



Item Brief

Meeting Date

December 10, 2024

Agenda Item

Public hearing and action: Ordinance No. 2024-52: L. Kimbler

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") BY ADDING NEW SECTION 50 (ENTITLED "SALE OF ALCOHOLIC BEVERAGES") AND CREATING A TABLE OF USE FOR ALCOHOL SALES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

1. Staff Presentation
2. Public Hearing
3. Discuss and considering action

Information

The sale and distribution of alcoholic beverages is regulated by the Texas Alcoholic Beverage Commission (TABC). The City can regulate the location of establishments within the city limits that sell alcoholic beverages by zoning. When an establishment applies for a license to sell alcoholic beverages with the TABC, the application requires certification from the City Secretary which requires a zoning verification. To ease the burden of knowing which zones allow the sale of alcoholic beverages, the attached amendment creates a table of use which correlates with the TABC permitting.

The proposed amendment includes each of the different license and permit types allowed by the TABC. A table has been created to show exactly which zone each of the TABC permits is either permitted (allowed), permitted with conditional use permit, or not permitted. This will allow an applicant and staff to easily verify whether a property is zoned appropriately for the type of permit which the applicant has applied for with TABC. All other laws and regulations regarding the separation of establishments selling alcoholic beverages from schools, churches, and hospitals will continue to apply; as well as any necessary fire code requirements which may be necessary to ensure public safety.

P&Z Report

The Planning and Zoning Commission met on Monday, December 2nd, and did recommend approval of Ordinance 2024-52 as presented.

Recommendation

Open the public hearing.

Discuss and consider Ordinance No. 2024-52.

ORDINANCE NO. 2024-52

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) BY ADDING NEW SECTION 50 (ENTITLED “SALE OF ALCOHOLIC BEVERAGES”) AND CREATING A TABLE OF USE FOR ALCOHOL SALES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the sale and distribution of alcoholic beverages is regulated by the Texas Alcoholic Beverage Commission (TABC); and

WHEREAS, the TABC allows cities to regulate the location of establishments that sell alcoholic beverages by zoning; and

WHEREAS, to ease the burden of determining the appropriate location for the sale of alcoholic beverages, City Council determines it is appropriate to create a table indicating where the sale of alcoholic beverages will be permitted, allowed by conditional use permit, or not allowed; and

WHEREAS, on December 2, 2024, the Planning and Zoning Commission conducted a public hearing to receive comments and testimony on the merits of the code amendments proposed by this ordinance; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed code amendments; and

WHEREAS, on December 10, 2024, City Council conducted a public hearing; to receive comments and testimony on the merits of the proposed code amendments; and

WHEREAS, the City Council, after due consideration of the Planning and Zoning Commission recommendation; the comments and testimony of public; and the recommendation of City staff; finds adoption of the proposed code amendments will promote the public health, safety, morals, and the general welfare; and

WHEREAS, City Council finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

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

Section one. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-45 (entitled “*Light Commercial-District C-1*”) subsection 118-45(a) (entitled “purpose and permitted uses”) is hereby amended by removing the language that is stricken (~~stricken~~) from Section 118-45(a)(10) as follows:

Section 118-45(a)(10) Restaurant, café or cafeteria, drive-in eating establishment with ~~alcoholic beverage sales, winery and brewery.~~

Section two. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-45 (entitled “*Light Commercial-District C-1*”) subsection 118-45(a) (entitled “*purpose and permitted uses*”) is hereby amended by adding a new Section 118-45(a)(13) to read as follows:

Section 118-45(a)(13) The sale of alcoholic beverages in the Light Commercial - District C-1 for on, or off premise consumption, as permitted, or conditionally permitted, in Table 118-50(1) (entitled “*Sale of Alcoholic Beverages*”).

Section three. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-46 (entitled “*Medium Commercial-District C-2*”) subsection 118-46(a) (entitled “purpose and permitted uses”) is hereby amended by removing the language that is stricken (~~stricken~~) from Section 118-46(a)(13), (26) and (29) as follows:

Section 118-46(a)

(13) Convenience stores, grocery stores and supermarkets (including the sale of ~~alcoholic beverages for off premises consumption and/or gasoline~~).

~~(26) Package liquor stores for off-premises consumption sales.~~

~~(29) Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales for on-premises consumption.~~

Note to Publisher: Existing subsections 118-46(a)(27) to 118-46(a)(38) shall be recodified so that subsections are numbered consecutively.

Section four. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-46 (entitled “*Medium Commercial-District C-2*”) subsection 118-46(a) (entitled “purpose and permitted uses”) is hereby amended by adding a new Section 118-46(a)(37) to read as follows:

Section 118-46(a)(37) The sale of alcoholic beverages in the Medium Commercial - District C-2 for on, or off premise consumption, as permitted, or conditionally permitted, in Table 118-50(1) (entitled “*Sale of Alcoholic Beverages*”).

Section five. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-47 (entitled “*Heavy Commercial-District C-3*”) subsection 118-47(a) (entitled “purpose and permitted uses”) is hereby amended by removing the language that is stricken (stricken) from Section 118-47(a)(3) as follows:

Section 118-47(a)

~~(3) Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold for on-premises consumption.~~

Note to Publisher: Existing subsections 118-47(a)(4) to 118-47(a)(22) shall be recodified as subsections 118-47(a)(3) to subsections 118-47(a)(21).

Section six. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-47 (entitled “*Heavy Commercial-District C-3*”) subsection 118-47(a) (entitled “purpose and permitted uses”) is hereby amended by adding a new Section 118-47(a)(22) to read as follows:

Section 118-47(a)(22) The sale of alcoholic beverages in the Heavy Commercial - District C-3 for on, or off premise consumption, as permitted, or conditionally permitted, in Table 118-50(1) (entitled “*Sale of Alcoholic Beverages*”).

Section seven. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) Section 118-48 (entitled “*Light Industrial – District “I-1”*”) subsection 118-48(a) (entitled “purpose and permitted uses”) is hereby amended by removing the language that is stricken (stricken) from Section 118-48(a)(1) as follows:

Section 118-48(a)

~~(1) Alcohol beverage mixed drink and alcohol beverage on premises with conditional use permit.~~

Note to Publisher: Existing subsections 118-48(a)(2) to 118-48(a)(16) shall be recodified so that subsections are numbered consecutively.

Section. Amendment. The City of Burnet Code of Ordinances Chapter 118 (entitled “Zoning”) is hereby amended by adding a new Section 118-50 (entitled “*Sale of Alcoholic Beverages*”) and which reads as follows:

Sec. 118-50. - Sale of Alcoholic Beverages

(a) Zoning districts. The sale of alcoholic beverages, for premise or off premise consumption in any zoning district shall be prohibited unless authorized by this Section as follows:

- (1) *Residential and Industrial Zoning Districts*. The sale of alcoholic beverages, for premise or off premise consumption shall be prohibited.
 - (2) *Commercial Zoning Districts*. The sale of alcoholic beverages, for on premise or off premise consumption, within the Light Commercial “C-1”, Medium Commercial “C-2”, and Heavy Commercial “C-3” Zoning Districts shall only be authorized as provided in Table 118-50 (1) entitled “*Sale of Alcoholic Beverages*”.
 - (3) *Government Zoning Districts*. The sale of alcoholic beverages, for on premise or off premise consumption, within Government “G” Zoning Districts shall only be authorized as provided in Table 118-50 (1) entitled “*Sale of Alcoholic Beverages*”.
- (b) *Use Table*. In Table 118-50(1) the letters “P”, “C”, and “NA” shall mean as follows:
- (1) *Permitted Uses*: The letter “P” indicates that the listed use is permitted by right within the zoning district. Permitted uses are subject to all other applicable standards of this chapter.
 - (2) *Conditional Uses*: The letter “C” indicates that the listed use is permitted within the respective zoning district only after review and approval of a conditional use permit, in accordance with the review procedures of Section 118-64 of this chapter. Conditional use permits are subject to all other applicable standards of this chapter and those requirements that may reasonably be imposed by the city consistent with the criteria set forth in subsection 118-64(e) of this chapter and any supplemental use regulations which apply to said use.
 - (3) *Not Allowed Uses*: The letters “NA” indicates that the listed use is not allowed within the respective zoning district.
- (c) *Alcoholic Beverage Code License and Permit Types*. The top row of Table 118-50(1) indicates by a letter, or letters, the Texas Alcoholic Beverage Code License or Permit Type (See Title 3 Texas Alcoholic Beverage Code) authorized in a specific zoning district as follows:
- (1) *Winery (G)*: The letter “G” indicates a Winery Permit as defined by the Texas Alcoholic Beverage Code.
 - (2) *Mixed Beverage Permit (MB)*: The letters “MB” indicates a Mixed Beverage Permit as defined by the Texas Alcoholic Beverage Code.
 - (3) *Wine and Malt Beverages Retailer’s (BG)*: The letters “BG” indicates a Wine and Malt Beverages Retailer’s Permit as defined by the Texas Alcoholic Beverage Code.
 - (4) *Wine and Malt Beverages Retailer’s Off-Premise Permit (BQ)*: The letters “BQ” indicates as defined by the Texas Alcoholic Beverage Code.
 - (5) *Retail Dealer’s On-Premise (BE)*: The letters “BE” indicates a Retail Dealer’s On-Premise License as defined by the Texas Alcoholic Beverage Code.

- (6) Retail Dealer’s Off-Premise License (BF): The letters “BF” indicates a Retail Dealer’s Off-Premise License as defined by the Texas Alcoholic Beverage Code.
 - (7) Prive Club Registration Permit (N): The letter “N” indicates a Private Club Registration Permit as defined by the Texas Alcoholic Beverage Code.
 - (8) Private Club Malt Beverage and Wine (NB): The letters “NB” indicates a Private Club Malt Beverage and Wine Permit as defined by the Texas Alcoholic Beverage Code.
 - (9) Private Club Exemption (NE): The letters “NE” indicates a Private Club Exemption Certificate as defined by the Texas Alcoholic Beverage Code.
 - (10) Package Store (P): The letter “P” indicates a Package Store permit, as defined by the Texas Alcoholic Beverage Code.
 - (11) Wine Only Package Store (Q): The letter “Q” indicates a Wine-Only Package Store permit as defined by the Texas Alcoholic Beverage Code.
 - (12) Food and Beverage Certificate (FB). The letter “FB” indicate a Food and Beverage Certificate as defined by the Texas Alcoholic Beverage Code.
- (d) *Zoning Districts*. The first column of Table 118-50(1) indicates the zoning districts the table is applicable as follows:
- (1) Light commercial—District is designated as "C-1".
 - (2) Medium commercial-District is designated as "C-2".
 - (3) Heavy commercial-District is designated as "C-3".
 - (4) Government-District is designated as “G”

Table 118-50(1) - Sale of Alcoholic Beverages

	G	MB	BG	BQ	BE	BF	N	NB	NE	P	Q	MB/FB
"C-1"	P	C	P	P	P	P	C	C	C	C	P	P
"C-2"	P	C	P	P	P	P	C	C	C	P	P	P
"C-3"	P	C	P	P	P	P	C	C	C	P	P	P
"G"	C	C	C	C	C	C	C	C	C	C	C	C

PASSED, APPROVED, AND ADOPTED on this 10th day of December 2024.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary