

ORDINANCE NO. 2013-05

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING CHAPTER SIX, SECTION 6 OF THE CODE OF ORDINANCES OF THE CITY PROVIDING FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF BURNET; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas by local option election, the voters of the city of Burnet approved the sale of alcoholic beverages within the city; and

Whereas, Section 6, "Alcoholic Beverages" of the Burnet Code of Ordinances was adopted by the City Council of the City of Burnet; and

WHEREAS, the Texas Alcoholic Beverage Code §105.03 provides for the governing body of a city or town to adopt extended hours of sale and consumption for a holder of a mixed beverage late hours permit by ordinance; and

WHEREAS, the Texas Alcoholic Beverage Code §105.05 provides for the governing body of a city or town to authorized the holder of a retail dealer's on-premise late hours license to sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day by ordinance; and

Whereas, the City Council of the City of Burnet desires to adopt extended hours of sale and consumption pursuant to the Texas Alcoholic Beverage Code;

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

Section. 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section. 2. Amending Section 6 Alcoholic Beverages of the City of Burnet Code of Ordinances as follows:

The following sections shall each be amended in their entirety to read as follows:

Sec. 6-4. Payment of fees.

All fees required pursuant to this chapter shall be paid in advance to the city secretary, or other person as appointed by the city manager, for one year at the same time that the state annual renewal fee is due and payable. A receipt shall be issued for the payment of each such fee, and the holder of the state permit or license involved shall display such receipt in some conspicuous place on the premises in the same manner that the applicable state license or permit is displayed.

Sec. 6-5. Location Restrictions.

- (a) It shall be unlawful to sell any form of alcoholic beverage within 300 feet of any church, public or private school, or public hospital.
- (b) The measurement of the distance between the place of business where alcoholic beverages are sold and any church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections.
- (c) Mixed beverage sales shall be permitted on properties zoned in accordance with the zoning ordinances of the city.
- (d) Package stores shall be permitted on properties zoned in accordance with the zoning ordinances of the city.

Section 6-6. Hours of sale.

- (a) The city of Burnet, Texas is an extended hours area. In the city of Burnet, Texas, the holder of a mixed beverages late hours permit is authorized to sell and offer for sale mixed beverages during extended hours as prescribed in Texas Alcoholic Beverage Code §105.03 as amended from time to time.
- (b) In the city of Burnet, Texas, the holder of a retail dealer's on-premises late hours permit is authorized to sell, offer for sale, and deliver beer during extended hours as prescribed in the Texas Alcoholic Beverage Code § 105.05 as amended from time to time.

Sec. 6-7. Hours of Consumption in Public Places.

The city of Burnet is an extended hours area. A person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place as prescribed in § 105.06 of the Texas Alcoholic Beverage Code as amended from time to time.

Sec. 6-8. Consumption and service on private club premises; prohibited hours.

It shall be unlawful for any private club to cause, permit or allow any person to consume or be served any alcoholic beverage on the club premises during the time periods as prescribed in the Texas Alcoholic Beverage code § 32.17 (7) as amended from time to time.

Sec. 6-10. Review and recommendation.

For the purposes of obtaining a recommendation as provided for in Texas Alcoholic Beverage Code, § 11.41, every person, firm or entity making application for a permit, pursuant to Texas Alcoholic Beverage Code, Chs. 11 or 61, Subch. B, within the city, shall be required to provide such information as may be reasonably necessary to complete a review and recommendation, including but not limited to, a copy of the application made to the Texas Alcoholic Beverage Code and an application to the City of Burnet for a permit to sell alcoholic beverages. Such documents shall be submitted to the city secretary, or other person as appointed by the city manager. The chief of police shall have the option to review such applications and materials, make such reasonable investigation as is deemed prudent, and make a written recommendation. In the event the chief of police makes written objection to the issuance of any such permit or license, such recommendation shall be communicated to the Texas Alcoholic Beverage Code and no city permit or license shall be issued by the city on such application until such time, if any, as the Texas Alcoholic Beverage Code shall grant the requested permit or license.

Sec. 6-11. Possession prohibited at school athletic events.

It shall be unlawful for any person to bring or carry any alcoholic beverage or to have any alcoholic beverage in his possession while in or on any enclosure, field or stadium where athletic events, sponsored or participated in by any public school, are being held..

Sec. 6-12. Violations and penalties.

A license or permittee who sells an alcoholic beverage without first having paid the fees levied as provided for herein commits a misdemeanor punishable by a fine of not less than \$10.00 or more than \$500.00.

Section 3. Amending of Conflicting Ordinances. All ordinances or parts of ordinances and sections of the Code of Ordinances of the City that are in conflict with this ordinance are hereby amended to the extent of such conflict only, to read consistent with this ordinance.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

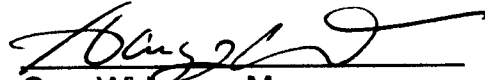
Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the

Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on First Reading this 5th day of March, 2013.

FINALLY PASSED AND APPROVED on this the 26th day of March, 2013.

CITY OF BURNET, TEXAS



Gary Wideman, Mayor

ATTEST:



Kelly Dix, City Secretary

