

AGENDA
BENBROOK CITY COUNCIL
THURSDAY, SEPTEMBER 1, 2022
911 WINSCOTT ROAD, BENBROOK, TEXAS
PRE-COUNCIL WORKSESSION 7:15 P.M.
Review and discuss agenda items for regular meeting.
REGULAR MEETING 7:30 P.M.
COUNCIL CHAMBERS
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION

I. CALL TO ORDER

II. INVOCATION

Invocation To Be Given By Jacob Serns With Benbrook Seventh Day Adventist

PLEDGE OF ALLEGIANCE

III. CITIZEN COMMENTS ON ANY AGENDA ITEM (Citizen Comments Are Limited To 3 Minutes)

IV. MINUTES

1. Approve Minutes Of The Regular Meeting Held August 18, 2022

Documents:

[CC MINUTES-08-18-22.PDF](#)

V. PRESENTATION BY MAYOR AND MEMBERS OF COUNCIL

CC-2022-06 Accept Certification Of Unopposed Candidates And Adopt Ordinance Canceling November 8, 2022 General Election (Aceptar La Certificación De Candidatos Sin Oposición Y Adoptar La Ordenanza Que Cancela Las Elecciones Generales Del 8 De Noviembre De 2022) (Chấp Nhận Chứng Nhận Các Ứng Cử Viên Không Được Phản Đối Và Thông Qua Sắc Lệnh Hủy Bỏ Cuộc Tổng Tuyển Cử Ngày 8 Tháng Mười Một, 2022)

Documents:

[CC-2022-06 MEMO CANCELLING ELECTION.PDF](#)
[CC-2022-06 CERTIFICATE OF UNOPPOSED CANDIDATES.PDF](#)
[CC-2022-06 ORDINANCE CANCEL ELECTION-2022.PDF](#)
[CC-2022-06 ORDER OF CANCELLATION.PDF](#)

VI. REPORTS FROM CITY MANAGER

A. GENERAL

G-2576 Adopt Ordinance Amending Title 10 - Vehicles And Traffic Of The Benbrook Municipal Code (1985), As Amended, By Regulating Commercial Truck Parking On Streets Within The City Of Benbrook

Documents:

VII. OTHER MATTERS OF BUSINESS

1. Conduct Public Hearing On Property Tax Rate For 2022
2. Conduct Public Hearing On Proposed Budget For FY 2022-23

VIII. INFORMAL CITIZEN COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in informal citizen comments. City Council may only make a statement of specific information given in response to the inquiry; recite an existing policy; or request staff place the item on an agenda for a subsequent meeting. The exception to informal comments is that once an election date has been set by City Council comments relative to elections will not be broadcast on the City's cable channel. However, a copy of the tape containing citizens' comments will be available at city hall for review or purchase by interested citizens. (Citizen comments are limited to 3 minutes)

IX. COUNCIL MEMBER AND STAFF COMMENTS

Pursuant to the Texas Government Code, Chapter 551, Open Meetings, Section 551.0415, announcements from City Councilmembers and City Staff are limited to expressions of thanks; congratulations; condolences; recognition of public officials, employees or citizens; information regarding holiday schedules; reminders of community events or announcements involving an imminent threat to the public health and safety of the municipality that has arisen after the posting of the agenda. No discussion or formal action may be taken on these items at this meeting.

X. ADJOURNMENT



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, AUGUST 18, 2022**

The regular meeting of the Benbrook City Council was held on August 18, 2022 at 7:30 p.m. in the Council Chambers with the following Council members present:

Jason Ward, Mayor
Renee Franklin
Larry Marshall
Dustin Phillips
Gary Addison
Laura Mackey
Keith Tiner

Also Present:

Andy Wayman, City Manager
Jim Hinderaker, Assistant City Manager
Joanna King, City Secretary
Beth Fischer, Deputy City Secretary
Rick Overgaard, Finance Director
Bennett Howell, Public Services Director

Others:

Pastor Seth Wiginton
Phyllis Harkins
Bill Smith
Josh Harville
Karen Bontrager

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Ward

II. INVOCATION/PLEDGE OF ALEGIANCE

Invocation was given by Pastor Seth Wiginton with Restoration Family Church
The Pledge of Allegiance was recited.

III. CITIZEN COMMENTS ON ANY AGENDA ITEM

IV. MINUTES

1. Approve minutes of the regular meeting held August 4, 2022

Motion by Dr. Marshall, seconded by Mr. Phillips to approve the minutes of the regular meeting held August 4, 2022

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Mr. Tiner

Noes: None

Abstain: Ms. Mackey

Motion carried 5-0-1.

V. REPORTS FROM CITY MANAGER

A. GENERAL

G-2571 Approve finance report for period ending July 31, 2022

Rick Overgaard gave the following report: General Fund revenues for the month of July were \$765,089. Major revenues collected for the month include Property taxes of \$132,593, Franchise taxes of \$9,145, Permits of \$24,456, Fines and Forfeitures of \$33,000, Other Agencies of \$33,500, and Charges for Services of \$99,446. Sales tax collected and recognized as revenue in July was \$412,553. Fiscal year to date sales tax is \$3,195,567, an increase of 13.8% over last year at this time. General Fund revenues collected through the end of July were \$20,681,272 and 96.9% of the budget.

General Fund expenditures for the month of July were \$1,375,264. The increase in expenditures compared to the prior year is due to the street overlay project. Fiscal year to date expenditures were \$15,918,384 and 74.6% of the adopted budget.

Total General Fund revenues of \$20,681,272 were more than total General Fund expenditures of \$15,918,384 by \$4,762,888.

Debt Service revenues for the month of July totaled \$8,356 and were all from property tax. July expenditures were \$530,839 for debt service payments due August 1, 2022. The next debt service payments are due February 1, 2023.

EDC revenues through July were \$1,686,562. EDC expenditures through the end of July were \$781,882. Total revenues exceeded total expenditures by \$904,680.

Total revenues received through July were \$3,295,586 from stormwater utility fees, mineral lease revenue, TIF income, and interest earnings. Total

expenditures for the Capital Projects Fund were \$2,654,000 through the end of July. July expenditures included the following projects: Vista Way Two-Way Conversion and the Floodplain Study. Total revenues exceeded total expenditures by \$641,586. Sufficient funds are available in the current fund balances of the Capital Projects Fund. This fund operates on a project basis rather than a specific fiscal year.

On July 31, 2022, the City had \$47,538,693 invested at varying interest rates; the EDC had \$6,063,718 available.

Motion by Mr. Addison, seconded by Mr. Tiner to accept the finance report for the period ending July 31, 2022.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

G-2572 Adopt Resolution approving the negotiated settlement between the Atmos Cities Steering Committed and Atmos Energy Corp., Mid-Tex Division regarding the 2022 Rate Review Mechanism filing

Rick Overgaard gave the following report: The City of Benbrook is a member of the Atmos Cities Steering Committee (ACSC).

The Rate Review Mechanism (RRM) tariff was adopted by the ACSC in 2007 as an alternative to the Gas Reliability Infrastructure Program (GRIP), the statutory provision that allows Atmos to bypass the City's rate regulatory authority to increase its rates annually to recover capital investments.

Since 2007, the original RRM tariff has been modified many times.

In April 2022, Atmos filed a request for \$141.3 million in additional revenues on a system-wide basis. Following negotiations, the ACSC's Executive Committee agreed to recommend a rate increase of \$115.00 million.

The monthly impact for a typical residential customer is \$4.60 or 6.7%. For a residential rate at 43.8 Ccf (not including sales tax) the current rate of \$68.62 will increase to \$73.22.

For a typical commercial customer the monthly impact is \$14.34 or 4.3%. A commercial rate at 345.7 Ccf (not including sales tax) will increase from the current rate of \$334.29 to \$348.63.

The effective date of the RRM is October 1, 2022. The ACSC Executive Committee recommends that member cities approve the resolution before September 30, 2022.

Motion by Ms. Franklin, seconded by Mr. Tiner to adopt Resolution No. 2022-06 approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2022 rate review mechanism filing.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

Resolution 2022-06 being **“RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2022 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND TH ACSC’S LEGAL COUNSEL.**

G-2573 Authorize Interlocal Agreement with Benbrook Water Authority for Residential Refuse and Storm Water Utility Fee Billing and Payment Collection

Bennett Howell gave the following report: Through an Interlocal Agreement (ILA), the City of Benbrook contracts with the Benbrook Water Authority (BWA) to bill and collect residential refuse and storm water utility accounts. Because the BWA already bills these customers for water and sewer service, an economy of scale is created that benefits the City, the Authority, and ultimately the citizens of Benbrook.

The proposed ILA establishes a reimbursement to the BWA of 49.58 cents per bill. This amount is identical to last year.

In addition, the City is assessed its proportionate share of the credit card processing fee for residents paying with credit cards. BWA processes credit card payments through a merchant services provider. The provider charges a percentage (normally between 1.5% and 3%) on each transaction based on the type of card and transaction.

The term of the proposed ILA is one year, beginning October 1, 2022 and ending September 30, 2023.

Motion by Dr. Marshall, seconded by Ms. Mackey to authorize the Interlocal Agreement with the Benbrook Water Authority for residential refuse and storm water utility fee billing and payment collection services.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

G-2574 Authorize Interlocal Agreement with Benbrook Water Authority for Street Cut Repair Services

Bennett Howell gave the following report: When the Benbrook Water Authority (BWA) has a water or sewer line failure under a street, workers must cut open the street and excavate to repair the line. After the crew repairs the line, the BWA is responsible for restoring the damaged street. These street repairs are commonly referred to as “street cuts”. In lieu of the BWA contracting for this service, the City of Benbrook has repaired street cuts on asphalt streets for the BWA through an Interlocal Agreement (ILA) since 2000.

The proposed ILA renews our longstanding agreement with the BWA allowing the City of Benbrook to complete street cuts for the BWA. The repair cost is \$8.91/square foot, which is identical to last year. The term of the proposed ILA is one year, beginning October 1, 2022 and ending September 30, 2023.

Motion by Mr. Phillips, seconded by Ms. Franklin to authorize the Interlocal Agreement with the Benbrook Water Authority for street cut repair services on asphalt streets.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

G-2575 Authorize Cooperative Purchasing Agreement between City of Benbrook and Benbrook Water Authority

Bennett Howell gave the following report: The proposed Interlocal Cooperation Purchasing Agreement is between the City of Benbrook and the Benbrook Water Authority (BWA).

Chapter 791 of the Texas Government Code and Subchapter F of Chapter 271 of the Texas Local Government Code authorizes a local government to participate in Cooperative Purchasing Programs with other local governments. A local government that purchases goods and services pursuant to a Cooperative Purchasing Program satisfies the requirement of State Law for competitive bidding. This Agreement allows each party to purchase goods and services under Subchapter F, Chapter 271 of the Texas Local Government Code. In the near term, the BWA desires to utilize the City's low bid contractor for concrete repair services.

This Agreement is for a period of one (1) year. Thereafter, the Agreement will automatically renew until terminated by either party.

Motion by Mr. Tiner, seconded by Mr. Addison to approve the Interlocal Cooperation Purchasing Agreement with the Benbrook Water Authority.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

VI. INFORMAL CITIZEN COMMENTS

VII. COUNCIL MEMBER AND STAFF COMMENTS

VIII. ADJOURNMENT

Meeting adjourned at 7:48 p.m.

APPROVED:

Jason Ward, Mayor

ATTEST:

Joanna King, City Secretary



MEMO TO: Mayor Ward and Members of City Council
FROM: Joanna King, City Secretary
DATE: September 1, 2022
SUBJECT: Certificate of Unopposed Candidates for the November 8, 2022
General Election and Ordinance canceling said election

City Council called the November 8, 2022 General Election at their July 21, 2022 regular meeting. The election was for the positions of Members of the City Council in Places 2, 4, and 6.

The filing period for the General Election ended on August 26, 2022. Following the deadline all filing candidates were unopposed. There are no propositions to appear on the ballot. In this instance, State law allows governing bodies to declare each unopposed candidate elected to office and cancel the election after receiving the Certificate of Unopposed Candidates. Each candidate shall be issued a Certificate of Election after the November 8, 2022 Election date.

As the official authorized to prepare the official ballot, I, Joanna King, City Secretary for the City of Benbrook, Texas do certify that the following candidates are unopposed for the November 8, 2022 General Election and there are no propositions to appear on the ballot:

Member of the City Council, Place 2	Renee Franklin
Member of the City Council, Place 4	Dustin Phillips
Member of the City Council, Place 6	Laura Mackey

Staff is recommending that City Council accept the Certificate of Unopposed Candidates and adopt the ordinance canceling the November 8, 2022 General Election declaring the unopposed candidates as elected to office.

CERTIFICATE OF UNOPPOSED CANDIDATES
CERTIFICADO DE CANDIDATOS SIN OPOSICIÓN
GIẤY CHỨNG NHẬN ỨNG VIÊN KHÔNG TRÚNG TUYỂN

To: Presiding Officer of Governing Body
Para: Presidente del Consejo de Administración
Kính gửi: Chủ tọa của Cơ quan chủ quản


As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on November 8, 2022.

Como autoridad responsable de preparar la boleta oficial, por la presente certifico que los siguientes candidatos no tienen oposición para la elección al cargo para la elección programada para el 8 de noviembre, 2022.

Với tư cách là cơ quan chịu trách nhiệm chuẩn bị lá phiếu chính thức, tôi xin xác nhận rằng các ứng cử viên sau đây không bị phản đối để bầu cử vào chức vụ cho cuộc bầu cử dự kiến được tổ chức vào ngày 8 tháng 2022 năm XNUMX.

List offices and names of candidates:
Lista de cargos y nombres de los candidatos:
Danh sách văn phòng và tên của ứng viên:

Member of City Council Place 2 Miembro del Concejo Municipal Lugar 2 Thành viên của Hội đồng Thành phố Place 2	Renee Franklin
Member of City Council Place 4 Miembro del Concejo Municipal Lugar 4 Thành viên của Hội đồng Thành phố Place 4	Dustin Phillips
Member of City Council Place 6 Miembro del Ayuntamiento Lugar 6 Thành viên của Hội đồng Thành phố Place 6	Laura Mackey


Signature Firma Chữ ký
Joanna King
City Secretary Secretario de la Ciudad Bí thư thành phố

Date of signing: August 26, 2022
Fecha de firma: 26 de agosto de 2022



Seal

ORDINANCE NO. 1481

AN ORDINANCE CANCELING THE NOVEMBER 8, 2022 REGULAR ELECTION AND DECLARING EACH UNOPPOSED CANDIDATE ELECTED TO OFFICE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Benbrook, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, in accordance with law a general election has been ordered for November 8, 2022 for the purpose of electing City Council members to serve on the City Council in the City of Benbrook; and

WHEREAS, no propositions are to appear on the ballot in that election; and

WHEREAS, the City Secretary has certified in writing that each candidate on the ballot is unopposed for election to office; and

WHEREAS, the filing deadlines for placement on the ballot and declaration of write-in candidacy has passed; and

WHEREAS, in these circumstances Title 1, Chapter C, Subchapter C, Section 2.053, 2 of the Texas Election Code authorizes a governing body of a political subdivision, by order or ordinance, to declare each unopposed candidate elected to office and cancel the election.

NOW, THEREFORE, BE IT ORDINANCE BY THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS, THAT:

SECTION 1

The following candidates, who are unopposed in the November 8, 2022 general election, are hereby declared elected to office, to each serve a full two-year term and shall be issued a certificate of election:

Member of the Council, Place 2	Renee Franklin
Member of the Council, Place 4	Dustin Phillips
Member of the Council, Place 6	Laura Mackey

SECTION 2

The November 8, 2022 General Election is hereby canceled.

SECTION 3

Pursuant to Title 1, Chapter 2, Section 2.053, of the Texas Election Code each candidate elected so named in Section 1 of this Ordinance shall be issued a certificate of election after the November 8, 2022 election date.

SECTION 4

Each candidate so elected shall execute the Statement of Elected Official prior to being administered the oath of office as prescribed by the Benbrook Home Rule Charter.

SECTION 5

The City Secretary is hereby directed to post a copy of the Order of Cancellation at each designated polling place on November 8, 2022.

SECTION 6

This ordinance shall be cumulative of all provisions of ordinances of the City of Benbrook, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 7

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 8

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the caption, Section 1, and the effective date in the minutes of the City Council of the City of Benbrook and by filing this Ordinance in the Ordinance records of the City of Benbrook.

SECTION 9

This Ordinance shall be in full force and effect after its passage, and it is so ordained.

PASSED AND APPROVED on this 1st day of September 2022

Jason Ward, Mayor

ATTEST:

Joanna King, City Secretary

ORDER OF CANCELLATION
ORDEN DE CANCELACIÓN
TRÌNH TỰ HỦY BỎ

The Benbrook City Council hereby cancels the election scheduled to be held on November 8, 2022 in accordance with Section 2.053(a) of the Texas Election Code. The following candidates have been certified as unopposed and there are no propositions to appear on the ballot:

(I Concejo Municipal de Benbrook cancela la elección programada para celebrarse el 8 de noviembre de 2022 de acuerdo con la Sección 2.053 (a) del Código Electoral de Texas. Los siguientes candidatos han sido certificados como sin oposición y no hay proposiciones para aparecer en la boleta:)

(Hội đồng Thành phố Benbrook theo đây hủy bỏ cuộc bầu cử dự kiến được tổ chức vào ngày 8 tháng 2022 năm 2.053 theo Mục 2.053 (a) của Bộ luật Bầu cử Texas. Các ứng cử viên sau đây đã được chứng nhận là không được phản đối và không có đề xuất nào xuất hiện trên lá phiếu:)

Candidate Candidato Ứng cử viên	Office Sought Oficina buscada Văn phòng được tìm kiếm
Renee Franklin	Member of City Council, Place 2 Miembro del Concejo Municipal, Lugar 2 Miembro del Concejo thành phố, 2
Dustin Phillips	Member of City Council, Place 4 Miembro del Concejo Municipal, Lugar 4 Miembro del Concejo thành phố, 4
Laura Mackey	Member of City Council, Place 6 Miembro del Concejo Municipal, Lugar 6 Miembro del Concejo thành phố, 6

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

Una copia de esta orden se colocará el día de las elecciones en cada lugar de votación que se habría utilizado en la elección.

Một bản sao của lệnh này sẽ được đặt vào Ngày Bầu cử tại mỗi địa điểm bỏ phiếu lẽ ra đã được sử dụng trong cuộc bầu cử.

Attest (Atestiguar) (Chứng thực)

Jason Ward, Mayor
Jason Ward, Alcalde
Jason Ward, Thị trưởng

Joanna King, City Secretary
Joanna King, Secretaria de la Ciudad
Joanna King, Thư ký thành phố

September 1, 2022
Date of Adoption

septiembre 1, 2022
Fecha de adopción

Tháng Chín 1, 2022
Ngày nhận con nuôi



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 09/01/2022	REFERENCE NUMBER: G-2576	SUBJECT: Adopt Ordinance amending Title 10 - Vehicles and Traffic of the Benbrook Municipal Code (1985), as amended, by regulating the commercial truck parking on streets within the City of Benbrook.	PAGE: 1 of 1
--------------------------------	--	---	----------------------------

The purpose of this ordinance is to establish regulations restricting commercial truck parking on City streets. These regulations are necessary to protect the health, safety, and welfare of the citizens of Benbrook.

Key elements of the ordinance include:

- Regulation applies to all City streets
- Prohibits the parking of a commercial truck (more than 20ft. long, 7ft. wide or 7ft. tall) on a City street, unless actively engaged in the loading or unloading of the vehicle or service call
- Exempts emergency or other vehicles used while performing City business
- Exempts vehicles and equipment used by public service utility companies when repairing or extending public service utilities
- Establishes penalty for non-compliance

RECOMMENDATION

Staff recommends the City Council adopt the proposed ordinance amending Title 10 – Vehicles and Traffic of the Benbrook Municipal Code.

SUBMITTED BY: CITY MANAGER	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY DATE:
--	---	---

ORDINANCE NO. 1482

AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING CHAPTER 10.16 – COMMERCIAL VEHICLES OF TITLE 10 – VEHICLES AND TRAFFIC OF THE BENBROOK MUNICIPAL CODE; RESTRICTING COMMERCIAL TRUCK PARKING ON CITY STREETS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Benbrook (the “City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Benbrook, Texas is charged with regulating the safe travel of vehicles on roadways within the City limits of Benbrook to protect the health, safety and welfare of citizens and other persons using such roadways; and

WHEREAS, the City Council finds that the parking of commercial trucks on city streets is detrimental to the public health, safety, and welfare of the citizens of the City of Benbrook; and

WHEREAS, the City Council further finds that the parking of commercial trucks on city streets creates a public nuisance which cannot be satisfactorily abated by the enforcement of existing regulations; and

WHEREAS, the City Council finds it necessary to the promotion of the public health, safety, and welfare that an Ordinance be passed prohibiting the parking of commercial trucks on city streets.

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

SECTION 1

That Section 10.16.140 – Parking of trucks, buses, semi-trailers, etc., on city streets, Chapter 10.16 – Commercial Vehicles, Title 10 – Vehicles and Traffic of the Benbrook Municipal Code (1985), as amended, is hereby amended to read as follows:

10.16.140 Parking of trucks, buses, trailers, semi-trailers, etc., on city streets.

- A. It is unlawful for the driver or owner of any bus, truck, van, truck-tractor or any other type of self-propelled trackless conveyance, other than a recreational vehicle, which is more than twenty feet in length from bumper tip to bumper tip, more than seven feet in width at its widest point, or more than seven feet in height at its highest point, to park the same, permit the same to be parked or

stand on any street in the city, unless actively engaged in: 1) the loading or unloading of the vehicle, or 2) a service call.

- B. It is unlawful for the driver or owner of a trailer or semi-trailer to park the same, permit the same to be parked or stand on any street in the city for a period exceeding eight hours.
- C. At no time shall any vehicle, when parked or standing pursuant to this chapter, create a driving or safety hazard as reasonably determined by the chief of police.
- D. Subsections A and B shall not apply to
 - 1. Emergency or other vehicles and equipment used while performing City business;
 - 2. Vehicles and equipment used by public service utility companies when repairing or extending public service utilities; or
 - 3. Vehicles when otherwise lawfully parked.

SECTION 2

That all other provisions of Chapter 10.16 – Commercial Vehicles, Title 16 – Vehicles and Traffic of the Benbrook Municipal Code, not included in this amendment, shall remain in full force and effect, save an except for necessary modifications to the “Table of Contents” affecting page numbering, and for necessary modifications to related terminology or phrases that have been modified by this amendment that will affect a similar modification to interrelated terminology and phrases cross-referenced in other Chapters in the Municipal Code.

SECTION 3 CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Benbrook, Texas (1985), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4 SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and Sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or Section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and Sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or Section.

**SECTION 5
PENALTY CLAUSE**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety, or public health and sanitation, including dumping of refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense. Nothing herein shall affect any minimum fine prescribed by any ordinance of the city and any such minimum fine shall remain unchanged.

**SECTION 6
SAVINGS CLAUSE**

All rights and remedies of the City of Benbrook are expressly saved as to any and all violations of the provisions of the Benbrook Municipal Code (1985), as amended, or any ordinances regulating platting or Zoning which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 7
PUBLICATION IN PAMPHLET FORM**

The City Secretary of the City of Benbrook is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof, as provided in Section 3.10 of the Charter of the City of Benbrook.

**SECTION 8
ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Benbrook is hereby directed to engross and enroll the Ordinance by copying the caption, penalty clause, and effective date clause of this ordinance in the minutes of the City Council and by filing the Ordinance in the Ordinance records of the City.

**SECTION 9
PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Benbrook is hereby directed to publish the caption, penalty clause, publication clause, and effective date clause of this ordinance for two (2) days in the official newspaper of the City of Benbrook, as authorized by Section 52.013 of the Local Government Code.

**SECTION 10
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

PASSED AND APPROVED this 1st day of September, 2022.

Jason Ward, Mayor

ATTEST:

Joanna King, City Secretary