

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 011-007

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING APPENDIX A – ZONING THEREOF, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE XX (SPECIAL USES), SECTION 1, SUBSECTION A.(27) THEREOF, BY ADDING TO SUCH SUBSECTION ADDITIONAL ZONING DISTRICTS (BEING THE URBAN CENTER DISTRICT, AND ANY PLANNED DEVELOPMENT DISTRICT WHERE THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION IS ALLOWED) IN WHICH THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION MAY BE ALLOWED UPON THE ADOPTION OF AN ORDINANCE AUTHORIZING THE SAME; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the comprehensive Zoning Ordinance (the “Zoning Ordinance”) of the Town of Addison, Texas (the “City”), was adopted and made effective on October 13, 1964 pursuant to Ordinance No. 66 of the City, and with the subsequent codification of the ordinances of the City was thereafter included as (and is currently found in) Appendix A – Zoning to the City’s Code of Ordinances (the “Code”); and

WHEREAS, the Zoning Ordinance, as adopted by the said Ordinance No. 66, included a provision allowing certain uses, if at all, in certain zoning districts and only by the adoption of an ordinance authorizing such uses, such uses being referred to as “special uses”; and

WHEREAS, the provision in the Zoning Ordinance regarding special uses was continued as a part of the codification of the ordinances of the City with the inclusion of the Zoning Ordinance as Appendix A – Zoning to the Code; and

WHEREAS, by Ordinance No. 253 of the City, passed by the City Council on March 23, 1976, the Zoning Ordinance was amended to add certain special uses allowed, if at all, in certain zoning districts and only by the adoption of an ordinance, with one of such additional special uses being the “Sale of beer and wine for off-premises consumption only in any ‘LR’ Local Retail District” (the “Beer and Wine Special Use Provision”); and

WHEREAS, the Beer and Wine Special Use Provision has been continued in effect without amendment since the adoption of the said Ordinance No. 253 and remains a part of the Zoning Ordinance; and

WHEREAS, in 1987 the Texas Legislature added Section 109.57 to the Texas Alcoholic Beverage Code, which Section, as amended, provides in part that (i) an ordinance promulgated

by a governmental entity of the state may not impose stricter standards on premises or businesses required to have a license or permit under the Alcoholic Beverage Code than are imposed on similar premises or businesses that are not required to have such a license or permit, (ii) the Alcoholic Beverage Code exclusively governs the regulation of alcoholic beverages in the state and, except as permitted by the Alcoholic Beverage Code, a governmental entity of this state may not discriminate against a business holding a license or permit under the Alcoholic Beverage Code, and (iii) neither Section 109.57 nor Section 1.06 of the Alcoholic Beverage Code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee; and

WHEREAS, the City Council desires by the adoption of this Ordinance to amend the Beer and Wine Special Use Provision, a zoning regulation formally enacted by the City prior to the adoption of Section 109.57 of the Alcoholic Beverage Code, by the addition of certain zoning districts in which the sale of beer and wine for off-premises consumption may be authorized upon the adoption of an ordinance, and such amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee as set forth in Section 109.57(c) of the Alcoholic Beverage Code; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending the Zoning Ordinance as set forth herein and as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the amendment to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council and all other relevant information and materials received by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, 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. Amendment. The Code of Ordinances of the Town of Addison, Texas is hereby amended by amending Appendix A – Zoning, the same being the City’s comprehensive Zoning Ordinance, by amending Article XX, Special Uses thereof to read as follows (additions are underlined; deletions are ~~struck-through~~):

ARTICLE XX. SPECIAL USES

Section 1. Special uses in specified districts.

A. The city council may, after public hearing and proper notice to all parties affected, and, after recommendation from the planning and zoning commission containing such requirements and safeguards as are necessary to protect adjoining property, authorize by ordinance the location of any of the following in the following specified districts:

- (1) Any public building to be erected or used by the town, county, state or federal government in any district.
- (2) Private schools, kindergartens and nurseries teaching the same subjects as public elementary and high schools in any district, provided the building or buildings are set back from all required yard lines in the district in which they are to be located two feet for each foot of building height and provided off-street parking facilities are provided. For schools and kindergartens, a minimum building area of 30 square feet per pupil and minimum site area of 200 square feet per pupil shall be provided, in any district.
- (3) Institutions of a religious, educational or philanthropic nature in any district.
- (4) Portable school building in the R-1, R-2 and R-3 districts.*
- (5) Airport or landing field or airport facilities in any district.
- (6) Day nurseries keeping more than four children in any district.
- (7) Dog kennels and veterinarian hospitals in the commercial district or on sites of five acres or more, in any district.
- (8) Reserved.
- (9) Riding academy or public stable on sites of five acres or more in any district.
- (10) Hotel and motel.
- (11) Any installation of public utility, either privately or publicly owned, fire stations, public museums, public libraries, water supply reservoir, water pumping plant, water tower, artisan wells, or sewage lift stations in any district.
- (12) Gas and electrical public utility regulating stations in any district.
- (13) Hospitals, children's homes, convalescent homes, old people's homes, maternity homes, in any district.

- (14) Homes for the insane, alcoholics, feeble-minded, and narcotics in the commercial-1 and commercial-2 district or in any district where a site of 20 acres or more is provided.
- (15) Lodges, fraternity and sorority houses, boardinghouses, roominghouses in the "A" district.
- (16) Private clubs and community buildings in an apartment district or on a site of three acres or more in any district.
- (17) Drive-in theaters in the local retail district or on sites of ten acres or more in any district.
- (18) Greenhouses and nurseries in any district.
- (18a) Lots and/or business operating the sale of Christmas trees between the dates of November 15 and December 26 in any district.
- (19) Dance halls, when located in the commercial-1 and commercial-2 district or on sites of ten acres or more in any district.
- (20) Trailer parks in the commercial-1 and commercial-2 district or on sites of 20 acres or more in any district.
- (21) Rock quarries, sand, gravel, and earth excavations in any district.
- (22) Dental and medical offices and clinics in the apartment district.
- (23) Railway right-of-way and tracks, railway passenger station but not including railroad yards, team tracks or storage yards in any district.
- (24) Golf course, but not including miniature golf course, driving range or any forms of commercial amusement in any district.
- (25) Farm, truck garden, orchard or nursery and greenhouse for the growing of plants, shrubs and trees, provided no retail or wholesale business is maintained on the premises and provided further that no poultry or livestock, other than normal household pets, shall be housed within 100 feet of any property line in any district.
- (26) Sale of alcoholic beverages for off-premises consumption only in any local retail district.
- (27) Sale of beer and wine for off-premises consumption only in any local retail district, in any urban center district, or in any planned development district wherein the sale of beer and wine for off-premises consumption is specifically allowed in the ordinance establishing such planned development.

- (28) Sale of alcoholic beverages for on-premises consumption only in any local retail district or in any planned development district wherein the sale of alcoholic beverages for on-premises consumption is specifically allowed in the ordinance establishing such planned development.
- (29) Private clubs where alcoholic beverages may be served in any local retail district.
- (30) Restaurants without drive-in service (service to be entirely within the building); and restaurants with drive-in facilities, provided that no food or drink may be served to vehicles parked on the public street in any district.
- (31) Arcade, billiard parlor, or bowling alley, which shall be permitted only in a local retail district or in a planned development district where such use is specifically allowed in the article establishing the planned development.
- (32) Self-service storage facilities, only in commercial-1, commercial-2, industrial-1, industrial-2 and industrial-3 districts.
- (33) Gasoline service stations and/or convenience stores in any district.
- (34) Movie picture theater in any district.
- (35) Reserved.
- (36) Brewpub, to be permitted only in local retail districts and in any planned development district wherein the use is specifically allowed in the article establishing such planned development.
- (37) Retail, wholesale, or retail and wholesale businesses in excess of 50,000 square feet in floor area.
- (38) Wind energy systems in any district.

*If authorized, a special use permit for a portable school building and any ordinance authorizing the same shall be subject to review and re-consideration at least every 18 months following the date of such authorization.

Section 3. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 4. No Other Amendment; Savings. Except for the amendment and change made herein, Appendix A - Zoning of the City's Code of Ordinances is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions


of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 5. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 11th day of January, 2011.



Joe Chow, Mayor

ATTEST:

By: 

Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney