

ORDINANCE NO. 1477

AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING TITLE 8 – HEALTH AND SAFETY OF THE BENBROOK MUNICIPAL CODE, AS AMENDED, BY ESTABLISHING CHAPTER 8.06 – PORTABLE STORAGE AND SHIPPING CONTAINERS OF THE BENBROOK MUNICIPAL CODE; BY ESTABLISHING AN APPLICABILITY SECTION, DEFINITION SECTION, CONDITION AND MAINTENANCE SECTION, PLACEMENT AND DURATION OF USE SECTION, DIMENSIONAL LIMITATIONS SECTION, AND OTHER USES SECTION; 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 unregulated use of portable storage and shipping containers on residential property produces unsightly conditions that threatens the enjoyment, harmony and value of surrounding property; and

WHEREAS, portable storage and shipping containers are not designed or intended for long term storage use and the use for such purposes to store combustible materials poses an increased risk of fire; and

WHEREAS, the provisions herein are necessary to promote and protect the health, safety, and welfare of the public.

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

SECTION 1

That Chapter 8.06 – PORTABLE STORAGE AND SHIPPING CONTAINERS of Title 8 – Health and Safety of the Benbrook Municipal Code, as amended, is hereby established to provide the following:

CHAPTER 8.06 – PORTABLE STORAGE AND SHIPPING CONTAINERS

8.06.010 - APPLICABILITY

The provisions of this chapter shall only apply to the use of a portable storage or shipping container (container) on any residential property, excluding multi-family developments, within the City of Benbrook.

8.06.020 - DEFINITIONS

The following words, terms, and phrases, when used in this chapter, shall have the meanings described in this chapter. Where terms are not defined in this chapter, and are defined in other adopted ordinances, such terms shall have the meaning as described to them as in those ordinances. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

- A. "Portable storage container" is a container, usually of metal or metal-framed construction, designed and used for the storage of personal or business property of a non-hazardous nature that can be moved from location to location. Containers are typically rented or leased to owners or occupants of property for their temporary use and are typically delivered and removed by truck. Sample proprietary portable storage container companies include PODS, PACK-RAT, UPack and SMARTBOX.
- B. "Shipping container" is an industrial container with a design strength suitable to withstand continuous shipment, storage, and handling for the movement of goods and products, in repetition, from one place to the next by ship, rail or truck.

8.06.030 - CONDITION AND MAINTENANCE

A container shall be delivered and maintained in good condition, free from rodents, insects, rust, graffiti, and obscene words or pictures. It shall be the responsibility of the property owner or occupant and the supplying company to maintain each container in accordance with the provisions of this chapter.

8.06.040 - PLACEMENT AND DURATION OF USE

A container may be placed on a driveway or other approved pavement for a period **not to exceed seven days**, provided the container is not located within or blocking any public right-of-way or access easement, public sidewalk, or impairing traffic visibility. A container may not be placed on the same property more than three non-consecutive times in a one-year period.

8.06.050 - DIMENSIONAL LIMITATIONS

The maximum allowable area of a container by volume may not exceed 1,280 square feet with the width, height and length not to exceed 8 feet x 8 feet x 20 feet, respectfully.

8.06.060 - OTHER USES

No person shall place, use, or permit the use of a container as an accessory building, storage building, or living unit on residential property within the City of Benbrook.

8.06.070 - VIOLATION - PENALTY

An operator, owner, manager, or other person who violates any provisions of this Chapter is guilty of a misdemeanor, and upon conviction is punishable as set forth in Section 1.08.010 for each violation and for each day or part of a day during which the violation is committed, continued, or licensed. Each violation of this Chapter shall constitute a separate offense.

Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this Chapter, except where expressly required by this Chapter.

The provisions herein are cumulative of all other remedies including, but not limited to, abatement, injunctions, and other extraordinary writs. Section 1.08.010 shall govern all penalties for any violation of this Chapter, notwithstanding any language to the contrary contained in any other Section of this Chapter.

SECTION 2 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 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 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 6
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 7
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 8
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 9
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 6th day of January, 2022.

Jason Ward Mayor

ATTEST:

Joanna King, City Secretary