

**ORDINANCE NO. 61-2015**

**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, with an exception for the Abilene Zoological Gardens in specific instances by permit only, and

**WHEREAS**, the Parks and Recreation Board recommends that the ordinance be amended to provide for additional permitting to allow the possession of alcohol within specific restricted areas of Grover Nelson Park.

**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 3<sup>rd</sup> day of December, 2015.**

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 the 16<sup>th</sup> day of December, 2015, 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 17<sup>th</sup> day of December, 2015, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON SECOND AND FINAL READING this 17<sup>th</sup> day of December, 2015.**

ATTEST:



CITY SECRETARY



MAYOR



INTERIM CITY ATTORNEY

## EXHIBIT A

### Sec. 22-2. Intoxicating beverages prohibited; confiscation.

- (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 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) The prohibitions of section 22-2(a) shall not apply if a person is served an intoxicating beverage while in attendance at an event that is pre-approved and permitted by the City, and that is being held within the perimeter fence of the Abilene Zoological Gardens, or within the perimeter fence of Festival Gardens, at Grover Nelson Park.
- (d) A permit for the sale or service of intoxicating beverages only in accordance with subsection (c) may be granted by the City Manager or his designee if the following conditions are met:
  - (1) Written notice of a request for permit to sell or serve intoxicating beverages only as part of an event shall be submitted by the applicant not less than 30 days prior to the date that the event is to take place.
  - (2) Applicants requesting said permit shall use the services of a caterer licensed by the Texas Alcoholic Beverage Commission to sell or serve intoxicating beverages subject to all applicable rules and requirements established by the Texas Alcoholic Beverage Commission. The selected caterer must be on the Community Services approved concessionaire list.
  - (3) Both the Applicant and the licensed caterer must insure that no intoxicating beverage sold or served under the terms of the permit will be allowed outside the permitted area.
  - (4) Security must be provided throughout the hours during which intoxicating beverages may be sold or served. At a minimum, there must be at least one security person on site per 100 occupants in addition to the caterer's personnel. The City may require additional security as a condition of permit issuance.
  - (5) Hours of operation are limited to between 6:00 p.m. and 12:01 a.m. (midnight). The sale or service of intoxicating beverages may occur outside of the stated hours with the prior approval of the City. 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 or service of intoxicating beverages including zoning, food service establishment, building or other codes. A permit from the City 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 City may impose other conditions which it deems appropriate or prudent as it pertains to the sale or service of intoxicating beverages.

(9) The City Manager or his designee may deny any permit for this activity if in his judgment the activity is inappropriate to the park.

(10) In the event the City Manager or his designee denies a permit application, the applicant may appeal the decision to the Parks and Recreation Board by filing a written appeal with the City Manager within five (5) business days after the denial of the permit application is mailed to the applicant or personally delivered, whichever occurs first. If no appeal is filed within five (5) business days, the decision of the City Manager or his designee becomes final and unappealable. The written appeal should contain all information on which the Parks and Recreation Board can make a decision. The Parks and Recreation Board shall hear the appeal at its next regularly scheduled meeting following the filing of the appeal, subject to the Open Meetings Act provisions. The decision of the Parks and Recreation Board shall be final and unappealable.