

ORDINANCE

AN ORDINANCE OF THE CITY OF BURLESON, TEXAS, AMENDING ORDINANCE B-582, THE ZONING ORDINANCE OF THE CITY OF BURLESON, AS FOUND IN APPENDIX B – ZONING OF THE CITY OF BURLESON CODE OF ORDINANCES BY AMENDING SECTION 76-110 “SPECIFIC USE PERMIT” ALLOWING LIQUOR STORE USE IN A GR, GENERAL RETAIL DISTRICT WITH A SPECIFIC USE PERMIT WITH SPECIFIC CONDITIONS, BY AMENDING SECTION 78-110 “SPECIFIC USE PERMIT” ALLOWING LIQUOR STORE USE IN A C, COMMERCIAL DISTRICT WITH A SPECIFIC USE PERMIT WITH SPECIFIC CONDITIONS, AND BY AMENDING SECTION 79-105 “PRIMARY USES ALLOWED” ALLOWING LIQUOR STORE USE IN AN I, INDUSTRIAL DISTRICT AS A PRIMARY USE WITH RESTRICTIONS; PROVIDING FOR THE INCORPORATION OF THE RECITALS; FINDING THAT THE MEETING AT WHICH IS THIS ORDINANCE IS APPROVED WAS OPEN TO THE PUBLIC AND PROPERLY NOTICED; PROVIDING A CUMULATIVE CLAUSE OF PRIOR ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas (“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, the City Council passed, approved, and adopted Ordinance B-582, being the Zoning Ordinance and Map of the City of Burleson, Texas, showing the locations and boundaries of certain districts, as amended, and codified in Appendix B of the City of Burleson Code of Ordinances (the “Zoning Ordinance”); and

WHEREAS, the City Council desires to amend certain portions of Appendix B, Zoning, Article III, Zoning Districts, Code of Ordinances, City of Burleson, for the purpose of modification of zoning districts and regulations for liquor stores; and

WHEREAS, the City Council deems it necessary in order to lessen congestion on streets, to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewers, schools, parks and other public requirements; to conserve the value of property and encourage the most appropriate use of land throughout the City, that the hereinafter contained provisions of this ordinance should be passed, promulgated and enforced; and

WHEREAS, on February 5, 2024, the City Council adopted Resolution No. 5399-02-2024 pursuant to Section 211.007(d), Texas Local Government Code, and Section 6 of the Zoning

Ordinance providing notice requirements for a joint public hearing to be held on March 4, 2024, with the City Council and the City’s Planning and Zoning Commission regarding the new regulations as herein contained; and

WHEREAS, the City has given the notices prescribed by Resolution No. 5399-02-2024; and

WHEREAS, the joint public hearing was held on March 4, 2024, with respect to amending the text of the Zoning Ordinance regarding liquor sales where all persons were given an opportunity to be heard in the matter; and

WHEREAS, on March 4, 2024, the City Council received a final report and recommendation from the Planning and Zoning Commission regarding amending the text of the Zoning Ordinance regarding liquor sales; and

WHEREAS, the Planning and Zoning Commission and City Council considered, among other things, the character of the zoning districts referenced herein and their peculiar suitability for the particular uses allowed as set forth herein; and

WHEREAS, all requirements of law for publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code and the Zoning Ordinance.

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

Section 1.

Subsection (a) of Section 76-110 “Specific Use Permit” of Section 76 “GR, general retail district” of Article III “Zoning Districts” of Appendix B “Zoning” of the Code of Ordinances of the City of Burleson is hereby amended by adding the following text without removing any other text:

76-110 Specific use permit.

...

(a) Uses allowed with a specific use permit:

...

[Add:] “Liquor Store

1. In considering whether to grant a specific use permit, the following supplemental regulations must be met unless otherwise approved by City Council:
 - a. Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage without City Council approval.
 - b. Minimum building size shall be 5,000 sq. ft.

- c. No liquor stores shall be allowed within 1,000 feet of another liquor store as measured in a straight line from their respective property lines.
- d. A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.
- e. The liquor store has an independent entrance for deliveries and customers. “Partitioned” means walls or other physical divisions separating the liquor store from all other retail or commercial establishments.
- f. All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.
- g. Shall provide additional landscaping between front façade and the parkway.
 - i. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.”

Section 2.

Subsection (a) of Section 78-110 “Specific Use Permit” of Section 78 “C, commercial district” of Article III “Zoning Districts” of Appendix B “Zoning” of the Code of Ordinances of the City of Burleson is hereby amended by adding the following text without removing any other text:

78-110 Specific use permit.

...

(a) Uses allowed with a specific use permit:

...

[Add:] “Liquor Store

1. In considering whether to grant a specific use permit, the following supplemental regulations must be met unless otherwise approved by City Council:
 - a. Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage without City Council approval.
 - b. Minimum building size shall be 5,000 sq. ft.
 - c. No liquor stores shall be allowed within 1,000 feet of another liquor store as measured in a straight line from their respective property lines.
 - d. A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.

- e. The liquor store has an independent entrance for deliveries and customers. “Partitioned” means walls or other physical divisions separating the liquor store from all other retail or commercial establishments.
- f. All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.
- g. Shall provide additional landscaping between front façade and the parkway.
 - i. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.”

Section 3.

Subsection (a) of Section 79-105 “Primary Uses Allowed” of Section 79 “I, industrial district” of Article III “Zoning Districts” of Appendix B “Zoning” of the Code of Ordinances of the City of Burleson is hereby amended by adding the following text without removing any other text:

79-105 Primary uses allowed.

...

(a) Primary uses allowed:

...

[Add:] “Liquor Store

1. The following supplemental regulations must be met; otherwise a specific use permit approved by City Council is required.
 - a. Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage without City Council approval.
 - b. Minimum building size shall be 5,000 sq. ft.
 - c. No liquor stores shall be allowed within 1,000 feet of another liquor store as measured in a straight line from their respective property lines.
 - d. A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.
 - e. The liquor store has an independent entrance for deliveries and customers. “Partitioned” means walls or other physical divisions separating the liquor store from all other retail or commercial establishments.

- f. All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.
- g. Shall provide additional landscaping between front façade and the parkway.
 - i. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.”

Section 4.

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

Section 5.

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 6.

This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson's various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 7.

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.

An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for that purpose.

Section 9.

Any person, firm, association of persons, company, corporation, or their agents, its servants, or

employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Texas Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

Section 10.

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

And it is so ordained.

PASSED AND APPROVED the _____ day of _____, 20_____.

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney