

RESOLUTION NO. R2020-61

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS ("CITY"), EXPRESSING SUPPORT FOR HOUSE BILL NO. 233 BEING PROPOSED BY REPRESENTATIVE ANDREW MURR DURING THE 87<sup>TH</sup> LEGISLATIVE SESSION**

**WHEREAS**, during the 86<sup>th</sup> Texas Legislative Session, House Bill 2439 was passed and added to the Texas Government Code as Chapter 3000. This Chapter generally prohibits cities in Texas from adopting or enforcing regulations regarding certain building products, materials, or methods as detailed in **Exhibit A**.

**WHEREAS**, the City Council of the City of Burnet believes these restrictions on the City's ability to regulate building materials within the city limits is detrimental to residential and commercial development in the City of Burnet; and

**WHEREAS**, Representative Andrew Murr has introduced House Bill 233 for the 87<sup>th</sup> legislative session which will amend Government Code Chapter 3000, Section 1 (as detailed in **Exhibit B**) to exempt municipalities with a population of less than 25,000 from Chapter 3000 of the Government Code.

**WHEREAS**, the City Council of the City of Burnet would like to formally express support for the proposed House Bill 233.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS:**

**Section one. Findings approve.** The City Council hereby expresses support for House Bill 233 proposed by Texas State Representative Andrew Murr during the 87<sup>th</sup> Legislative Session to amend Texas Government Code Chapter 3000, Section 1 (adopted as House Bill 2439 during the 86<sup>th</sup> Legislative Session).

**Section two. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

**PASSED AND APPROVED** this, the 8<sup>th</sup> day of December, 2020, by a vote of the City Council of Burnet, Texas.

**ATTEST:**

  
Kelly Dix, City Secretary

**CITY OF BURNET**



  
Crista Goble Bromley, Mayor

**Exhibit A**

## GOVERNMENT CODE

## TITLE 10. GENERAL GOVERNMENT

SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN GOVERNMENTAL  
ACTIONSCHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND COMMERCIAL  
CONSTRUCTION

Sec. 3000.001. DEFINITIONS. In this chapter:

- (1) "National model code" has the meaning assigned by Section 214.217, Local Government Code.
- (2) "Governmental entity" has the meaning assigned by Section 2007.002.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding any other law and except as provided by Subsection (d), a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that:

- (1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or
- (2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

(b) A governmental entity that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential

or commercial building may amend a provision of the building code to conform to local concerns if the amendment does not conflict with Subsection (a).

(c) This section does not apply to:

(1) a program established by a state agency that requires particular standards, incentives, or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;

(2) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code;

(3) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:

(A) is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program; or

(B) applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted;

(4) an ordinance or order that:

(A) regulates outdoor lighting; and

(B) is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code;

(5) a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:

(A) is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or

(B) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission;

(6) a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019;

(7) a building located in an area designated as a historic district on the National Register of Historic Places;

(8) a building designated as a Recorded Texas Historic Landmark;

(9) a building designated as a State Archeological Landmark or State Antiquities Landmark;

(10) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;

(11) a building located in a World Heritage Buffer Zone; and

(12) a building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014.

(d) A municipality that is not a municipality described by Subsection (c) (5) (A) or (B) may adopt or enforce a regulation described by Subsection (a) that applies to a building located in a place or area designated on or after April 1, 2019, by the municipality for its historical, cultural, or architectural importance and significance, if the municipality has the voluntary consent from the building owner.

(e) A rule, charter provision, ordinance, order, building code, or other regulation adopted by a governmental entity that conflicts with this section is void.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

Sec. 3000.003. INJUNCTION. (a) The attorney general or an aggrieved party may file an action in district court to enjoin a violation or threatened violation of Section 3000.002.

(b) The court may grant appropriate relief.

(c) The attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under this section.

(d) Sovereign and governmental immunity to suit is waived and abolished only to the extent necessary to enforce this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter does not affect provisions regarding the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code, or Section 775.045(a) (1), Health and Safety Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

Sec. 3000.005. SEVERABILITY. If any provision of a rule, charter provision, ordinance, order, building code, or other regulation described by Section 3000.002(a) is held invalid under this chapter, the invalidity does not affect other provisions or applications of the rule, charter provision, ordinance, order, building code, or other regulation that can be given effect without the invalid provision or application, and to this end the provisions of the rule, charter provision, ordinance, order, building code, or other regulation are severable.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

**Exhibit B**

By: Murr

H.B. No. 233

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the applicability of the prohibition on governmental  
3 entities adopting certain regulations governing the use of certain  
4 building products, materials, or methods.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 3000, Government Code, is amended by  
7 adding Section 3000.0015 to read as follows:

8 Sec. 3000.0015. APPLICABILITY. This chapter does not apply  
9 to a municipality with a population of less than 25,000.

10 SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2021.