ORDINANCE NUMBER 984

AN ORDINANCE OF THE CITY OF BURKBURNETT, TEXAS AMENDING CHAPTER 117 OF TITLE XI OF THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS ESTABLISHING REGULATIONS FOR BUSINESSES THAT SELL ALCOHOL; PROVIDING PENALTIES FOR VIOLATIONS OF SUCH PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Board of Commissioners has considered the regulations set forth in this Ordinance and find that they are necessary for the health, welfare and good government of the City of Burkburnett, Texas and its citizens;

WHEREAS, notice of this Ordinance has been posted and published in accordance with the requirements of the City Charter of the City of Burkburnett, Texas and applicable law; and

WHEREAS, this Ordinance was adopted by the Board of Commissioners of the City of Burkburnett, Texas in an open meeting preceded by proper notice pursuant to Chapter 551 of the Texas Government Code;

WHEREAS, the City wishes to promote new small business investment associated with restaurants to open within the City and allow them to serve alcoholic beverages and the sale of alcoholic beverages is ancillary to the preparation and service of meals; and

WHEREAS, the City Commission, after careful consideration of this matter and the adoption of a Downtown Master Plan, deems it advisable and in the best interest of the general welfare of the City and its citizens to amend Chapter 117 of the City Code as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

PART I. That Chapter 117 of the Code of Ordinances of the City of Burkburnett, Texas is hereby amended which such amended sections shall read as follows:

§ 117.03 RESTRICTIONS ON SALES WITHIN PRESCRIBED DISTANCES OF PUBLIC AND PRIVATE SCHOOLS, CHURCHES, AND PUBLIC HOSPITALS.

(A) Beer and wine for off-premises consumption only. The sale of beer and wine is permitted only in a zoning district where retail sales are allowed. The minimum distance between retail stores that offer the sale of beer and wine for off-premises consumption and the following uses are:

(1) Schools (public and private): 300 feet. As allowed by state law, a school may petition for 1,000 feet. All measurements of distances are as provided for in state law (property line to property line and in a direct line across intersections). Daycares, universities, and colleges are not included in the definition of schools.
(2) Churches: 300 feet. All measurements of distances are as provided for in state law (along the property lines of the street fronts and from front door to front door, and in a direct line across intersections).

(3) Hospitals: 300 feet. All measurements of distances are as provided for in state law (along the property lines of the street fronts and from front door to front door, and in a direct line across intersections).

(B) The Board of Commissioners may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary or for any other reason, the Board of Commissioners determines, after consideration of the health, safety, and welfare of the public and the equities of the situation that the variance is in the best interest of the community.

(C) The term "private school", including a parochial school, means a school offering a course of instruction for students in one or more grades from kindergarten through grade 12 and has more than 25 students enrolled and attending courses at a single location.

117.07 On-Premise Alcohol Consumption in the Downtown District

(A) The Downtown District is designated in Attachment A.

(B) The sale of beer, wine, and mixed beverages in a restaurant by food and beverage certificate holders is allowed in the Downtown District. The holder of a permit under this subsection shall not be required to meet distance requirements as set forth in 117.03 subsection (A) of this Ordinance.

(C) The beer, wine, and mixed beverages sold or dispensed by the holder of a valid, appropriate state alcoholic beverage commission alcoholic beverage permit and city alcoholic beverage permit during a properly permitted special event, programming activity, and/or management or vendor contract, with the following conditions:

(1) The entire special event and/or programing area, including the area for beer and/or wine and vinous liquor dispensing and consumption, shall be monitored by city police officers at a ratio of at least one officer per 100 anticipated patrons, as determined by the City Manager and Chief of Police; and

(2) The sales, dispensing, and consumption of alcohol shall be allowed only between the hours of 12:00 p.m.—12:00 a.m. Monday—Friday, and between 12:00 p.m.—12:00 a.m. Saturday—Sunday unless otherwise allowed by a special event permit, where the appropriate permits have been obtained from the city clerk and the state.
**117.08 Off-Premise Consumption Sales in the Downtown District**

Beer and wine for off-premises consumption only. The sale of beer and wine is permitted in the Downtown District only in a zoning district where retail sales are allowed. The minimum distance between retail stores that offer the sale of beer and wine for off-premises consumption shall not be required to meet distance requirements as set forth in 117.03 subsection (A) of this Ordinance.

**PART II: REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective, which are inconsistent or are in conflict with the terms and provisions contained in this Ordinance, are hereby repealed only to the extent of any such conflict.

**PART III: SEVERABILITY**

It is hereby declared to be the intention of the Board of Commissioners that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**PART IV: COMPLIANCE WITH TEXAS OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance 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, Chapter 551 of the Texas Government Code.

**PART V: EFFECTIVE DATE**

This Ordinance shall take effect after publication in accordance with State law.

**PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS ON THIS 16TH DAY OF NOVEMBER 2020.**

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Carl Law, Mayor

**ATTEST:**

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Margie Poole, City Clerk