

**ORDINANCE NO. 2022-50**

**AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AMENDING THE MUNICIPAL GOLF COURSE VEGETATIVE BUFFER DEFINITIONS AND REQUIREMENTS; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City owns and operates the Delaware Springs municipal golf course; and

**WHEREAS**, pursuant to Ordinance No. 2022-12, City Council established a 25-foot-wide municipal golf course vegetation buffer, (hereinafter sometimes the "buffer") on properties adjoining the golf course; and

**WHEREAS**, the purpose of the buffer is to protect and preserve the function and aesthetics of the municipal golf course; and to protect the rights and interest of owners of properties abutting the municipal golf course to unobstructive views of the course from their properties; and

**WHEREAS**, the construction of fences or other structures is prohibited in the buffer area; and

**WHEREAS**, City Council has determined that a waiver of the fence prohibition may be warranted in certain circumstances; and

**WHEREAS**, on December 5, 2022, 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**, on December 13, 2022, 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; and

**WHEREAS**, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of

Texas, was made by the City Secretary within the periods prescribed by Section 3.14 and state law; 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. Amendment.** The Code of Ordinances, Chapter 118 (entitled "Zoning") Section is hereby amended by correcting a scrivener's error in Section 118-5 (entitled "Definitions") by adding language that is underlined (underlined) as follows:

**Sec. 118-5. Definitions.**

*Boundary Agreement* means that certain written instrument recorded in the Public Records of Burnet County as Document No. 201401086.

**Section two. Amendment.** The Code of Ordinances, Chapter 118 (entitled "Zoning") Section is hereby amended by adding the underlined (underlined) language to Section 118-63 (entitled "*Municipal Golf Course Vegetative Buffer Requirements*") subsection (d) (entitled "*use Limitations*") as follows:

- (d) **Use Limitations.** The use of the municipal golf course vegetation buffer, within a Golf Course Lot, shall be restricted to a vegetation buffer and, except as provided subsection (f) below, no fence or structure shall be permitted therein. The municipal golf course vegetation buffer may be maintained in its natural state or may be landscaped by the planting of non-native vegetation and decorative stones; provided such stones do not create a wall or other barrier between the buffer and municipal golf course.

**Section three. Amendment.** The Code of Ordinances, Chapter 118 (entitled "Zoning") Section is hereby amended by adding to Section 118-63 (entitled "*Municipal Golf Course Vegetative Buffer Requirements*") new subsections (f) (entitled "*Decorative Fence Waivers*") and (g) ("*Administration*") to read as follows:

- (f) **Decorative fence waivers.** The City Manager is authorized to issue waivers to the prohibition against fences in the Municipal Golf Course Vegetative Buffer subject to all of the following:
  - (1) The City Manager finds the location where the lot to be fenced abuts the golf course is not in an area adjoining a tee-boxes, fairways, putting greens and irrigation terminals, or is of such distance from

tee-boxes, fairways, putting greens, and irrigation terminals as to not interfere with play or irrigation;

- (2) The proposed fence must be constructed of decorative iron or similar materials;
- (3) Privacy fencing shall not be approved; and
- (4) The subject lot shall comply with all other requirements of subsection (d) above.

Commentary: The installation of a fence on the golf course property line raises the potential for activity on the property such as barking dogs to disturb golfers. Therefore, the purpose of the limitation stated in subsection (f) (1) is to alleviate that potential from arising near areas where golfing actions (e.g. teeing off, driving, putting) occur.

- (g) *Administration.* In the administration of subsection (f) above, the City Manager shall consult with the Golf Course Supervisor regarding the appropriateness of granting any application for waiver. Moreover, the City Manager is authorized to establish procedures and forms to process applications for decorative fence waivers.

**Section four. 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 five. Penalty.** A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "*General Penalty*").

**Section six. 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 seven. 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 eight. 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.

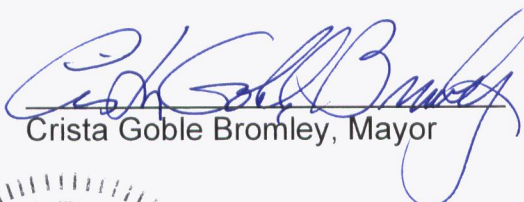
**Section nine. Publication.** The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

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

**Passed** on first reading on the 13<sup>th</sup> day of December 2022.

**Passed, Approved and Adopted** on the 10<sup>th</sup> day of January 2023.

**CITY OF BURNET**

  
Crista Goble Bromley, Mayor

**ATTEST:**

  
Kelly Dix, City Secretary

