

ORDINANCE NO. 17-2001

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, "Zoning," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 12 day of July A.D. 2001.

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 1 day of July, 2001, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 9:00 a.m., on the 26 day of July, 2001, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 20 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 26 day of July, A.D. 2001.

ATTEST:

Op. Moore
CITY SECRETARY

Grady Barr
MAYOR

APPROVED:

Sharon L. Hoke
CITY ATTORNEY

EXHIBIT "A"

AMEND AS FOLLOWS:

1. Section 23-306.4 PERMITTED USES
 Trade-Wholesale

Replace: "Liquor Store Off-Premise Consumption (unrestricted)" with "Liquor, Wholesale/Distribution"

2. Section 23-306.5 CONDITIONAL USE PROVISIONS
 H. Retail-Trade

Replace: (13), (14) and (15) with:

“(13) Liquor Store On-Premise Consumption (LS-On)

- (a) All structures housing a liquor store on-premise consumption must be located at least three hundred (300) feet from any lot in a residential district or in a College-University district or any lot used primarily for church, school or hospital purposes. Except as provided in paragraphs (b), (c) and (e), said distance shall be measured in a straight line in all directions from the structure housing the liquor store to the nearest point of any lot described above. Measurements shall be taken from the furthest point that a structure extends in any direction, including overhanging roofs and all other projections or portions of said structure.
- (b) Should the liquor store be located in conjunction with other buildings in a manner where said liquor store is clearly separated from other portions of the structure (for example, a liquor store in a shopping center or motel) the measurement shall be taken from the boundaries of the space in which the liquor store is housed or confined (not the entire shopping center, motel, or structure).
- (c) Should the liquor store be located in conjunction with other buildings in a manner where said liquor store is situated above the ground level of a multi-story structure and is clearly separate from other activities within the structure (for example, a liquor store on an upper level of an office tower or hotel), the measurement shall be taken from the nearest entry of the liquor store, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line to the nearest point of any lot described above.

- (d) Each applicant for a liquor store must submit a site plan setting out the dimensions and locations for such liquor store. The applicant shall sign a certified and notarized statement attached to the site plan that the proposed liquor store complies with the requirements set forth herein above. It shall be the duty of the applicant to prepare the site plan and to assure compliance with the distance requirements.

- (e) A liquor store on-premise consumption that but for the sale of alcohol may be classified as a standard restaurant shall not be subject to the separation requirements of this subsection pertaining to residential or College-University districts, churches or hospitals if it meets the following conditions:
 - (1) The restaurant shall hold a valid Food and Beverage Certificate from the Texas Alcoholic Beverage Commission and said certificate is prominently displayed. If a requirement for obtaining said certificate shall differ from any other condition of this paragraph (e), then the more restrictive requirement or condition shall apply;
 - (2) Alcohol sales constitute no more than fifty percent (50%) of the gross receipts of the premises;
 - (3) The restaurant shall include a full-service kitchen offering a minimum of eight entrees;
 - (4) The restaurant shall offer the entrees for sale at all times that alcohol is offered for sale;
 - (5) The restaurant shall not display in a manner visible from outside the structure any signage depicting the name of any alcohol beverage manufacturer or brand name, nor any reference to a type of alcoholic beverage, including but not limited to beer, wine, spirits, alcohol, liquor and whiskey. Provided, that any such name or reference that is integral to a food specialty prepared at the restaurant may be depicted;
 - (6) The restaurant shall meet the performance standards enumerated in Section 23-316; and
 - (7) The restaurant meets all other provisions of this ordinance.

(14) Liquor Store Off-Premise Consumption Unrestricted (LS-OffU)

All structures housing a liquor store off-premise consumption unrestricted shall meet all of the requirements prescribed for a liquor store on-premise consumption except that it need not be separated from a lot in a residential district.

(15) Liquor Store Off-Premise Consumption Beer and/or Wine (LS-OffBW)

All structures housing a liquor store off-premise consumption beer and/or wine shall meet all of the requirements prescribed for a liquor store off-premise consumption unrestricted except that it need not be separated from a lot used for hospital purposes."

Liquor Stores: Separation Requirements					
	Must be located at least 300 feet from any lot...				
	in a Residential district	in a College-University district	used primarily for		
			Church	School	Hospital
LS-On	X	X	X	X	X
LS-OffU		X	X	X	X
LS-OffBW		X	X	X	
LS-OffManf See 23-306.5.L(3)		X	X	X	X

3. Section 23-306.5 **CONDITIONAL USE PROVISIONS**

I. Wholesale Trade

Replace: (2) "Liquor Store, Off Premise Consumption (unrestricted)" with:

"(2) Liquor, Wholesale/Distribution

- (a) If located within 300 feet of any lot used primarily for church or school purposes, the facility shall not display in a manner visible from outside a structure any signage depicting the name of any alcohol beverage manufacturer or brand name, nor any reference to a type of alcoholic beverage, including but not limited to beer, wine, spirits, alcohol, liquor and whiskey.
- (b) No on-premise consumption shall be permitted unless the facility meets all separation requirements for liquor store on-premise consumption."

Section 23-306.5 CONDITIONAL USE PROVISIONS
L. Manufacturing

Replace: (3) "Liquor Store" with:

"(3) Liquor Store (LS-OffManf)

All structures housing a liquor store off-premise consumption manufacturer shall meet all of the requirements prescribed for a liquor store off-premise consumption unrestricted. See Section 23-306.5.H(14)."

4. Section 23-363 DEFINITIONS

Replace: "Liquor Stores" with:

"Liquor Stores

Any entity selling alcohol or required to be licensed by the Texas Alcoholic Beverage Commission, and which may be classified as one of the following:

1. *Liquor Store On-Premise Consumption* means an establishment selling alcohol for, or having a license permitting, any consumption of alcohol at or on the premises.
2. *Liquor Store Off-Premise Consumption Unrestricted* means an establishment conducting, or having a license permitting, retail sales of all types of alcohol but prohibiting any consumption of alcohol on or at the premises.
3. *Liquor Store Off-Premises Consumption Beer and/or Wine* means an establishment conducting, or having a license restricting, the retail sale of alcohol to beer and/or wine but prohibiting any consumption of alcohol on or at the premises.
4. *Liquor Store Off-Premises Consumption Manufacturer* means an establishment conducting, or having a license allowing, the manufacturing of alcohol."

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