

**ORDINANCE NO. 1456**

**AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING TITLE 17 – ZONING OF THE BENBROOK MUNICIPAL CODE, AS AMENDED, BY AMENDING CHAPTER 17.79 – BENBROOK BOULEVARD CORRIDOR OVERLAY DISTRICT; 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**, 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 provisions herein are necessary to promote and protect the health, safety, and welfare of the public through the protection of a key commercial corridor in the City thus providing an enhanced quality of life for the citizens within the City; and

**WHEREAS**, the City has previously adopted zoning regulations as Title 17 of the Benbrook Municipal Code (1985), as amended through Ordinance 1442; and

**WHEREAS**, the City Council now deems the provisions of the present zoning regulations inadequate, because of changing conditions since its passage, to accomplish the foregoing objectives, and that said Title 17 shall be amended and superseded by the provisions of this ordinance; and

**WHEREAS**, the City Council has given published notice and held public hearings with respect to the amendment to the Zoning Ordinance as required by law.

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

**SECTION 1**

That Section 17.79.040 – Definitions of Chapter 17.79 – Benbrook Boulevard Corridor Overlay District of Title 17 – Zoning of the Benbrook Municipal Code, as amended, is hereby amended by revising the “Minor auto service/repair” definition, with deleted text being shown with a signal line strikethrough, as follows:

“Minor Auto Service/Repair.” The maintenance, repair, or replacement of the alternator, electronic sensors, starter, water pump, battery, brakes, exhaust, tires and wheels or other minor part thereof; minor tune-up (which consists of ignition adjustment, fuel injector cleaning, or spark plug replacement or other minor part adjustment thereof); change of oil and filter, fan belt, or hoses; lamp replacement; repair of flat tires and lubrication; state vehicle inspections and the minor repairs necessary to pass the state requirements; and facilities which sell and install minor automotive accessories for customizing cars and trucks such as mirrors, window tinting or replacement, bumpers, trailer hitches, decals, sound systems, security systems, etc. are also included. Repairs are routinely completed while the customer waits. Minor auto service also includes passenger vehicle wash or car detailing facilities ~~with service attendants.~~

## **SECTION 2**

That Section 17.79.050 – Land use standards of Chapter 17.79 – Benbrook Boulevard Corridor Overlay District of Title 17 – Zoning of the Benbrook Municipal Code, as amended, is hereby amended by amending Section 17.79.050 (C) and (D), with proposed additions of text being shown in underlined print, and deleted text being shown with a single line strikethrough, as follows:

- C. Conditional uses. The following uses are permitted land uses in the district with an approved Conditional Use Permit in accordance with Chapter 17.80 – Conditional Uses of the Benbrook Municipal Code.
  - ~~3. Minor auto service/repair~~
- D. Prohibited uses. The following principle uses are prohibited in the district.
  - 6. Minor auto service/repair

## **SECTION 3**

That all other provisions of Chapter 17.79 – Benbrook Boulevard Corridor Overlay District of Title 17 – Zoning of the Benbrook Municipal Code, not included in this amendment, shall remain in full force and effect, except for necessary modifications to Section numbering and the “Table of Contents” affecting page numbering.

## **SECTION 4 CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of ordinances and of the Benbrook Municipal Code 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 5 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 6  
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 7  
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 8  
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 9  
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 10  
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 11  
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 19th day of March 2020.

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Jerry B. Dittrich Mayor

**ATTEST:**

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Joanna King, City Secretary