

CITY OF GUNTER
ORDINANCE NO. 2020-01-16-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNTER, TEXAS, AMENDING CHAPTER 4 "BUSINESS REGULATIONS", ARTICLE 4.04 "ALCOHOLIC BEVERAGES", SECTION 4.04.005 "SALE OF ALCOHOLIC BEVERAGES NEAR A CHURCH, SCHOOL OR PUBLIC SCHOOL" AND SECTION 4.04.007 "HARMONIZED WITH ZONING ORDINANCE", OF THE CODE OF ORDINANCES OF THE CITY OF GUNTER; TO ADD OR REVISE CERTAIN TERMS TO ALLOW THE CITY COUNCIL OF THE CITY OF GUNTER TO PROVIDE A WAIVER FOR THE SALE OF ALCOHOLIC BEVERAGES IN CERTAIN CIRCUMSTANCES, NEAR PUBLIC SCHOOLS, CHURCHES, AND HOSPITALS; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gunter ("City") is a Type A General Law Municipality located in Grayson County created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of Gunter ("City Council") adopted Chapter 4 of its Code of Ordinances, "Business Regulations", which sets forth various regulations affecting businesses within the City; and

WHEREAS, City has the authority under Texas Alcoholic Beverage Code §109.33(e) to allow for waivers, in certain circumstances, to the prohibition of sales of alcoholic beverages near public schools, churches, and hospitals; and

WHEREAS, City desires to provide for a waiver process, and provisions on said process, to allow for the sale of alcoholic beverages near public schools, churches, and hospitals; and

WHEREAS, the City Council has considered the proposed amendments and the appropriateness of the amendments; and

WHEREAS, the City Council finds that it will be in the best interest of the citizens of Gunter to amend Chapter 4, Section 4.04.005 "Sale of alcoholic beverages near a church, school or public hospital" and Section 4.04.007 "Harmonized with zoning ordinance" of the City of Gunter Code of Ordinances as set for below.

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

SECTION 1: Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2: Amendments.

2.1 Article 4 "Business Regulations" Section 4.04.005 "Sales of alcoholic beverages near a church, school or public hospital", subsection (e) is hereby amended by adding paragraph (3):

(3) A waiver granted under Section 4.04.007.

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2.2 Article 4 "Business Regulations" Section 4.04.007 "Harmonized with zoning ordinance" is hereby amended in its entirety to read as follows:

Section 4.04.007 Harmonized with zoning ordinance/waivers.

Notwithstanding any provision provided in this article, this section does not affect the provisions of Section 27.9 of the city zoning ordinance, as amended, however the distance requirements in Section 4.04.005 of this article and Section 27.9 of the city zoning ordinance may be reduced by application to the city council for a waiver of the distance requirements. The City Council may grant a waiver upon the determination of the city council that the distance requirements:

- (1) Are not in the best interest of the public;
- (2) Will not result in harm to the church, school or public hospital;
- (3) Constitute waste or inefficient use of land or other resources;
- (4) Create an undue hardship on an applicant for a license or permit;
- (5) Do not serve its intended purpose;
- (6) Are not effective or necessary; or
- (7) For any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

SECTION 3: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Gunter hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 4: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5: Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Five Hundred and No/100 Dollars (\$500.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Gunter from filing suit to enjoin the violation. Gunter retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 6: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law.

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GUNTER, TEXAS on the 16th day of January, 2020.

AYES 3
NAYS 0
ABSTENTIONS 0

Approved:

Mark Millar
Mark Millar, Mayor

Attest:

[Signature]
Detra Gaines, City Secretary



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