sexually oriented business (See permit requirements subsection [118-67](g)), including other uses as identified in the specific district or definition of the use.
- (c) *Conditional uses in newly annexed areas.* Residential and industrial uses and/or structures that were in operation prior to the effective date of annexation and may become nonconforming uses as a result of the property being permanently zoned C-1, C-2 or C-3, may request a conditional use permit for the use existing at the time of annexation during the initial permanent zoning process if the property is proposed to be permanently zoned C-1, C-2 or C-3. The existing use shall be specifically identified in the application for a conditional use permit and, if granted, may be continued as set forth in the conditional use permit as a permitted additional use to the C-1, C-2 or C-3 zoning without being deemed nonconforming while continuing in compliance with the conditional use permit.
- (d) *Procedure.* Before authorization of any of the above conditional uses, public notice shall be given and public hearings shall be held as provided in V.T.C.A., Local Government Code ch. 211; provided that a conditional use permit for a period not to exceed seven calendar days may be given for a use set forth in subsections (b)(3) or (b)(4) above after a public hearing is held by the city council after having received a report and recommendation from the commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods.

- (1) *Permit required.* No conditional use shall be established, operated or maintained except as authorized by a conditional use permit issued in accordance with the requirements of this section.
 - (2) *Conditional use permit issued by city council.* A conditional use permit may be issued only for the special uses specified in this section, and only for the district where it is authorized.
 - (3) The city council shall determine whether the proposed special use complies with each of the general criteria in subsection (e) of this section and with each of the criteria for the district applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the commission.
 - (4) The city council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to assure compliance with the criteria.
 - (5) *Application.* An application for a conditional use permit shall be made in writing in a form prescribed by the city building official and shall be accompanied by such information as may be requested (including a site plan, if required) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.
- (e) *General criteria applicable to all conditional uses.* A proposed conditional use permit must comply with all the following criteria:
- (1) The appearance, size, density and operating characteristics of the proposed conditional use are compatible with the surrounding neighborhood and uses;
 - (2) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;
 - (3) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;
 - (4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and
 - (5) The proposed use complies with all other applicable ordinances and regulations.
- (f) *Approval Criteria.* City council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood.