

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY AMENDING CHAPTER 17.92 – SIGN REGULATIONS MODIFYING FREESTANDING SIGN REGULATIONS; 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 City has previously adopted zoning regulations as Title 17 of the Benbrook Municipal Code (1985), as amended through Ordinance 1459; and

WHEREAS, a public hearing was held concerning this amendment, Case No. ZTA-21-01, by the Planning and Zoning Commission on the 11th day of February 2021 and by the City Council on the _____ day of _____ 2021; and

WHEREAS, the City Council has given published notice and held public hearings with the respect to the amendment to the Zoning Ordinance as required by law; 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conditions since its passage, to accomplish the foregoing objectives, and that said Title 17 shall be amended and superseded by the provisions of this ordinance; and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 finds that sign regulations enhance the economic viability of the community, while protecting the City and its citizens from a proliferation of signs of a type, size, number, location and character that would adversely impact upon the aesthetics of the community or threaten the health, safety and welfare of the community; and

WHEREAS, the City Council finds that the appropriate regulation of the physical characteristic of signs in the City and other communities has had a positive impact on the safety and the appearance of the community and facilitate economic development; and

WHEREAS, the City Council desires to address the latest and emerging technologies in the sign industry, such as electronic message centers in a way that allows persons and business to convey and communicate while also protecting the use and character of neighborhoods, enhancing the function and appearance of the city's commercial corridors, and promoting the city's character and design objectives; and

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

SECTION 1

That Section 17.92.090.A.1.c from Chapter 17.92 – Sign Regulations of Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended in its entirety to read as follows:

- c. Changeable Copy Signs. Allowed on one (1) freestanding sign per property. Changeable copy signs are regulated as follows:
 - i. Dwell Time: Changeable copy signs, whether electronic, digital, manual or automatic that changes more frequently than one (1) frame every thirty (30) seconds shall be prohibited.
 - ii. Transition: The duration or interval of time between each individual advertisement, message or picture is a maximum of two (2) seconds and shall not include fading, movement, or other electronic effects.
 - iii. Dim Control: Changeable copy signs shall have a sensor or other device, manual or automatic, that adjusts the brightness of the sign to be no more than three-tenths foot-candles greater than ambient light conditions when measured at the closest property line.
 - iv. Prohibited Content: No portion of a changeable copy sign may scroll, fluctuate in light intensity, use sudden transitory bursts or create the illusion of movement.
 - v. Maintenance: Any changeable copy sign using electronic or electro-mechanical technology which malfunctions, fails, or ceases to operate in its usual or normal programmed manner in accordance with these regulations shall be repaired or disconnected within forty-eight hours by the owner or operator of such sign.
 - vi. Conformity: A changeable copy sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.
 - vii. Area: Changeable copy may not exceed fifty percent (50%) of the total sign area or fifty (50) square-feet, whichever is less.

SECTION 2

That Section 17.92.090.B.1.b from Chapter 17.92 – Sign Regulations of Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to read as follows:

- b. Monument Signs. The signs shall not exceed a sign area of one hundred twenty square feet and shall not exceed six (6) feet in height and twelve (12) feet in width. The sign shall be low profile, made of stone, concrete, metal, brick or similar materials or combination of materials, which repeats or harmonizes with the architecture of the establishment it serves. The sign must include a solid masonry base, at least twelve (12) inches in height, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. The above ground portion of the base is considered part of the total allowable height of the sign. The sign shall be no less than five (5) feet from any property line.
 - i. Exception. One (1) monument sign per property may have a maximum height of ten (10) feet.

SECTION 3

That Section 17.92.090.B.1.c from Chapter 17.92 – Sign Regulations of Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended in its entirety to read as follows:

- c. Changeable Copy Signs. Allowed on one (1) freestanding sign per property. Changeable copy signs are regulated as follows:
 - i. Dwell Time: Changeable copy signs, whether electronic, digital, manual or automatic that changes more frequently than one (1) frame every thirty (30) seconds shall be prohibited-
 - ii. Transition: The duration or interval of time between each individual advertisement, message or picture is a maximum of two (2) seconds and shall not include fading, movement, or other electronic effects.
 - iii. Dim Control: Changeable copy signs shall have a sensor or other device, manual or automatic, that adjusts the brightness of the sign to be no more than three-tenths foot-candles greater than ambient light conditions when measured at the closest property line.
 - iv. Prohibited Content: No portion of a changeable copy sign may scroll, fluctuate in light intensity, use sudden transitory bursts or create the illusion of movement.
 - v. Maintenance: Any changeable copy sign using electronic or electro-mechanical technology which malfunctions, fails, or ceases to operate in its usual or normal programmed manner in accordance with these regulations shall be repaired or disconnected within forty-eight hours by the owner or operator of such sign.
 - vi. Conformity: A changeable copy sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.
 - vii. Area: Changeable copy may not exceed fifty percent (50%) of the total sign area or fifty (50) square-feet, whichever is less.

SECTION 4

That Section 17.92.090.C.1.b from Chapter 17.92 – Sign Regulations of Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to read as follows:

- b. Monument Signs. The signs shall not exceed a sign area of one hundred twenty square feet and shall not exceed six (6) feet in height and twelve (12) feet in width. The sign shall be low profile, made of stone, concrete, metal, brick or similar materials or combination of materials, which repeats or harmonizes with the architecture of the establishment it serves. The sign must include a solid masonry base, at least twelve (12) inches in height, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. The above ground portion of the base is considered part of the total allowable height of the sign. The sign shall be no less than five (5) feet from any property line.
 - i. Exception. One (1) monument sign per property may have a maximum height of ten (10) feet.

SECTION 5

That Section 17.92.090.C.1.c from Chapter 17.92 – Sign Regulations of Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended in its entirety to read as follows:

- c. Changeable Copy Signs. Allowed on one (1) freestanding sign per property. Changeable copy signs are regulated as follows:
 - i. Dwell Time: Changeable copy signs, whether electronic, digital, manual or automatic that changes more frequently than one (1) frame every thirty (30) seconds shall be prohibited-

- ii. Transition: The duration or interval of time between each individual advertisement, message or picture is a maximum of two (2) seconds and shall not include fading, movement, or other electronic effects.
- iii. Dim Control: Changeable copy signs shall have a sensor or other device, manual or automatic, that adjusts the brightness of the sign to be no more than three-tenths foot-candles greater than ambient light conditions when measured at the closest property line.
- iv. Prohibited Content: No portion of a changeable copy sign may scroll, fluctuate in light intensity, use sudden transitory bursts or create the illusion of movement.
- v. Maintenance: Any changeable copy sign using electronic or electro-mechanical technology which malfunctions, fails, or ceases to operate in its usual or normal programmed manner in accordance with these regulations shall be repaired or disconnected within forty-eight hours by the owner or operator of such sign.
- vi. Conformity: A changeable copy sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.
- vii. Area: Changeable copy may not exceed fifty percent (50%) of the total sign area or fifty (50) square-feet, whichever is less.

**SECTION 6
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 7
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 8
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 9
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 10
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 11
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 12
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 13
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 ____ day _____ of 20_____.

Jerry B. Dittrich, Mayor

ATTESTED BY:

Joanna King, City Secretary

Current Sign Regulations

Freestanding Signs.

Properties shall have no more than one freestanding sign per 100 feet of street frontage. Each freestanding sign shall be no less than 50 feet from each other on the same property or within the boundaries of a unified development. A property with multiple tenants are permitted a 10% increase over the maximum sign area allowed for each additional tenant, up to a maximum of 100%; only one sign per property may qualify for the multiple tenant increase. No portion of the sign or structure may be located within any easement or visibility triangle.

Monument Signs.

The signs shall not exceed a sign area of one 120 square feet and shall not exceed 6 feet in height. The sign shall be low profile, made of stone, concrete, metal, brick or similar materials or combination of materials, which repeats or harmonizes with the architecture of the establishment it serves. The sign must include a solid masonry base, at least 12 inches in height, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. The above ground portion of the base is considered part of the total allowable height of the sign. The sign shall be no less than 5 feet from any property line

Changeable Copy Signs.

Allowed on any freestanding sign. Signs are regulated as follows:

- Dwell Time: Changeable copy signs, whether electronic, digital, manual or automatic that changes more frequently than 1 frame every 30 seconds shall be prohibited, except those displaying time and temperature information only.
- Transition: The duration or interval of time between each individual advertisement, message, or picture is a maximum of 2 seconds and shall not include fading, movement, or other electronic effects.
- Dim Control: Changeable copy signs shall have a sensor or other device, manual or automatic, that adjusts the brightness of the sign to be no more than three-tenths foot-candles greater than ambient light conditions when measured at the closest property line.
- Prohibited Content: No portion of a changeable copy sign may scroll, fluctuate in light intensity, use sudden transitory bursts, or create the illusion of movement.
- Maintenance: Any changeable copy sign using electronic or electro-mechanical technology which malfunctions, fails, or ceases to operate in its usual or normal programmed manner in accordance with these regulations shall be repaired or disconnected within 48 hours by the owner or operator of such sign.
- Conformity: A changeable copy sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.