

## ORDINANCE NO. 2021-47

**AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF CLARIFYING THAT RESIDENTIAL AND MULTIFAMILY USES ARE NOT ALLOWED IN LIGHT COMMERCIAL - DISTRICT "C-1"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, City Council, by adoption of City Code Sec. 118-44, established the Neighborhood Commercial – District "NC" to allow a variety of commercial uses than can serve as a transitional zone between residential and less intense commercial uses; and

**WHEREAS**, single-family dwellings, residential accessory buildings and uses, duplexes, triplexes, quadplexes and multifamily uses (hereinafter residential and multifamily uses") are allowed in the Neighborhood Commercial – District "NC"; and

**WHEREAS**, City Council, by adoption of City Code Sec. 118-45, established the Light Commercial – District "C-1"; and

**WHEREAS**, the first sentence of City Code Sec. 118-45(a) provides City Council established the Light Commercial – District "C-1" *"to allow a mix of commercial uses including, retail, office, light commercial, and similar uses **excluding "residential and multifamily"**"* (emphasis added); and

**WHEREAS**, the second sentence of City Code Sec. 118-45(a) provides Light Commercial – District "C-1" *"allows the retail sale of goods and products (in the following listed use areas) to which value has been added onsite, **including those uses permitted in the "NC" neighborhood commercial district**, sales of goods and services outside of the primary structure as customary with the uses specifically listed . . ."* (emphasis added); and

**WHEREAS**, *"residential and multifamily"* is allowed in the Neighborhood Commercial – District "NC" and ambiguity exists between the first and second sentence of City Code Sec. 118-45(a); and

**WHEREAS**, City Council makes this amendment to resolve such ambiguity and to clarify Council's intent that residential and multifamily uses are excluded from those uses permitted in the Light Commercial – District "C-1"; and

**WHEREAS**, on the Planning and Zoning Commission conducted a public hearing to receive comments and testimony on the merits of the code amendments proposed by this ordinance; and

**WHEREAS**, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed code amendments; and

**WHEREAS**, City Council conducted a public hearing; to receive comments and testimony on the merits of the proposed code amendments; and

**WHEREAS**, The City Council, after due consideration of the Planning and Zoning Commission recommendation; the comments and testimony of public; and the recommendation of City staff; finds adoption of the proposed code amendments will promote the public health, safety, morals, and the general welfare.

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

**Section one. Amendment.** The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-45 (entitled "Light Commercial – District 'C-1'") is hereby amended by adding the language that is underlined (underlined) to Section 118-45(a) as follows:

- (a) *Purpose and permitted uses.* This district allows a mix of commercial uses including, retail, office, light commercial, and similar uses excluding residential and multifamily. This district allows the retail sale of goods and products (in the following listed use areas) to which value has been added onsite, including those uses permitted in the "NC" neighborhood commercial district (except single family dwellings, residential accessory buildings and uses, duplex, triplex or fourplex or multifamily uses), sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following:

Note to Editor: Section 118-45(a) (1) through (12) are unaffected by this amendment.

**Section two. 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 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. Compliance.** It is officially found, determined, and declared that: (i) the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act; and (ii) the City Secretary has published notice of this Ordinance as required by Section 3.14 of the City Charter.

**Section eight. 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 nine. 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 14<sup>th</sup> day of December, 2021

Passed, Approved and Adopted on the 11<sup>th</sup> day of January, 2022

**CITY OF BURNET**



Mary Jane Shanes, Mayor Pro Tem

**ATTEST:**



Kelly Dix, City Secretary

