

ORDINANCE NO. 1442

AN ORDINANCE AMENDING THE LAND USE PLAN OF THE BENBROOK COMPREHENSIVE PLAN CHANGING THE LAND USE DESIGNATION OF 0.56 ACRES LEGALLY DESCRIBED AS LOTS 8 AND 9, BLOCK 7, BENBROOK ESTATES ADDITION, TARRANT COUNTY, BENBROOK, TEXAS, FROM COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL; AMENDING TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY CHANGING THE ZONING CLASSIFICATION OF 0.56 ACRES LEGALLY DESCRIBED AS LOTS 8 AND 9, BLOCK 7, BENBROOK ESTATES ADDITION, TARRANT COUNTY, BENBROOK, TEXAS, FROM "HC-PD" HIGHWAY CORRIDOR PLANNED DEVELOPMENT DISTRICT TO "CR" MULTIPLE-FAMILY RESTRICTED DISTRICT, AND BY AMENDING THE OFFICIAL ZONING AND LAND USE MAPS TO REFLECT THE CHANGE; 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 is a home rule city acting under its own 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, Chapter 211 of the Local Government Code authorizes municipalities to regulate land use, structures, businesses, and related activities within its corporate limits for the purpose of promoting the public health, safety and general welfare of the community and protecting and preserving places and areas of historical, cultural and architectural importance and significance; and

WHEREAS, the property owner has initiated an application to amend the Land Use Plan of the Comprehensive Plan;

WHEREAS, the property owner has initiated an application to rezone certain property in accordance with the Land Use Plan of the Comprehensive Plan; and

WHEREAS, a public hearing was held on the zone change request, Case No. Z-19-02/CP-19-01, by the Planning and Zoning Commission on the 11th day of April 2019 and by the City Council on the 16th day of May 2019; and

WHEREAS, all requirements of law dealing with other property owners, publications and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council has determined that it is advisable and in the public interest to authorize the requested zoning change.

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

SECTION 1

That the Land Use Plan of the Benbrook Comprehensive Plan, is hereby amended to change the land use designation of 0.56 acres legally described as Lots 8 and 9, Block 7, Benbrook Estates Addition, Tarrant County, Benbrook, Texas, from Commercial to Medium Density Residential.

SECTION 2

That Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to change the zoning classification of 0.56 acres legally described as Lots 8 and 9, Block 7, Benbrook Estates Addition, Tarrant County, Benbrook, Texas from “HC-PD” Highway Corridor Planned Development District to “CR” Multiple-Family Restricted District.

SECTION 3

The zoning district changes established by this ordinance are in accordance with the Comprehensive Plan of the City of Benbrook and will promote the health, safety, morals and general welfare of the community. The changes have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide for adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration, among other things, of the character of the districts and their peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4

The City Planner is hereby directed to amend the official zoning and land use maps to reflect the changes in classifications as approved in this ordinance.

**SECTION 5
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 6
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 7 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.

SECTION 8 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 9 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 10 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 11
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 12
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and it is so ordained

PASSED AND APPROVED this 16nd day of May 2019.

Jerry B. Dittrich, Mayor

ATTESTED BY:

Joanna King, City Secretary