

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING"), SECS. 118-5 & 118-68 PROVIDING REGULATIONS FOR SHORT TERM RENTAL USES; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-001, affixed 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, the purpose of this Ordinance is to amend the Code of Ordinances Ch. 118 (entitled "Zoning") by adding provision for Short Term Rental uses within zoning districts within the jurisdiction of the City of Burnet; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of Ch. 118 (entitled "Zoning") and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety, and welfare.

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

Section one. Findings. The City Council finds all matters stated hereinabove are true and correct and are incorporated herein by reference as if copied in their entirety.

Section two. Amendment. The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-5 (entitled "Definitions"), is hereby amended by deleting the struck-out language below and adding the underlined language below that follows:

Bed and breakfast means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight transient guests on a paying basis. Or means a historic or otherwise architecturally unique building where lodging for

overnight transient guests is provided by prearrangement for definite periods, for compensation, for not more than seven rooms to let and where breakfast is included in the rates charged to guests. Lodging of transient guest is generally for periods of less than 30 days.

~~*Boarding House means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.*~~

Hotel means a building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, nursing home, or a dormitory as defined in V.T.C.A., Tax Code § 156.001.

~~*Motel means a building or group of detached, semi-detached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.*~~

Bed and Breakfast means an establishment used by the record owner of the property and who is also a resident of the property, with not more than 7 rooms for let, engaged in providing rooms or groups of rooms, for compensation, for temporary lodging for overnight transient or prearranged guests for definite periods. Where hot meals are provided and served on-site per day and included in the lodging rate charged. Where lodging of guests is for periods of less than 30 days. Bed and Breakfasts shall be classified as a Lodging Facility. Bed and Breakfasts shall not be classified as a home-based business.

Hotel or Motel means a building in which lodging is provided and offered to individual transient guests, and may include a cafe, drugstore, clothes, pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house or bed and breakfast, a short-term rental unit such as a residential structure or apartment, or a long-term rental unit such as a residential structure or an apartment. To be classified as a hotel an establishment shall contain a minimum of six individual guest rooms or units and shall

furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, nursing home, or a dormitory as defined in V.T.C.A., Tax Code § 156.001. Hotels and motels shall be classified as a Lodging Facility.

Lodging Facilities means for-profit facilities where lodging is provided to transient or prearranged visitors and guests for a defined period of time shorter than 30 days for compensation.

Short-term rental (STR) means the rental for compensation of dwellings or accessory dwelling units or portions thereof for the purpose of overnight lodging for a period of not less than one night and not more than 29 consecutive days, other than ongoing month-to-month tenancy granted to the same renter for the same unit as their primary residence. This is not applicable to rentals made for less than thirty days upon the sale of a dwelling when the tenancy is by the former owner. Short-term rentals shall be classified as a Lodging Facility. Short-term rentals shall not be classified as a home-based business. (See STR Overlay, Sec.118-68)

Section three. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-68 (entitled “Overlays”), is hereby replaced in its entirety with the language that follows:

The city hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this chapter. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The overlay districts established by this chapter, including the symbol for each type of district is as follows:

IR- Infill redevelopment overlay

H- Historical overlay

MX- Multi-story mixed use overlay

AH- Airport hazard zoning overlay

STR- Short Term Rental overlay

- (a) *IR infill redevelopment overlay.* Where there is an existing lot that otherwise conforms to the restrictions of R-1 zoning located in the geographic area if the IR overlay as defined in the city infill ordinance, the city may grant a building permit for a lot that that has less than a 20 feet front setback, 15 feet rear setback or is less than 7,600 square feet. The living area may be less than 1,100 square feet upon submission of a house plan and approval from the planning and zoning commission and the city council. The city will grant the building permit only for those lots that are not adjacent to any collector or arterial streets.
- (b) *H-Historical overlay.* In addition to the requirements of this chapter. The area located in the geographic location of the H overlay will be subject to the city historical district ordinance.

- (c) *MX-Multi-story mixed use*. Those areas zoned commercial that are located in the MX overlay and have more than one story may allow for residential use except in the story or basement abutting street grade.
- (d) STR – Short-term rental overlay. Unless authorized by STR Overlay, short-term rentals are prohibited in all zoning districts. Those properties with the STR Overlay may allow for short-term rental use in accordance with the City of Burnet short-term rental ordinance.

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 7, (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.

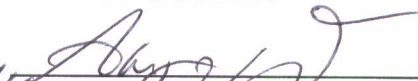
Section eight. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

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

Passed on first reading on the 9th day of January 2024.


Passed, Approved and Adopted on the 23rd day of January 2024.

CITY OF BURNET



Gary Wideman, Mayor

ATTEST:



Kelly Dix, City Secretary

