

ORDINANCE NO. 1426

AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING TITLE 17 – ZONING OF THE BENBROOK MUNICIPAL CODE, AS AMENDED, BY ESTABLISHING CHAPTER 17.79 – BENBROOK BOULEVARD CORRIDOR OVERLAY DISTRICT (the DISTRICT) OF THE BENBROOK MUNICIPAL CODE; BY ESTABLISHING A BOUNDARY AND APPLICABILITY SECTION, ESTABLISHING LAND USE AND DEVELOPMENT STANDARDS, ESTABLISHING PROVISIONS FOR EXISTING OR PENDING CONFORMING, LEGAL NON-CONFORMING OR NON-CONFORMING USES, AND ESTABLISHING AN ADMINISTRATIVE SITE PLAN REVIEW PROCESS; AND FURTHER ESTABLISHING CHAPTER 15.60 ADOPTING THE 2015 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE; 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 City Council deems it necessary to establish the Benbrook Boulevard Corridor Overlay District (the District), as shown in Exhibit A – Boundary Map and further described in Section 17.79.020 below, to better protect the corridor from inappropriate land uses; and

WHEREAS, the City Council desires to adopt the internationally recognized property maintenance code to protect the aesthetic and visual appearance of all nonresidential properties within the District; and

WHEREAS, the City Council has reviewed the available codes and determined that the 2015 Edition of the International Property Maintenance Code most fully meets the needs of the District; 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.

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

SECTION 1

That Chapter 17.79 – Benbrook Boulevard Corridor Overlay District of Title 17 – Zoning of the Benbrook Municipal Code, as amended, is hereby established to provide the following:

17.79.010 PURPOSE

The purpose of this Chapter is to establish land use regulations that prohibit or restrict inappropriate land uses deemed detrimental to desired new development and redevelopment along Benbrook’s primary commercial corridor. These regulations are necessary to enhance the overall quality and compatibility of development in the corridor and to secure the long term aesthetic and economic value of the corridor. This Chapter is remedial and essential to the public interest, safety, health, and welfare, and this Chapter shall be liberally construed to effectuate its purposes.

17.79.020 BOUNDARY

The boundary of the District, as shown on the Official Zoning Map of the City of Benbrook and incorporated herein and made part of this Ordinance by reference, follows established ownership lines as depicted on City of Benbrook zoning maps on the effective date of this Ordinance. The Planning and Zoning Commission may authorize the inclusion of additional properties into the District by the review and approval of a zoning application submittal by the property owner. Disputes, discrepancies and verification of District boundaries may be appealed to the Assistant City Manager, or appointed designee, for final interpretation. Such interpretation may be appealed to the Planning and Zoning Commission and City Council for final disposition.

17.79.030 APPLICABILITY

All nonresidential development within the District shall be subject to the rules and regulations included in this Chapter. All regulatory standards pertaining to use, dimensional standards, landscaping, signage and other applicable standards of the Benbrook Municipal Code, as amended, shall be those specified for each underlying zoning district, including any approved planned development zoning district standards. The rules and regulations of the underlying zoning districts shall remain applicable except as modified by the provisions of this Chapter. Where there is a conflict between the provisions or requirements of the District and the provisions of any underlying zoning district, the more restrictive provisions shall apply, except when adhering to the most restrictive would defeat the intent of this Chapter.

17.79.040 DEFINITIONS

For the purpose of this Chapter, the following terms and words shall have the meaning given below, unless the context clearly indicates or requires a different meaning:

- A. Antique Store.** (See also consignment store, pawn shop, secondhand store, thrift store) Any premises used for the sale or trading of articles of which 80 percent or more are over 30 years old or have collectible value. Does not include the selling of used vehicles, used auto parts, scrap, or waste. Donated items not permitted see thrift store.

- B. Auto Dealership.** A business that sells or leases new or used automobiles, trucks, vans, or other similar passenger vehicles less than 7,500 pounds gross weight.
- C. Auto Rental Business.** A business that rents new or used automobiles, trucks, vans, or other similar passenger vehicles less than 7,500 pounds gross weight.
- A. Bank or Financial Institution.** A business, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds excluding pawnshops or any credit access business as defined by Section 393.601 of the Texas Finance Code.
- B. Bail Bond Business.** A business that provides bail bonds for people charged with crimes so that they may be released from jail while awaiting trial.
- C. Banner Sign.** A temporary sign made of flexible materials and sturdy fasteners so that it may be readily affixed to a building or other rigid material.
- D. Bingo Parlor.** A facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use.
- E. Body Piercing Parlor.** A facility in which body piercing is performed. "Body piercing" means the creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.
- F. Car Title Loan Business.** See Payday Loan Business.
- G. Check Cashing Business.** See Payday Loan Business.
- H. Commercial Parking or Storage Lot.** A facility for the parking or storage of passenger vehicles, recreational vehicles, trucks or heavy equipment, general equipment, supplies, inventory or other items.
- I. Consignment Store.** (see also antique store, pawn shop, secondhand store, and thrift store) A retail business engaged in selling used merchandise, such as clothing, furniture, books, shoes, or household appliances, on consignment. Does not include the selling of used vehicles, used auto parts, scrap, or waste. Donated items not permitted see thrift store.
- J. Contractor Shop.** A business in which services utilized in the improvement and/or maintenance of structures or properties and requiring specialized materials, supplies, and/or expertise are normally provided at the customer's location rather than at the business location, and in which the necessary materials, supplies or equipment are generally stored, displayed, or parked outside and on site at the business location.
- K. Display Area.** The area occupied by the outdoor display of merchandise inclusive of display racks/fixtures and merchandise.
- L. Donation Box.** A receptacle for the collection of donated goods, generally associated with a thrift store, wherein the donated goods are collected and transferred to a different location for repurpose, gift or sale.

- M. Equipment Rental Business.** A business engaged in the rental of tools, lawn and garden equipment, construction equipment, agricultural equipment, or other similar items.
- N. Head Shop.** A business that sells drug paraphernalia including all equipment, products, and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, and/or a controlled substance as defined by State and/or Federal Law.
- O. Hookah Lounge.** A business that is kept, used, maintained, advertised, and held out as a place where hookahs or water pipes are regularly made available to the public. A "hookah" is a water pipe used to smoke "shisha," a combination of tobacco and fruit or vegetable that is heated and the smoke is filtered through water.
- P. Liquor Store.** A business that sells bottled or canned alcoholic beverages for consumption off premises except as may be allowed in accordance with Chapter 5.04 – Alcoholic Beverages Sales of the Benbrook Municipal Code.
- Q. Major Auto Service/Repair.** Major repairs includes the repair and or replacement of larger auto components such as engines, transmissions, differentials, axles, or the repair of larger auto components by dismantling and reassembly for the purpose of refurbishing the component to like new condition, repair in this case may also include repair and replacement of air conditioning, cooling systems or similar component systems. Repair generally requires that the vehicle be left overnight and may require multiple days to complete.
- R. Merchant.** A business or property owner, operator or other designated person responsible for business operations.
- S. 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.
- T. Moving Truck Rental Business.** A business engaged in the rental of moving trucks, vans, trailers or other equipment.
- U. New Development.** New development shall include any new construction, additions, or expansions of structures or uses including proposals for a Unified Development.

- V. Outdoor Display.** The display of goods and products actively being marketed and available for sale, but does not include products in closed boxes, crates, other kinds of shipping containers, or uses considered outdoor storage in accordance with Section 17.79.050.I.
- W. Outdoor Storage.** The storage of goods and products in closed boxes, crates, and other kinds of shipping containers out of doors.
- X. Pawn Shop.** (See also antique store, consignment store, secondhand store, thrift store) means a location at which or premises in which a person engaged in the business of lending money on the security of pledged goods; or purchasing goods on condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period. Does not include the selling of used vehicles, used auto parts, scrap, or waste. Donated items not permitted see thrift store.
- Y. Payday Loan Business.** Any credit access business as defined by Section 393.601 of the Texas Finance Code.
- Z. Pole Sign.** A sign mounted on a free standing pole or other single support so that the bottom edge of the sign cabinet is more than eight feet above grade.
- AA. Portable Sign.** Any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground and/or which is not permanently wired for electricity in accordance with the Benbrook Municipal Code. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category; neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.
- BB. Primary Building Front Facade.** Those portions of a primary building façade that face and are most closely parallel to the front lot line.
- CC. Pylon Sign.** A freestanding sign other than a pole sign, permanently affixed to the ground by two columns or supports with the sign face contained entirely between the two columns and the bottom edge of the sign cabinet is a minimum of eight feet above grade.
- DD. Recreational Vehicle Dealership.** A business that sells or leases new or used recreational vehicles, motorcycles, ATV's, trailers, boats or other similar vehicles or marine vessels.
- EE. Redevelopment.** Replacement of an existing use, structure or improvement, or a portion thereof, with a new use, structure or improvement.
- FF. Seasonal Outdoor Sales.** The temporary outdoor retail operations that reoccur on an annual, bi-annual or other basis depending on the season or specified time of year; including, but not necessarily limited to: farmer's markets; Christmas tree sales, sale of pumpkins, lawn and garden supplies, or other seasonal items; sales of art or handcrafted items in conjunction with community festivals or art shows; and other similar uses.

- GG. Secondhand Store.** (See also antique store, consignment store, thrift store, pawn shop) Retail sales of previously owned or used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. Does not include the selling of used vehicles, used auto parts, scrap, or waste. Donated items not permitted see thrift store.
- HH. Self-Service Kiosk Business.** A free standing structure that houses a self-service commercial business or use absent of any on-duty attendant or customer service personnel.
- II. Self-Service Storage Facility.** A building or group of buildings divided into separate compartments used to meet the temporary storage needs of customers; may include temperature controlled facilities.
- JJ. Sexually Oriented Business.** A sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Inclusive of lingerie and adult themed novelty stores.
- KK. Tattoo Parlor.** An establishment or facility in which tattooing is performed. "Tattooing" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. The term includes the application of permanent cosmetics.
- LL. Temporary Sign.** A sign not intended or designed for permanent display.
- MM. Tire and Wheel Rental.** A business engaged in the rental of automotive tires, rims or wheels.
- NN. Thrift Store.** (See also antique shop; consignment store; secondhand merchandise, pawn shop) A profit or nonprofit business or organization that engages in or specializes in the sale or resale of donated or principally donated goods and merchandise.
- OO. Tobacco Store.** A business that sells products that are made from or derived from tobacco, which contains nicotine or a similar substance, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. Tobacco product also includes pipes and rolling papers, but does not include any product specifically approved by the U.S. Food and Drug Administration for legal sale as a tobacco cessation product and is being marketed and sold solely for that approved purpose.
- PP. Truck/Heavy Equipment Dealer.** A business that sells or leases new or used heavy equipment used for agriculture, excavation and construction, transport or storage of materials, and heavy lifting. Typical equipment may include heavy duty trucks (one-ton or greater payload capacity), farm implements, tractors, semi-

tractors, trailers, backhoes, front end loaders, fork lifts, bulldozers, road graders, earth movers and any other similar equipment.

QQ. Truck Stop. A business that services the trucking industry, including but not limited to or requiring the following activities: dispensing of diesel fuel, truck and/or trailer parking facilities, tire and mechanical service center, self-service or automatic truck wash bay, trucker shower and lounge facilities, convenience store, and restaurants; all as part of a single operating facility.

RR. Unified Commercial Sign. A freestanding, multi-tenant sign located on one or more platted lots of a Unified Development.

SS. Unified Development. A collection of separately platted commercial lots that are visually combined to form a single cohesive commercial development with a shared or similar architectural style, shared drive aisles, shared parking areas, and other shared amenities.

TT. Vapor Store. A business that sells "E-cigarettes" and other such electronic oral devices composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name, or descriptor and also includes any cartridge or other component of the device.

17.79.050 LAND USE STANDARDS

All properties within the District are subject to rules and regulations of the Benbrook Municipal Code, as amended, for the underlying zoning district in which they are located.

A. Permitted Uses. Except for the land use restrictions listed in Section 17.79.050.C and D of this Chapter, the permitted uses in the District shall be the same principal land uses permitted by right in the underlying zoning district of the property.

B. Permitted Accessory Uses. Except for the land use restrictions listed in Section 17.79.050.E of this Chapter, the permitted accessory uses in the District shall be the same accessory uses permitted by right in the underlying zoning district of the property.

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.

1. Antique Store
2. Consignment Store
3. Minor Auto Service/Repair
4. Outdoor Display not meeting one or more the general standards of Section 17.79.050.H.
5. Outdoor Storage not meeting one or more the general standards of Section 17.79.050.I.
6. Seasonal Outdoor Sales
7. Secondhand Store

D. Prohibited Uses. The following principle uses are prohibited in the District.

1. Auto Dealership
2. Auto Rental
3. Bail Bond Business
4. Bingo Hall
5. Body Piercing Parlor
6. Commercial Parking or Storage Lot
7. Contractor Shop
8. Donation Box
9. Head Shop (Drug Paraphernalia)
10. Equipment Rental Business
11. Hookah Lounge
12. Liquor Store
13. Major Auto Repair
14. Moving Truck Rental Business
15. Pawn Shop
16. Payday Loan/Check Cashing/Car Title Loan Businesses
17. Recreational Vehicle Dealership
18. Self-Service Kiosk Business
19. Self-Service Storage Facility
20. Sexually Oriented Business
21. Tattoo Parlor
22. Thrift Store
23. Truck or Heavy Equipment Dealership
24. Truck Stop
25. Tobacco Store
26. Vapor Store

E. Prohibited Accessory Uses. The following accessory uses are prohibited in the District.

1. Tire or Wheel Rental
2. Donation Box

F. Temporary Outdoor Sales or Events

1. **Purpose.** Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of this Chapter and when compatible with other nearby uses. Temporary outdoor sales or events may include activities associated with a business grand opening sale, business anniversary sale, going-out-of-business sale, holiday or seasonal sale, or other event.
2. **Authority to Approve.** Temporary uses are prohibited except that the Building Official shall have the authority and responsibility to grant temporary use permits for certain temporary uses as provided in this Section.
3. **Definition.** The short-term use of property conducted from an area, structure or facility that does not require a new or revised Certificate of Occupancy for the property, which may not comply with the use or dimensional standards of

underlying zoning district. Such area, facility, or structure may include parking lots, lawns, trucks, tents, or other temporary structures.

4. **Time Limit.** Temporary uses may be permitted at a premise or location for any period not to exceed 30 consecutive days. Upon expiration of a temporary use permit, another temporary use permit for the same premise or location may not be issued for at least 30 days. A maximum of three temporary use permits may be issued for any one premise or location during any twelve (12) month period.
 5. **Temporary Signage.** A single temporary banner sign not exceeding 32 square feet in total area may be placed on the site of a permitted temporary use provided that the sign is affixed to a building or other structure, exclusive of fencing, in a manner so as to not flap or move in the wind.
 6. **Permit Required.** A temporary use permit must be obtained from Building Permits and Inspections Department before establishing a temporary use.
 7. **Procedure.** A complete application for Temporary Use Permit must be submitted to the Building Permits and Inspections Department in a form established by the Building Official along with a non-refundable fee that has been established by the City Council. No application will be processed until the application is complete and the required fee has been paid. The application shall be reviewed for its likely effects and compatibility with surrounding properties and its compliance with the purpose of this Chapter. The Building Official shall impose such conditions of approval as are necessary to ensure compliance with the purposes of this Chapter and the Benbrook Municipal Code. If the permit application complies with all applicable provisions of the Benbrook Municipal Code, the requested temporary use permit shall be issued.
- G. Seasonal Outdoor Sales.** Seasonal outdoor sales may be approved with a Conditional Use Permit in accordance with Chapter 17.80 – Conditional Uses of the Benbrook Municipal Code.
- H. Outdoor Display of Merchandise.** All merchandise displayed outdoors shall be available for sale and shall be limited to the same type of merchandise otherwise sold at the business. The outdoor display of merchandise shall comply with the following standards:
1. **Front Façade Outdoor Display**
 - a. Except for vending machines (including propane bottle display/sales), merchants may only display merchandise outdoors during posted business hours and shall remove outdoor displayed merchandise and associated display racks/fixtures during non-business hours.
 - b. The display area shall not occupy more than 15% of the primary building's front façade length or 30 (thirty) linear feet, whichever is less.
 - c. The display area shall not extend more than five (5) feet away from the face of the primary building's front façade.
 - d. The height of the display area shall not exceed eight (8) feet from grade to the highest point of the display area.

- e. The merchant shall maintain a minimum 60-inch unobstructed path of travel from the exterior border of the display area to any public entrance, or to any curb, ramp, or crosswalk, or to any fixed obstruction (i.e. streetlight pole, street tree, planting area, planter pot, parking meter, newspaper rack, mail box, etc.) at all times.
- f. The display area shall not block sidewalks, parking areas, or impede pedestrian or vehicular circulation, or encroach on landscape areas including lawn area.
- g. Display racks/fixtures shall be made of good quality, durable materials and construction.
- h. The merchant shall maintain the display area in a neat and orderly manner at all times and comply with all other applicable City ordinances.

2. **Integral Outdoor Display.** The outdoor display of merchandise inside of an integral outdoor display area that complies with the following standards:
 - a. An attached and generally open air structure (no roof) enclosed on all four sides and sharing at least one common wall of the primary building and up to three open air walls constructed of a minimum three (3) foot tall masonry base wall and a minimum five (5) foot tall tubular steel or wrought iron fence with decorative masonry columns spaced no less than 20 feet apart and of a height equal to or exceeding the top height of the fence.
 - b. The integral outdoor display area shall not exceed 5% of the floor area of the primary building.
 - c. The front façade of the integral outdoor display shall not extend beyond the outer most plane of primary building's front facade.

3. **Conditional Outdoor Display.** Outdoor display of merchandise not meeting one or more of the foregoing standards of this Section may be approved in accordance with Chapter 17.80 – Conditional Uses of the Benbrook Municipal Code.

- I. **Outdoor Storage.** The outdoor storage of merchandise shall comply with the following standards.

1. **Rear and Side Yard Outdoor Storage**

- a. No more than 10% of property or a maximum of 10,000sqft (whichever less) may be used for outdoor storage.
- b. Outdoor storage areas, including drive aisles and storage pads, shall be paved with concrete and kept in a neat and orderly fashion.
- c. Outdoor storage areas are only permitted along the interior side(s) or rear of the primary building and shall not encroach beyond the outer most plane of primary building's front facade.
- d. The outdoor storage area shall be screened by an eight (8) feet tall masonry wall constructed of either a hard fired (kiln fired) brick, face or building brick with a troweled mortar bond finish; stone, including granite, sandstone, slate, limestone, marble or other hard and durable all weather stone; or integral colored, split-face or textured concrete masonry units (CMU).

- e. In no case shall the stored materials be placed or stacked more than one (1) foot below than the top of the screening wall.

2. **Conditional Outdoor Storage.** Outdoor storage of merchandise not meeting one or more of the foregoing standards of this Section may be approved in accordance with Chapter 17.80 – Conditional Uses of the Benbrook Municipal Code.

17.79.060 DEVELOPMENT STANDARDS

a. **Architectural Features.** The minimum architectural standards as provided in Section 17.84.100.B and Section 17.84.100.C of the Benbrook Municipal Code shall apply to all buildings in the District regardless of total floor area.

b. **Signage**

i. **Permitted Signs.** Permitted signs in the District shall be the same as those permitted by right in accordance with Chapter 17.92 of the Benbrook Municipal Code.

ii. **Prohibited Signs.** The following signs are prohibited in the District.

- a. Pylon Sign
- b. Pole Sign
- c. Portable Sign
- d. Temporary Sign
- e. Banner Sign, except as may be approved as part of a temporary use permit as provided in Section 17.90.050.E. (5).

3. **Sign Alterations of Non-Conforming Signs.** (Refer to Section 17.100.100 of the Benbrook Municipal Code)

17.79.070 SITE PLAN REVIEW

All new development or redevelopment located within the District shall require administrative Site Plan approval prior to the review and/or issuance of a building permit.

- 1. **Purpose.** The purpose of the Site Plan review is to ensure that the requirements of the City Ordinances are met.
- 2. **Procedure.** A complete application for Site Plan must be submitted to the Planning Department in a form established by the City Planner along with a non-refundable fee that has been established by the City Council. No application will be processed until the application is complete and the required fee has been paid. If the permit complies with all applicable provisions of the Benbrook Municipal Code, the Site Plan shall be approved.

SECTION 2 EXISTING OR PENDING USES ON THE EFFECTIVE DATE OF THIS ORDINANCE

All structures, lots and uses that are in compliance with the underlying zoning regulations or which may exist in accordance with the underlying zoning district on any lot or tract for which an

application for platting, re-platting, site plan or a building permit for such use was pending prior to the effective date of this ordinance, which, by codification of this ordinance no longer conform, shall be deemed to be a legal non-conforming. A use that was legally established without a Conditional Use Permit shall be deemed to have a Conditional Use Permit and shall not be deemed nonconforming solely because a Conditional Use Permit is now required for the use. Within ninety (90) days following the of the adoption of this ordinance, the Building Official shall issue a revised Certificate of Occupancy to all businesses that have been deemed legal non-conforming or now require a Conditional Use Permit as a result of the ordinance. The revised Certificate of Occupancy shall note the updated status of the property as being legal non-conforming and/or having a Conditional Use Permit for said use.

SECTION 3 EXISTING NON-CONFORMING OUTDOOR STORAGE AND DISPLAY USES

For properties deemed to have existing non-conforming outdoor storage and/or display uses in place on the effective date of this ordinance, the City will work with those affected property owners so that they may continue to use their property in a productive manner, but to bring as many aspects of such non-conforming uses into conformance with this Chapter as is reasonably practicable. The limitations of this Chapter are intended to recognize the interests of the property owner in continuing to use the property but to control the expansion of the non-conformity and to control re-establishment of abandoned uses. Within ninety (90) days following the of the adoption of this ordinance, the Building Official shall issue a revised Certificate of Occupancy to all businesses that have been deemed to have existing non-conforming outdoor storage and/or display uses. The revised Certificate of Occupancy shall note: 1) the updated status of the property as being legal conforming, provided that the non-conforming outdoor storage and display uses now conform with this Chapter, or 2) the property as having a Conditional Use Permit that shall define the intensity and scope of the mutually agreed upon outdoor storage and display uses. If a Conditional Use Permit is issued as part of this process, the Conditional Use Permit shall automatically expire once the mutually agreed outdoor storage and/or display uses cease for a period of six (6) months. After said six (6) month period, no further outdoor storage and display uses shall be permitted except as authorized by Sections 17.79.050.H and 17.79.050.I of the Benbrook Municipal Code.

SECTION 4 PROPERTY MAINTENANCE CODE

That Chapter 15.60 – Property Maintenance Code of Title 15 – Buildings and Construction of the Benbrook Municipal Code, as amended, is hereby established to provide the following:

15.60.010 - Adopted.

The International Property Maintenance Code, 2015 Edition, published by the International Code Council, is adopted as the official property maintenance code of the city. This code is fully incorporated into this chapter by reference as though copied in its entirety.

15.60.020 - Amendment.

- A. The City Council may from time to time determine that additional local modifications to the International Property Code are necessary and appropriate to meet the unique

construction needs of the City. To effectuate these local modifications, the City Council shall enact individual ordinances amending this chapter and fully setting forth the change to be made in the International Code. These amendments shall be consolidated as Exhibit B to the ordinance codified in this Chapter.

- B. The International Property Maintenance Code, 2015 Edition, is amended as shown in Exhibit B attached to the ordinance codified in this Chapter and incorporated by reference as though copied into this Chapter in its entirety.

15.60.030 - Materials on file for inspection.

The material contained in Exhibit B to the ordinance codified in this Chapter, although fully adopted and incorporated in this Chapter by reference, shall not be included in this codification. The material contained in Exhibit B shall instead be maintained as a public record in the office of the City Secretary, the office of the Assistant City Manager and the office of the Building Official. These exhibits will be available for public inspection and copying during regular business hours. The purpose of maintaining these records separate and apart from the municipal codification is to avoid the inclusion of detailed technical construction materials, subject to frequent change, which would unreasonably lengthen the code.

15.60.040 - Fees.

Building permit fees shall be in accordance with Section 1.12.080.

**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.

**SECTION 6
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 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 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**

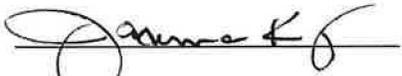
This ordinance shall be in full force and effect from and after its passage and publication as required by law.

PASSED AND APPROVED this 19th day of April, 2018.



Jerry B. Dittrich Mayor

ATTEST:

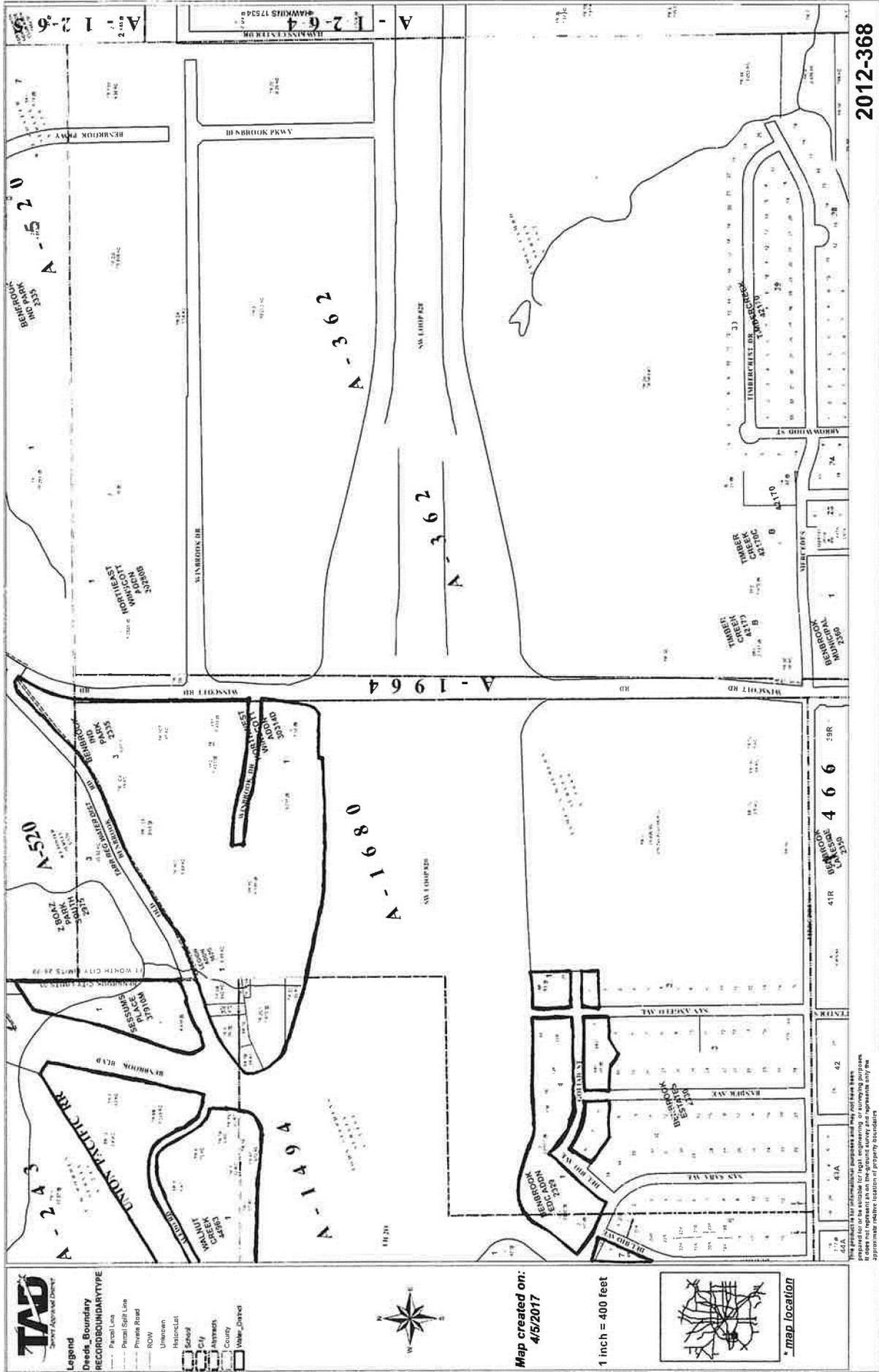


Joanna King, City Secretary

ADOPTED: 4-19-18

EFFECTIVE: 5-3-18

EXHIBIT A (PAGE 1 OF 3)



2012-368

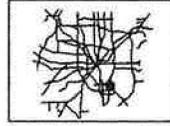
TAD
 Smart Approval District

Legend
 Deeds_Boundary
 RECORDBOUNDARYTYPE
 Parcel Line
 Partial Split Line
 Private Road
 RDN
 Unimproved
 Historical
 School
 City
 Annex
 County
 Water_Other



Map created on:
 4/5/2017

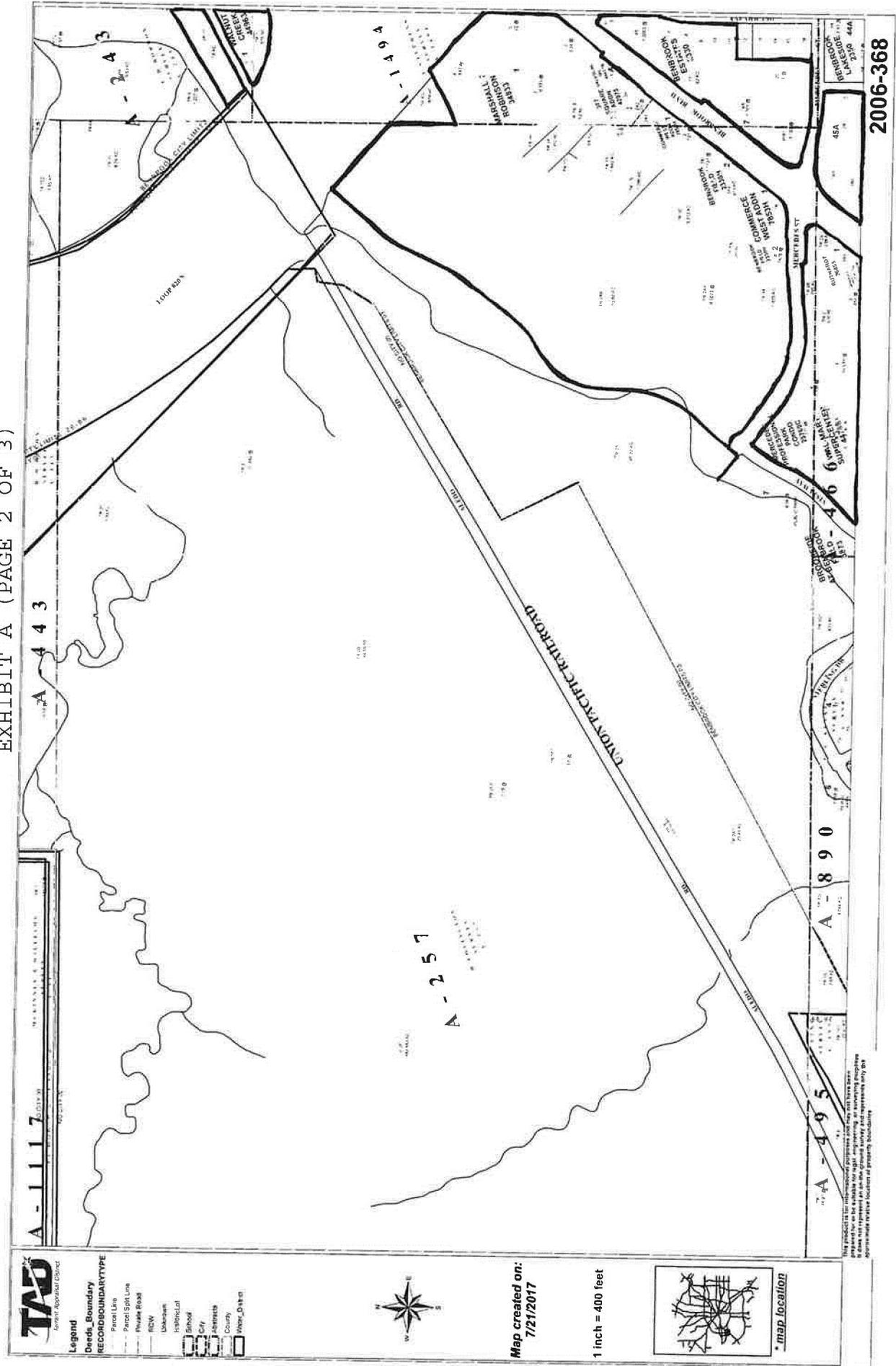
1 inch = 400 feet



* MAP LOCATION

This product is for informational purposes only and may not be used for legal purposes. It does not represent an official survey and is not a substitute for a professional survey. Appropriate (relative) location of property boundaries.

EXHIBIT A (PAGE 2 OF 3)



2006-368

A-1117

A-443

A-257

A-890

A-495

A-611

A-3

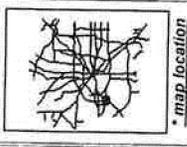
TAD
Tarrant Appraisal District

Legend
Deeds_Boundary
RECORDBOUNDARYTYPE
Parcel Line
Parcel Split Line
Private Road
R/W
Unincorporated
Individual
School
City
Abstracts
County
Water



Map created on:
7/21/2017

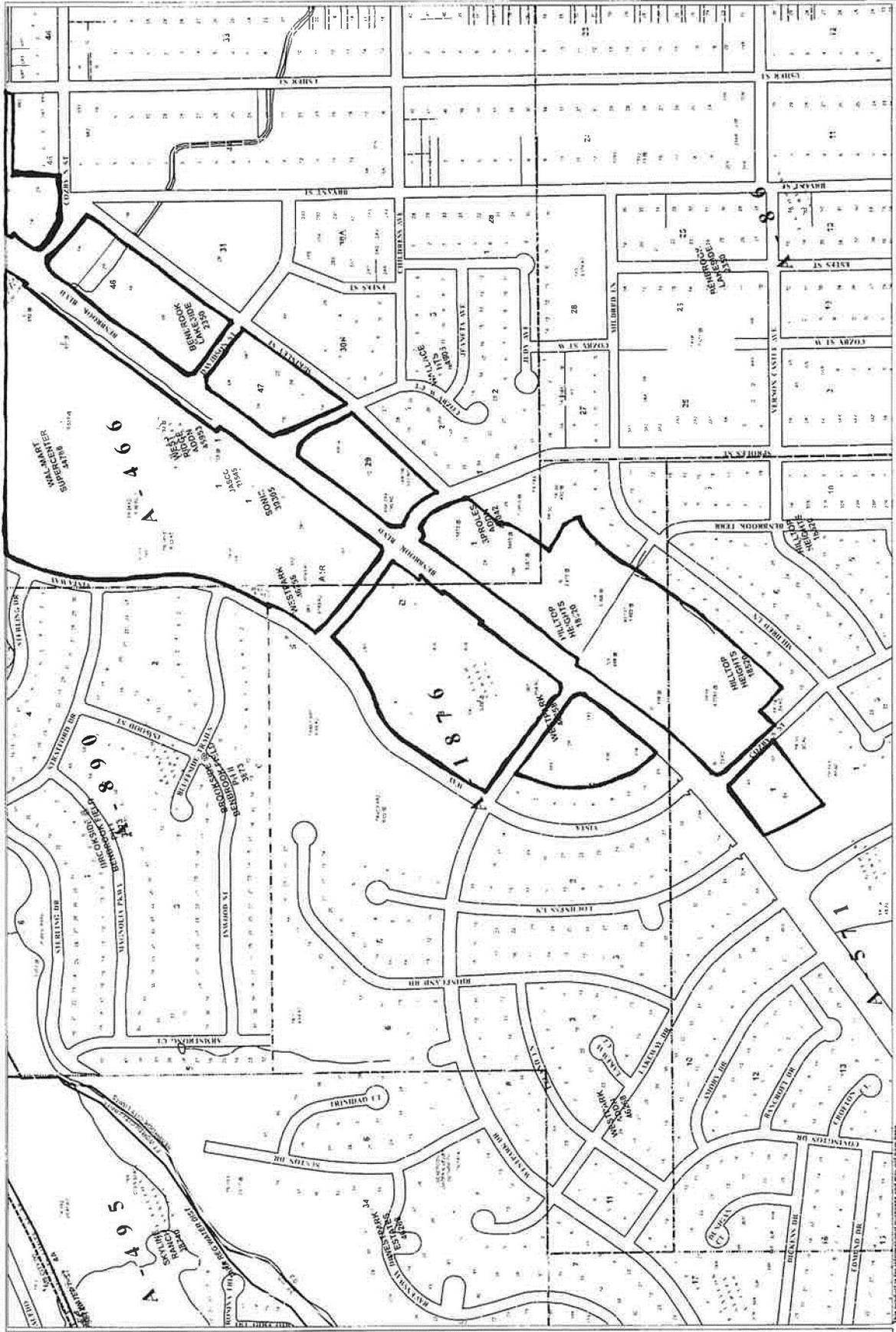
1 inch = 400 feet



map location

This product is for informational purposes only and does not constitute an offer of insurance. It does not represent an actual ground survey and represents only the approximate relative location of property boundaries.

EXHIBIT A (PAGE 3 OF 3)



2006-364

TAD
Tarrant Appraisal District

Legend

Deeds_Boundary

RECORDBOUNDARYTYPE

- Parcel Line
- Partial Split Line
- Private Road
- ROW
- Unknown
- Historical
- School
- City
- Business
- County
- Water_District

Map created on:
7/26/2017

1 inch = 400 feet

map location

This map was prepared for the purpose of showing the location of property boundaries. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Exhibit B

Local Amendments to the 2015 International Property Maintenance Code

Purpose of Amendment. To establish property maintenance regulations that provide for the “exterior only” maintenance of all existing, new development or re-development located within the Benbrook Boulevard Corridor Overlay District

Applicable Chapter. To effectuate the enforcement of the “exterior only” maintenance of all existing, new development or re-development in the Benbrook Boulevard Corridor Overlay District, only Chapter 3, General Requirements, less any stated regulations related to the interior elements of a structure, of the 2015 International Property Maintenance Code shall be enforced by the City of Benbrook. The remaining Chapters of the 2015 International Property Maintenance Code, except as may be legally necessary to enforce the applicable portions of Chapter 3, General Requirements, are not applicable.