



Special Joint City Council and
Planning & Zoning Commission -
Planning and Zoning Meeting Agenda

Monday, March 04, 2024
5:00 PM

City Hall - 141 W. Renfro
Burleson, TX 76028

1. **PLANNING & ZONING COMMISSION CALL TO ORDER**

2. **CITIZEN APPEARANCES**

Each person in attendance who desires to speak to the Planning & Zoning Commission on an item NOT posted on the agenda, shall speak during this section.

A speaker card must be filled out and turned in to the City Staff prior to addressing the Commission. Each speaker will be allowed three (3) minutes.

Please note that the Commissioners may only take action on items posted on the agenda. The Texas Open Meetings Act prohibits the Planning & Zoning Commission from deliberating or taking action on an item not listed on the agenda. The Commission may, however, receive your comments on the unlisted item, ask clarifying questions, respond with facts, and explain policy.

Each person in attendance who desires to speak to the Planning & Zoning Commission on an item posted on the agenda, shall speak when the item is called forward for consideration.

3. **GENERAL**

- A.** Receive a report and hold a discussion regarding an ordinance amending the text of the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)
- B.** Hold a joint public hearing with the Burleson City Council for the purpose of receiving public comment on proposed textual amendments to the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)
- C.** Consider making a final report and recommendation to the Burleson City Council regarding an ordinance making textual amendments to the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)

4. **RECESS INTO EXECUTIVE SESSION**

In accordance with Chapter 551 of the Texas Government Code, the Planning and Zoning Commission may convene in Executive Session in the City Council Workroom in City Hall to conduct a closed meeting to discuss any item listed on this Agenda.

Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code.

5. **ADJOURN**

Staff Contact
Tony McIlwain
Director of Development Services
817-426-9684

CERTIFICATE

I hereby certify that the above agenda was posted on this the 28th of February 2024, by 6:00 p.m., on the official bulletin board at the Burleson City Hall, 141 W. Renfro, Burleson, Texas.



Amanda Campos

City Secretary

ACCESSIBILITY STATEMENT

The Burleson City Hall is wheelchair accessible. The entry ramp is located in the front of the building, accessible from Warren St. Accessible parking spaces are also available in the Warren St. parking lot. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-426-9600, or TDD 1-800-735-2989.

Special Planning and Zoning Commission Meeting

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: March 4, 2024

SUBJECT:

Receive a report and hold a discussion regarding an ordinance amending the text of the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)

SUMMARY:

City staff previously provided the City Council and Planning and Zoning Commission a briefing on proposed text amendments to the city's Zoning Ordinance in anticipation of a voter referendum that would allow for liquor/package stores. The text amendments would allow package stores by-right in the 'I' Industrial zoning district, and per a specific use permit (SUP) in the 'C' Commercial and 'GR' General Retail zoning districts with certain supplemental standards. Staff has attached the proposed text amendments as Exhibit 2. As required under state law, it will be necessary to conduct a public hearing to solicit feedback for changes affecting the City's zoning regulations.

RECOMMENDATION:

Staff recommends approval of the ordinance at the conclusion of its second reading.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

November 13, 2023: The City Council received a presentation on proposed updates to the Zoning Ordinance.

December 19, 2023: The Planning and Zoning Commission received a presentation on proposed updates to the Zoning Ordinance.

January 8, 2024: The City Council received a presentation on the proposed alcohol-related zoning text amendments in anticipation of a future, successful local option election.

February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.

REFERENCE:

Insert CSO# if applicable
Insert resolution or ordinance change

FISCAL IMPACT:

None

STAFF CONTACT:

Tony McIlwain
Development Services Director
tmcilwain@burlesontx.com
817-426-9684



Zoning Code Update

Joint City Council and Planning and Zoning Commission
Meeting: 3.04.24



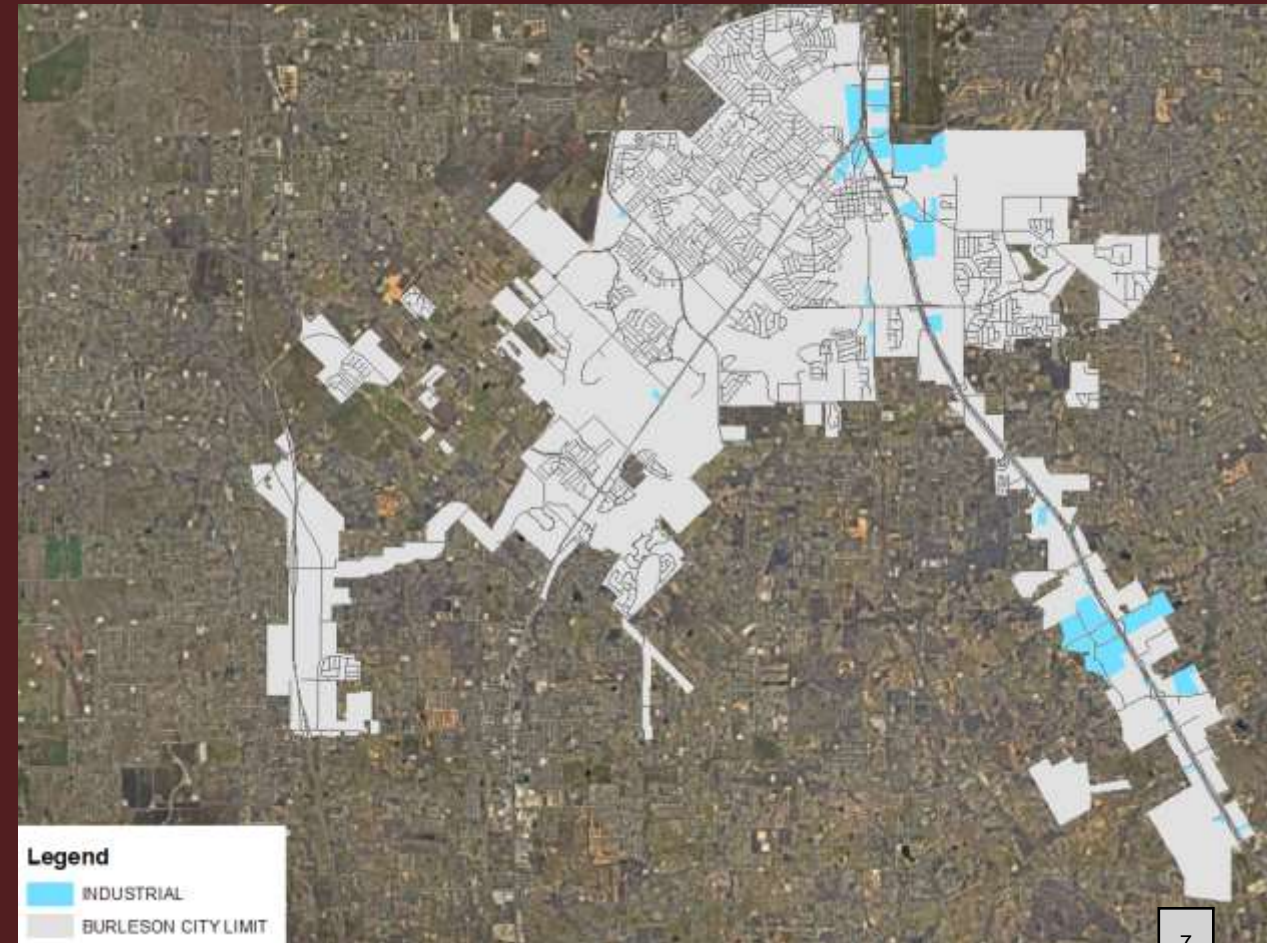
Background (Liquor/Package Stores)

- Current zoning ordinance does not address liquor/package stores therefore they are not an allowed use.
- The City Secretary's office is in receipt of a petition from a resident to gather signatures of support for a local option election in November. If successful, it would allow for the legal sale of all alcoholic beverages for off-premise consumption in Burleson. Staff has created an ordinance containing text amendments for alcohol-related uses (package stores).
- February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.



Zoning Districts (Liquor/Package Stores)

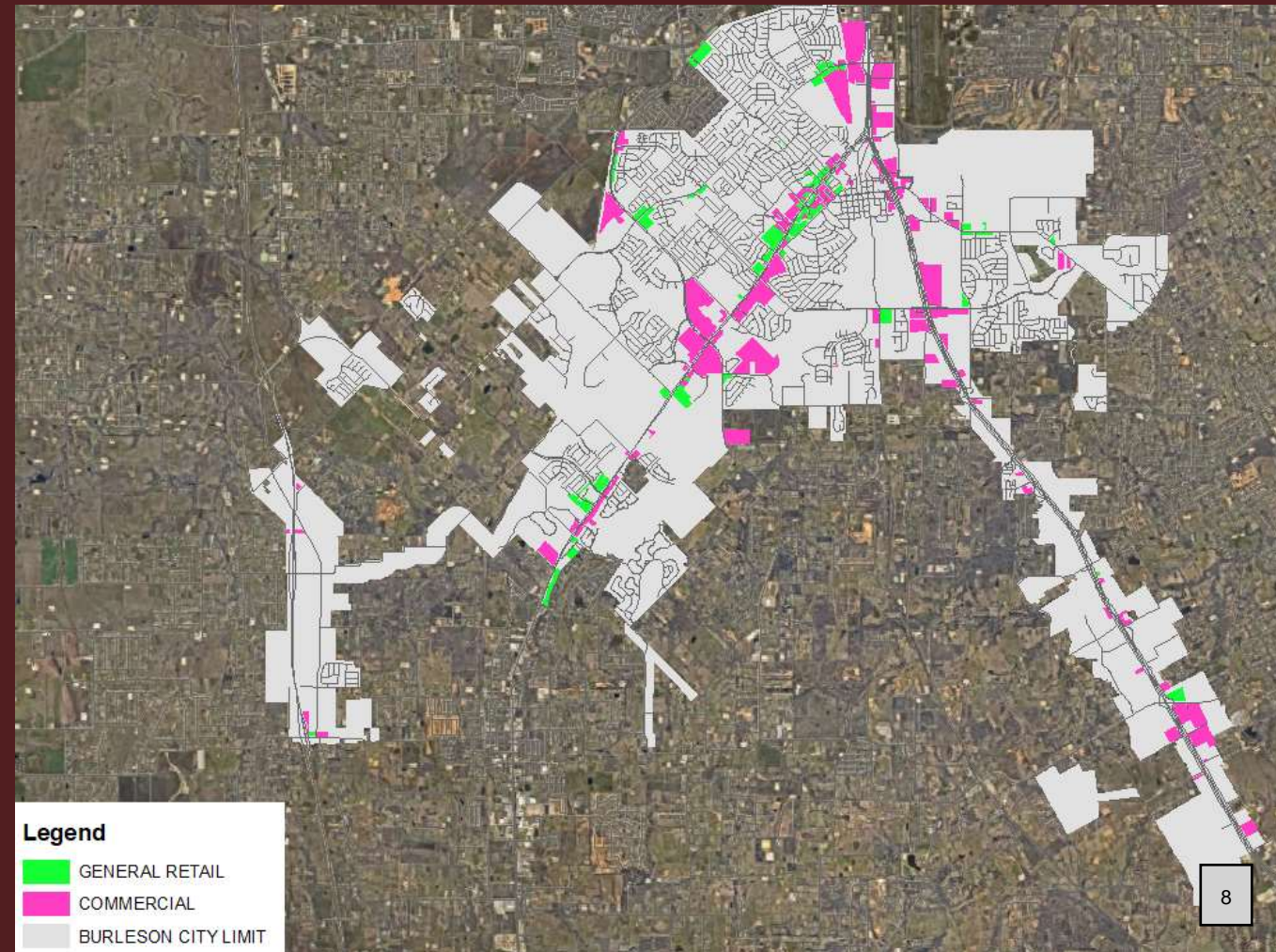
- The next several slides detail standards that the Planning staff is proposing:
- The land use would be classified as Liquor/Package Store in three zoning districts:
 - I – Industrial (By Right with Supplemental Standards)





Zoning Districts (Liquor/Package Stores)

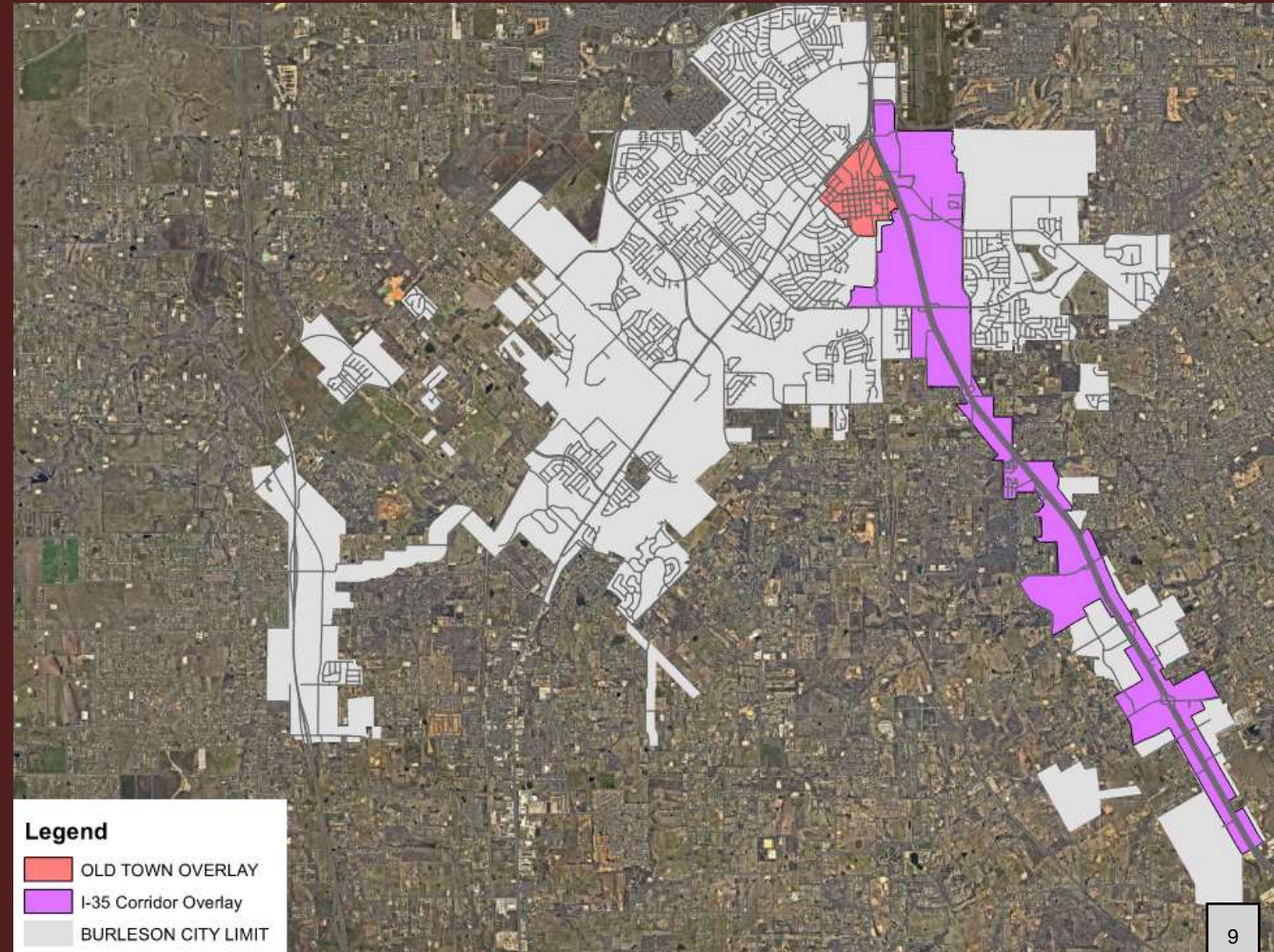
- Per Council's previous direction, staff has amended the text to provide Liquor/Package Stores in GR-General Retail and C-Commercial zoning districts per a specific use permit (SUP)





Supplemental Regulations

- Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage.



Supplemental Regulations Continued

- Minimum building size shall be 7,500 sq. ft. (requires fire sprinkling).

Aarons Rental
809 SW Wilshire
8,800 SF



RIO BRAVO
1940 SW Wilshire
7,300 SF



QUESTCARE
1571 SW
Wilshire 7,600 SF
(All Suites)



Supplemental Regulations Continued

- Per Council's direction, staff has provided text to provide that 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.





Supplemental Regulations Continued

- A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.





Supplemental Regulations Continued

- 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.



Supplemental Regulations Continued

- All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.



Supplemental Regulations Continued

- Increased landscaping between front façade and the parkway. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.
- NOTE: A variance can be requested from any supplemental standards.





Future Proofing

- This text amendment is meant to only serve as an update to the City's Zoning Ordinance.
- Liquor stores are not allowed unless a local option election passes.
- If a local option election is successful, any proposed establishment would still need to meet any and all applicable TABC regulations.



Questions



Public Hearing



Staff Recommendation

- Staff recommends making a final report and recommendation to City Council.

Staff Recommendation

- Staff recommends approval of the ordinance on first reading.

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 7,500 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 7,500 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 7,500 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

Special Planning and Zoning Commission Meeting

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: March 4, 2024

SUBJECT:

Hold a joint public hearing with the Burleson City Council for the purpose of receiving public comment on proposed textual amendments to the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)

SUMMARY:

City staff previously provided the City Council and Planning and Zoning Commission a briefing on proposed text amendments to the city's Zoning Ordinance in anticipation of a voter referendum that would allow for liquor/package stores. The text amendments would allow package stores by-right in the 'I' Industrial zoning district, and per a specific use permit (SUP) in the 'C' Commercial and 'GR' General Retail zoning districts with certain supplemental standards. As required under state law, it will be necessary to conduct a public hearing to solicit feedback for changes affecting the City's zoning regulations.

RECOMMENDATION:

Staff recommends the Planning and Zoning Commission conduct a public hearing on the matter.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

November 13, 2023: The City Council received a presentation on proposed updates to the Zoning Ordinance.

December 19, 2023: The Planning and Zoning Commission received a presentation on proposed updates to the Zoning Ordinance.

January 8, 2024: The City Council received a presentation on the proposed alcohol-related zoning text amendments in anticipation of a future, successful local option election.

February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.

REFERENCE:

Insert CSO# if applicable

Insert resolution or ordinance change

FISCAL IMPACT:

None

STAFF CONTACT:

Tony McIlwain
Development Services Director
tmcilwain@burlesontx.com
817-426-9684



Zoning Code Update

Joint City Council and Planning and Zoning Commission
Meeting: 3.04.24



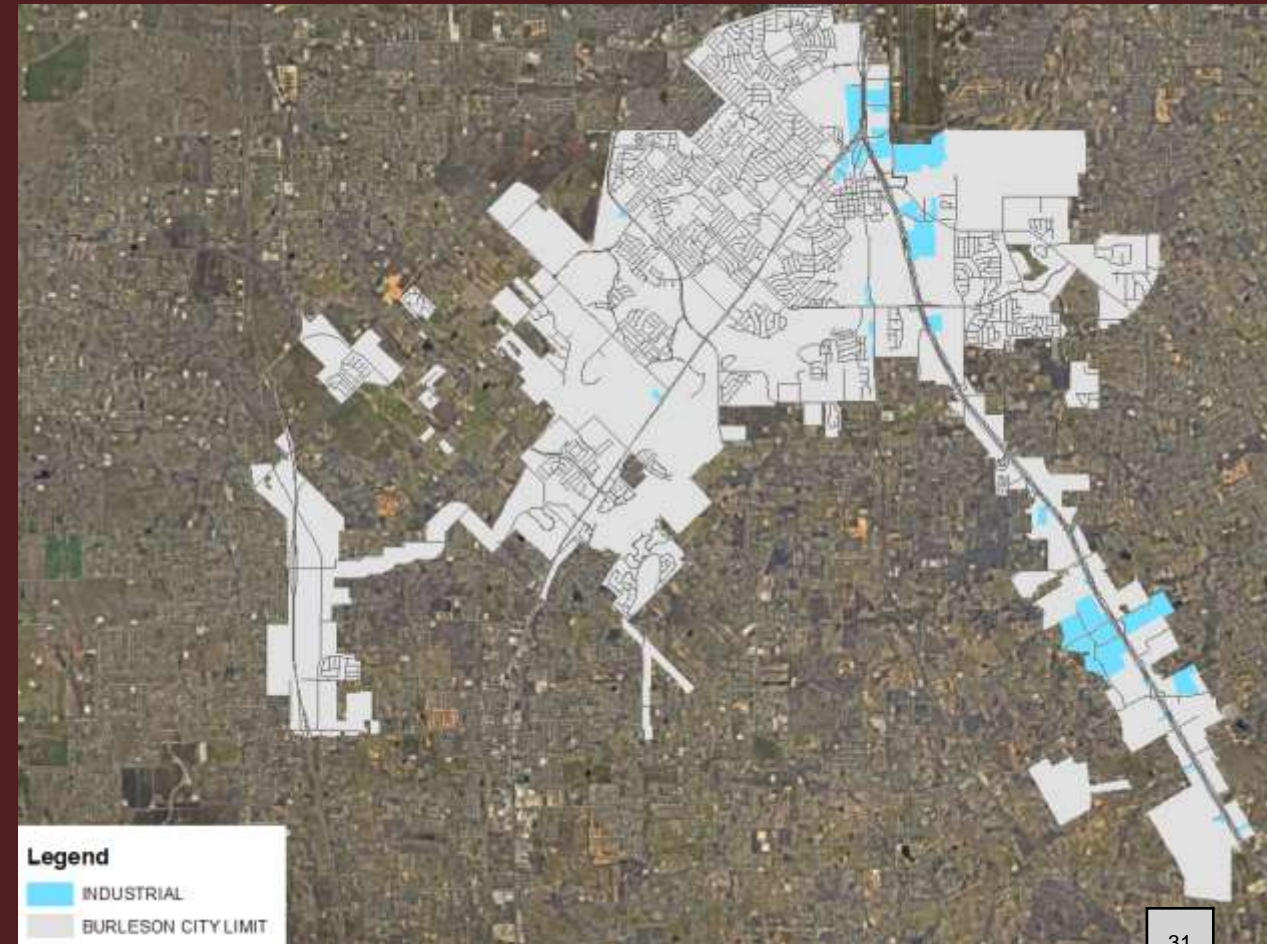
Background (Liquor/Package Stores)

- Current zoning ordinance does not address liquor/package stores therefore they are not an allowed use.
- The City Secretary's office is in receipt of a petition from a resident to gather signatures of support for a local option election in November. If successful, it would allow for the legal sale of all alcoholic beverages for off-premise consumption in Burleson. Staff has created an ordinance containing text amendments for alcohol-related uses (package stores).
- February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.



Zoning Districts (Liquor/Package Stores)

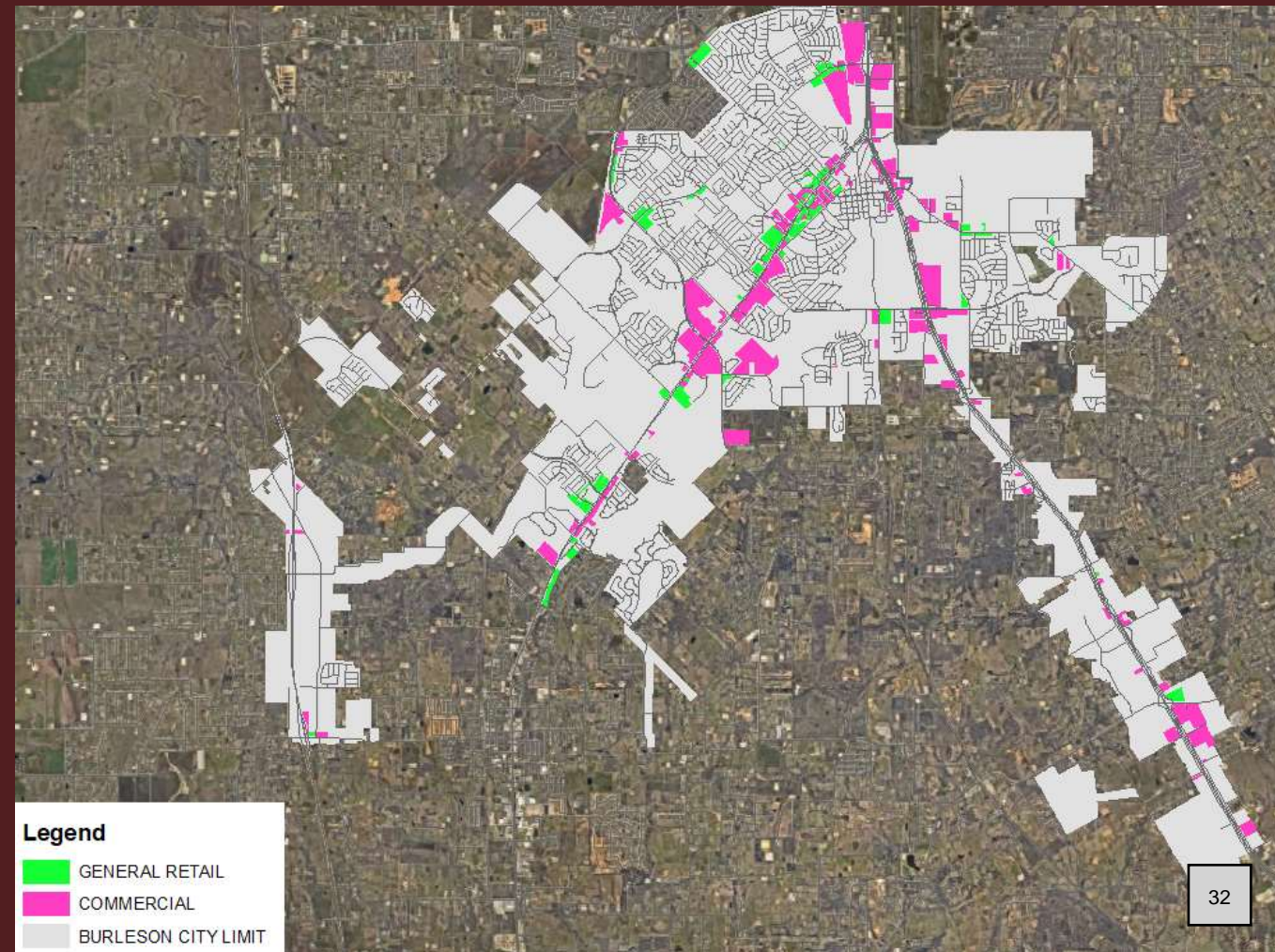
- The next several slides detail standards that the Planning staff is proposing:
- The land use would be classified as Liquor/Package Store in three zoning districts:
 - I – Industrial (By Right with Supplemental Standards)





Zoning Districts (Liquor/Package Stores)

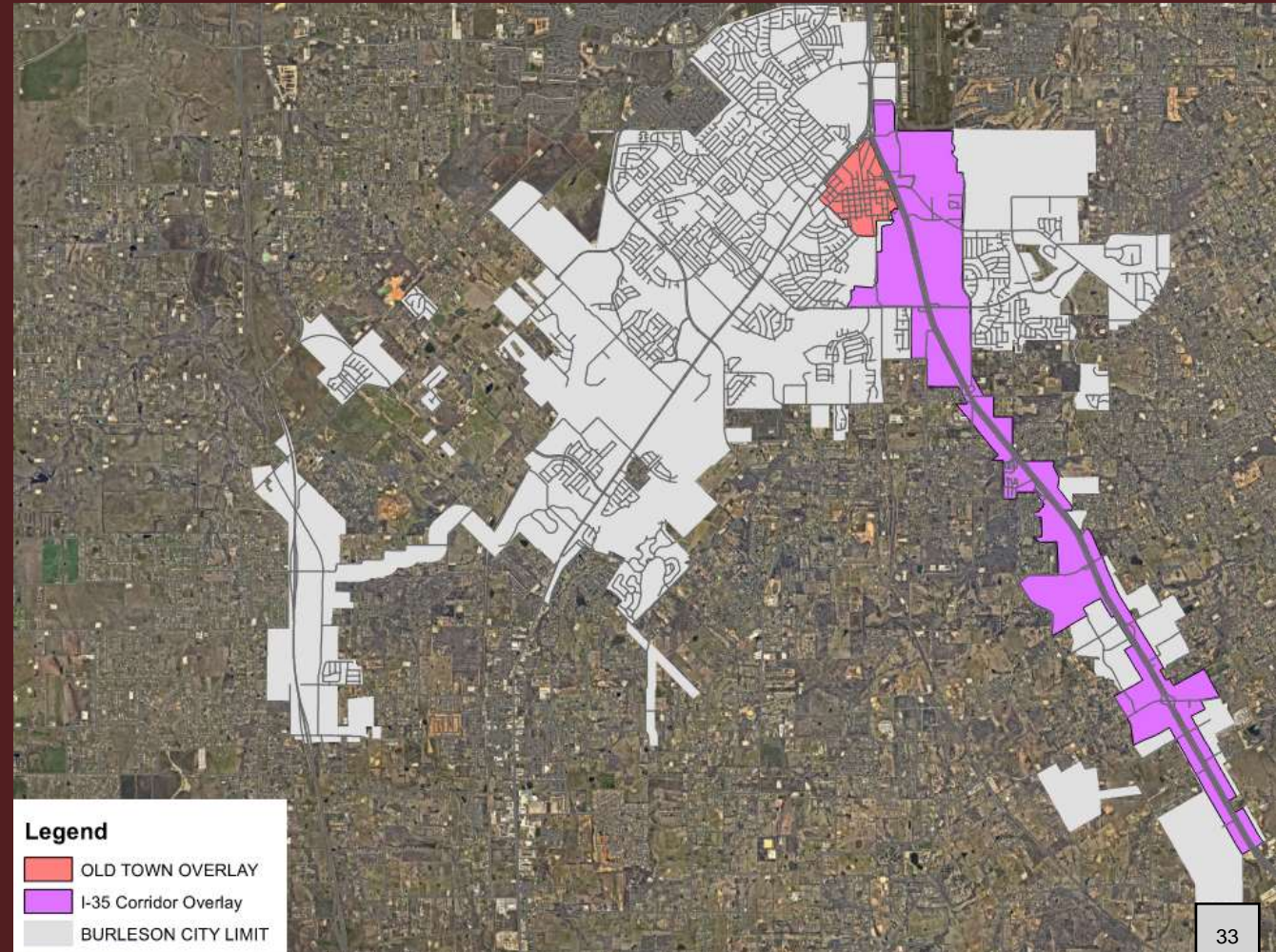
- Per Council's previous direction, staff has amended the text to provide Liquor/Package Stores in GR-General Retail and C-Commercial zoning districts per a specific use permit (SUP)





Supplemental Regulations

- Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage.



Supplemental Regulations Continued

- Minimum building size shall be 7,500 sq. ft. (requires fire sprinkling).

Aarons Rental
809 SW Wilshire
8,800 SF



RIO BRAVO
1940 SW Wilshire
7,300 SF



QUESTCARE
1571 SW
Wilshire 7,600 SF
(All Suites)



Supplemental Regulations Continued

- Per Council's direction, staff has provided text to provide that 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.





Supplemental Regulations Continued

- A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.





Supplemental Regulations Continued

- 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.



Supplemental Regulations Continued

- All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.



Supplemental Regulations Continued

- Increased landscaping between front façade and the parkway. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.
- NOTE: A variance can be requested from any supplemental standards.



Future Proofing

- This text amendment is meant to only serve as an update to the City's Zoning Ordinance.
- Liquor stores are not allowed unless a local option election passes.
- If a local option election is successful, any proposed establishment would still need to meet any and all applicable TABC regulations.



Questions



Public Hearing



Staff Recommendation

- Staff recommends making a final report and recommendation to City Council.



Staff Recommendation

- Staff recommends approval of the ordinance on first reading.

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 7,500 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 7,500 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 7,500 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

Special Planning and Zoning Commission Meeting

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: March 4, 2024

SUBJECT:

Consider making a final report and recommendation to the Burleson City Council regarding an ordinance making textual amendments to the City's zoning ordinance codified in Appendix B of the City of Burleson Code of Ordinances relating to liquor sales. (*Staff Contact: Tony D. McIlwain, Development Services Director*)

SUMMARY:

City staff previously provided the City Council and Planning and Zoning Commission a briefing on proposed text amendments to the city's Zoning Ordinance in anticipation of a voter referendum that would allow for liquor/package stores. The text amendments would allow package stores by-right in the 'I' Industrial zoning district, and per a specific use permit (SUP) in the 'C' Commercial and 'GR' General Retail zoning districts with certain supplemental standards. Staff has attached the proposed text amendments as Exhibit 2. It will be necessary for the Planning and Zoning Commission to provide a report and recommendation regarding the ordinance.

RECOMMENDATION:

Staff recommends the Planning and Zoning recommend approval of the ordinance.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

November 13, 2023: The City Council received a presentation on proposed updates to the Zoning Ordinance.

December 19, 2023: The Planning and Zoning Commission received a presentation on proposed updates to the Zoning Ordinance.

January 8, 2024: The City Council received a presentation on the proposed alcohol-related zoning text amendments in anticipation of a future, successful local option election.

February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.

REFERENCE:

Insert CSO# if applicable

Insert resolution or ordinance change

FISCAL IMPACT:

None

STAFF CONTACT:

Tony McIlwain
Development Services Director
tmcilwain@burlesontx.com
817-426-9684



Zoning Code Update

Joint City Council and Planning and Zoning Commission
Meeting: 3.04.24

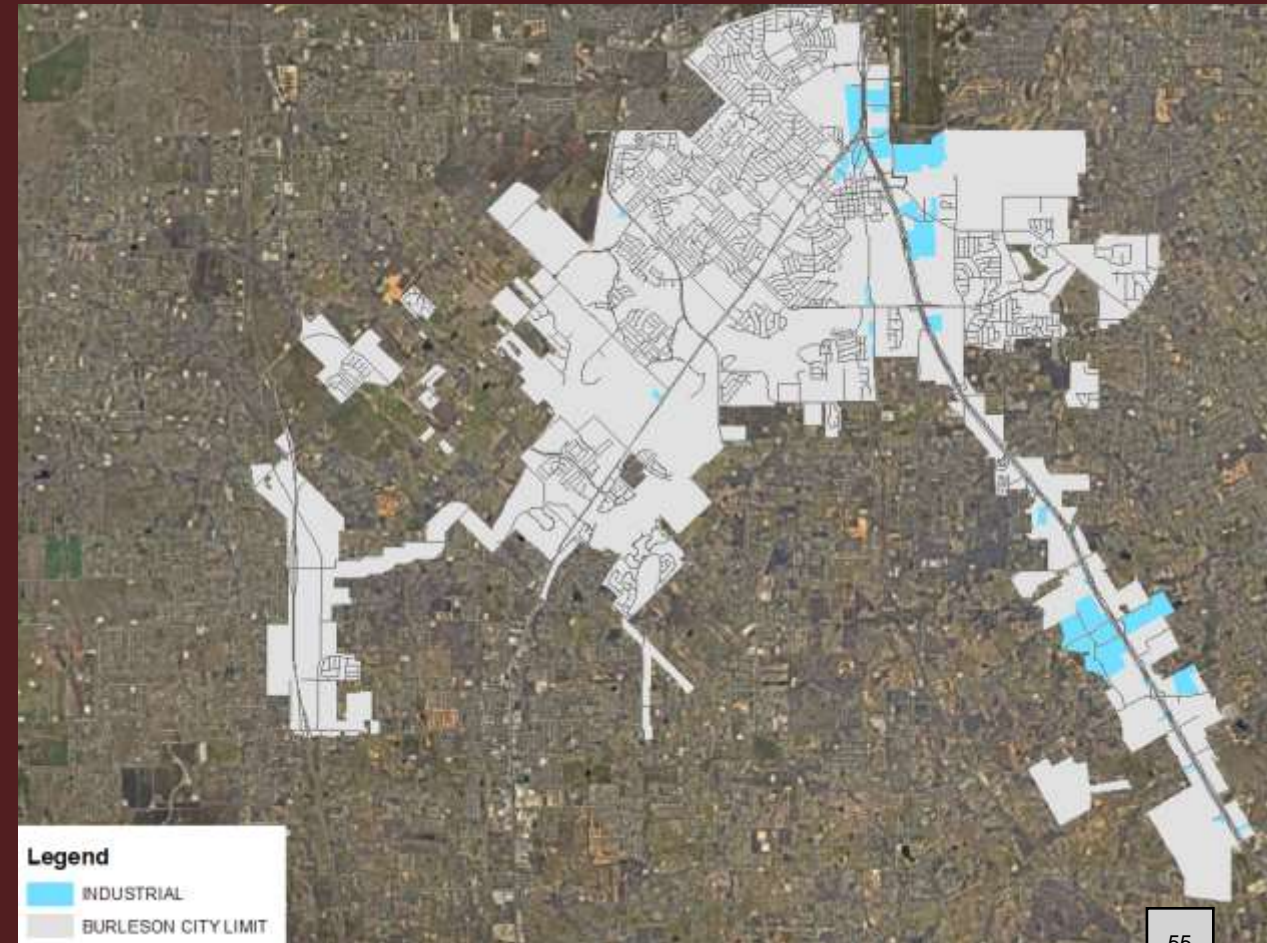
Background (Liquor/Package Stores)

- Current zoning ordinance does not address liquor/package stores therefore they are not an allowed use.
- The City Secretary's office is in receipt of a petition from a resident to gather signatures of support for a local option election in November. If successful, it would allow for the legal sale of all alcoholic beverages for off-premise consumption in Burleson. Staff has created an ordinance containing text amendments for alcohol-related uses (package stores).
- February 5, 2024: The City Council and Planning and Zoning Commission conducted separate meetings and approved resolutions setting a March 4th date for a joint public hearing and prescribed methods of notification.



Zoning Districts (Liquor/Package Stores)

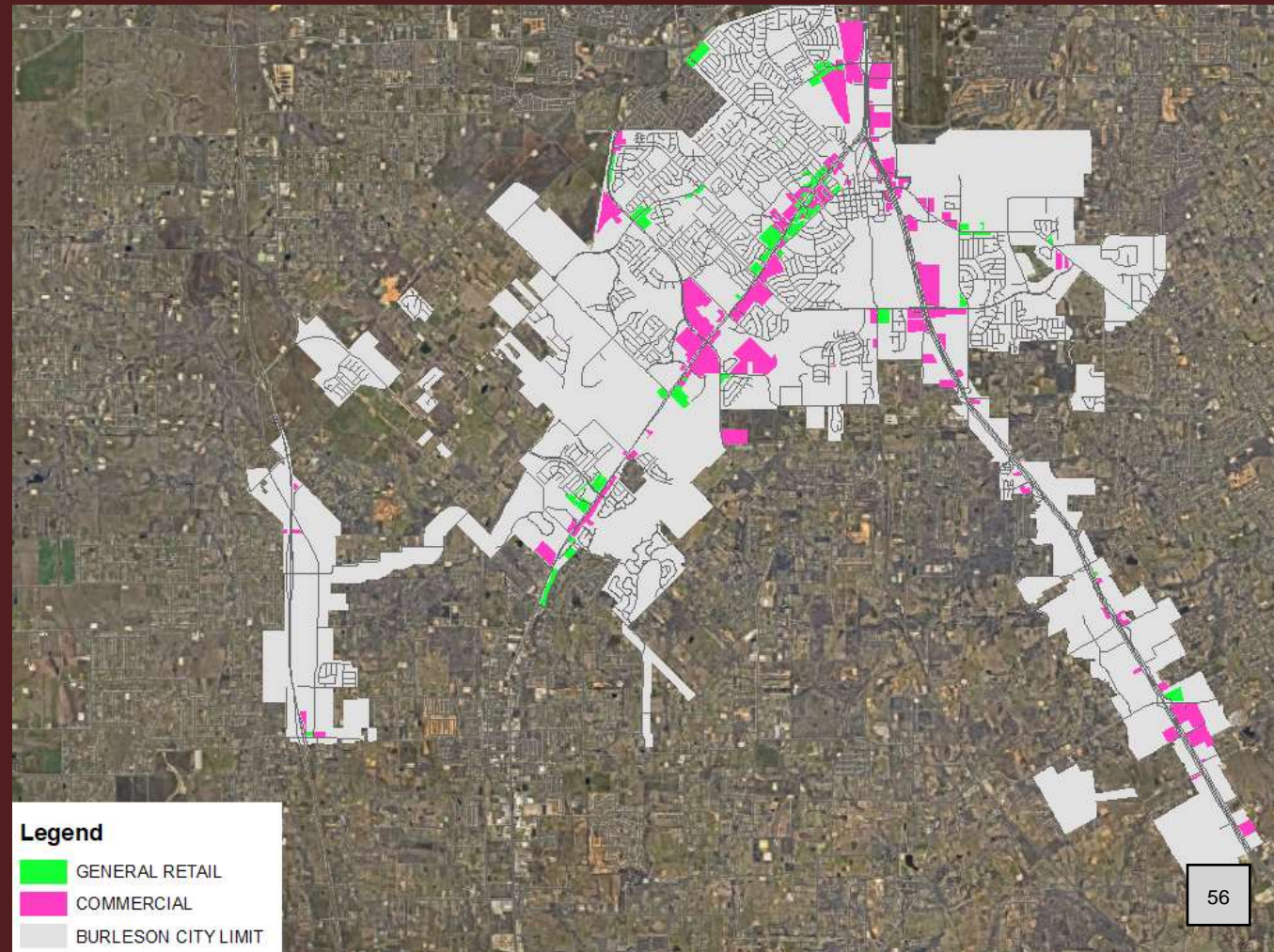
- The next several slides detail standards that the Planning staff is proposing:
- The land use would be classified as Liquor/Package Store in three zoning districts:
 - I – Industrial (By Right with Supplemental Standards)





Zoning Districts (Liquor/Package Stores)

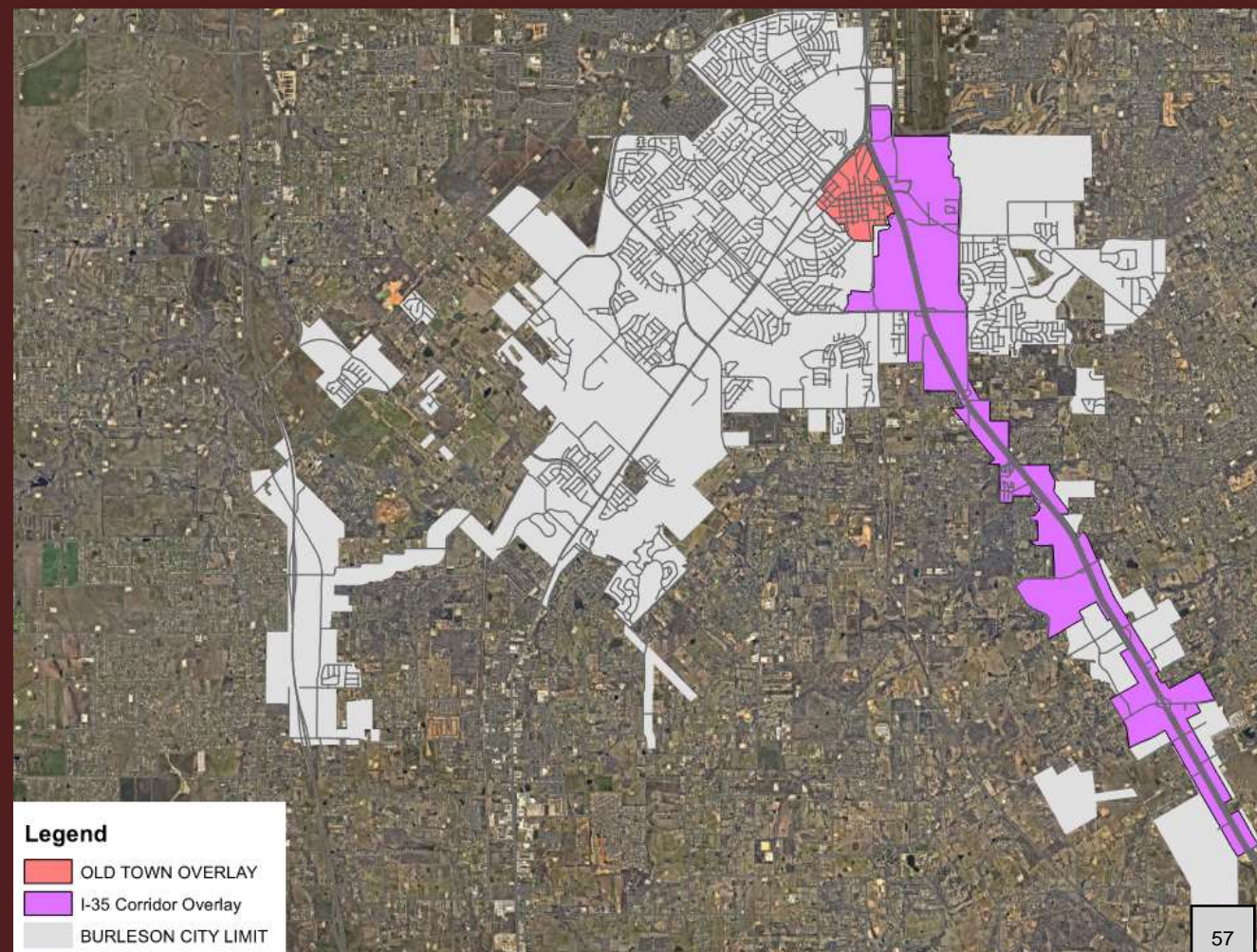
- Per Council's previous direction, staff has amended the text to provide Liquor/Package Stores in GR-General Retail and C-Commercial zoning districts per a specific use permit (SUP)





Supplemental Regulations

- Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage.





Supplemental Regulations Continued

- Minimum building size shall be 7,500 sq. ft. (requires fire sprinkling).

Aarons Rental
809 SW Wilshire
8,800 SF



RIO BRAVO
1940 SW Wilshire
7,300 SF



QUESTCARE
1571 SW
Wilshire 7,600 SF
(All Suites)



Supplemental Regulations Continued

- Per Council's direction, staff has provided text to provide that 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.





Supplemental Regulations Continued

- A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.





Supplemental Regulations Continued

- 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.



Supplemental Regulations Continued

- All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.



Supplemental Regulations Continued

- Increased landscaping between front façade and the parkway. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.
- NOTE: A variance can be requested from any supplemental standards.



Future Proofing

- This text amendment is meant to only serve as an update to the City's Zoning Ordinance.
- Liquor stores are not allowed unless a local option election passes.
- If a local option election is successful, any proposed establishment would still need to meet any and all applicable TABC regulations.



Questions



Public Hearing



Staff Recommendation

- Staff recommends making a final report and recommendation to City Council.



Staff Recommendation

- Staff recommends approval of the ordinance on first reading.

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 7,500 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 7,500 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 7,500 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