

ORDINANCE NO. 13-2017

AN ORDINANCE AMENDING CHAPTER 20, OFFENSES, OF THE CODE OF THE CITY OF ABILENE BY ADDING ARTICLE VII, ALCOHOLIC BEVERAGES, AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, Chapter 20, Code of Ordinances, City of Abilene, designates offenses for certain prohibited activities which may occur within the city limits; and

WHEREAS, the Texas Alcoholic Beverage Code regulates the hours of sale and hours of consumption of alcohol beverages within the state of Texas; and

WHEREAS, the Texas Alcoholic Beverage Code, Chapter 105, provides that a incorporated city of less than 500,000 may extend the hours of sale and public consumption of mixed beverages, beer and wine within its city limits by ordinance; and

WHEREAS, the hours of sale and public consumption may be extended to 2:00 AM to a holder of a mixed beverages late hours permit, a holder of a retail dealer's on-premise late hours permit, and a holder of a private club late hours permit; and

WHEREAS, the City of Abilene City Council finds it in the public interest to extend the sale and public consumption of mixed beverages, wine and beer to 2:00 AM for such permit holders; and

WHEREAS, due to current staffing levels of the Abilene Police Department, delay of the effective date of this Ordinance until October 1, 2017 is recommended.

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

PART 1: That Chapter 20, Offenses, of the Code of Ordinances, City of Abilene, Texas, is hereby amended to add Article VII, Alcoholic Beverages, 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: 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 after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PART 4: This Ordinance, although it shall be published in the newspaper within 20 days from passage, shall be effective beginning October 1, 2017.

PASSED ON FIRST READING this 27th day of April, 2017.

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 7th day of May, 2017, 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 11th day of May, 2017, 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 11th day of May, 2017.

ATTEST:



CITY SECRETARY



MAYOR



CITY ATTORNEY

EXHIBIT A

Chapter 20: OFFENSES

ARTICLE VII: ALCOHOLIC BEVERAGES

Sec. 20-79. Extended hours of consumption, possession and sale.

(a) In an extended hours area, it shall be unlawful for any person within the corporate limits of the City to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage for the purpose of consuming the same in such public place at any time on Sundays between the hours of 2:15 a.m. and 12:00 noon, and on all other days at any time between the hours of 2:15 a.m. and 7:00 a.m. An alcoholic beverage served to a customer between 10:00 a.m. and 12:00 noon on Sundays must be provided during the service of food to the customer.

(b) The extended hours prescribed in Texas Alcoholic Beverage Code §105.03(c) are adopted in the city, and such extended hours are effective for the sale and the offer to sell mixed alcoholic beverages by a holder of a mixed beverages late hours permit.

(c) The extended hours prescribed in Texas Alcoholic Beverage Code §105.05(c) are adopted in the city, and such extended hours are effective for the sale, offer to sell and delivery of beer by a holder of a retail dealer's on-premises late hours license.

(d) It shall be unlawful for any person who holds a retail dealer's on-premises late hours license or mixed beverages late hours permit issued under the provisions of the Texas Alcoholic Beverage Code to sell any alcoholic beverage or offer the same for sale:

- (1) On Sunday at any time between the hours of 2:00 a.m. and 12:00 noon.
- (2) On any day except Sunday at any time between the hours of 2:00 a.m. and 7:00 a.m.

(e) It shall be unlawful for any person who does not hold a retail dealer's on-premises late hours license or a mixed beverages late hours permit issued under the provisions of the Texas Alcoholic Beverage Code to sell any alcoholic beverage or offer the same for sale:

- (1) On Sunday at any time between the hours of 1:00 a.m. and 12:00 noon.
- (2) On any day except Sunday at any time between the hours of 12:00 midnight and 7:00 a.m.

(f) Private clubs located within the City holding a private club late hours permit issued by the provisions of the Texas Alcoholic Beverage Code may permit persons to consume or be served alcoholic beverages on club Premises on Sundays between the hours of 1:00 a.m. and 2:00 a.m. and on any day except Sunday between the hours of 12:00 midnight and 2:00 a.m.

(g) Violation of the above restrictions is punishable as a violation of the Texas Alcoholic Beverage Code.

State Law reference— Hours of sale, etc., V.T.C.A., Alcoholic Beverage Code §§ 105.03, 105.04, 105.05; hours of consumption, V.T.C.A. Alcoholic Beverage Code § 105.06.