

ORDINANCE NO. 9-2010

AN ORDINANCE AMENDING CHAPTER 22 SECTION 22-2 OF THE CODE OF THE CITY OF ABILENE BY AMENDING THE SECTION AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, Chapter 22 Section 22-2(a) of the Abilene Code of Ordinances prohibits the possession of alcohol within any city park, and

WHEREAS, the Parks and Recreation Advisory Board recommends that the ordinance be amended to allow alcohol pursuant to a permit process for non-profit fundraising events at the Zoo,

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

- PART 1:** That Chapter 22, Section 22-2 of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 22nd day of April, 2010.


A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 18th day of April, 2010, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 13th day of May, 2010, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 13th day of May, 2010.

ATTEST:




CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

EXHIBIT A

Chapter 22, Section 22-2

Intoxicating beverages prohibited, confiscation; Zoo permit.

DELETE

(a) No person shall bring or carry or have in his possession within any public park in the city any intoxicating beverage.

(b) If any officer of the city or of the state sees any person violating the terms of this section, he shall immediately seize such intoxicating beverage and shall hold the same as evidence until the trial of the accused party, and shall thereafter dispose of such intoxicating beverage.

ADD

(a) No person shall bring or carry or have in his possession within any public park in the city any intoxicating beverage unless said person is in attendance at an invitation-only fund raising event at the Abilene Zoological Gardens within the perimeter fence or the Education Building only, during non-public hours, and the Parks and Recreation Board has approved a permit for the event.

(b) If any officer of the city or of the state sees any person violating the terms of subsection (a), he shall immediately seize such intoxicating beverage and shall hold the same as evidence until the trial of the accused party, and shall thereafter dispose of such intoxicating beverage.

(c) A permit for the sale of beer and wine only in accordance with subsection (a) may be granted by the Parks and Recreation Board if the following conditions are met:

1. Written notice of a request for permit to sell beer and wine only as part of a fund raising event shall be submitted by a non-profit organization not less than 90 days prior to the date that the event is to take place.
2. Organizations requesting said permit shall use the services of a caterer licensed by the Texas Alcoholic Beverage Commission to sell beer and wine subject to all applicable rules and requirements established by the Texas Alcoholic Beverage Commission.
3. Both the non-profit organization and the licensed caterer must insure that no beer or wine sold under the terms of the permit will be allowed outside the permitted area.
4. Security must be provided throughout the hours during which beer and wine may be sold. At a minimum, there must be at least one security person on site per 100 occupants in addition to the caterer's personnel. The Parks and Recreation Board may require additional security as a condition of permit issuance.
5. Hours of operation are limited to after 6:00 p.m. and in no event shall the sale of beer and wine occur between the hours of 12:01 a.m. and 5:30

a.m.. Further hourly restrictions as imposed by the Texas Alcoholic Beverage Commission must be observed, should they be more restrictive.

6. The applicant must agree to provide the types and terms of insurance as required by the City of Abilene's Legal and Risk Management Departments for the size and type of event being conducted. The required insurance shall name the City as additional insured and must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

7. The applicant must agree to abide by all applicable municipal codes and ordinances pertaining to the sale of alcohol including zoning, food service establishment, building or other codes. A permit from the Parks and Recreation Board for the purposes herein does not take the place of any other permits required under any other municipal code or ordinance, and the applicant must agree to secure the same prior to the event.

8. The Parks and Recreation Board may impose other conditions which it deems appropriate or prudent as it pertains to the sale of beer and wine at the Zoo.

9. Parks and Recreation Board may deny any permit for this activity if in its judgment the activity is inappropriate to the Zoo setting or may conflict with other events in the park.

10. The decision of the Parks and Recreation Board shall be final.