

ORDINANCE NO. 15-01-8

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWATER, TEXAS, PURSUANT TO THE REGULATIONS IN THE TEXAS ALCOHOLIC BEVERAGE CODE (TABC), ESTABLISHING REGULATIONS FOR THE PURPOSE OF THE SELLING OF ALCOHOLIC BEVERAGES WITHIN THE CITY; PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES IN RESIDENTIAL AREAS; ESTABLISHING PERMITS AND APPLICATION FEES FOR THE PROCESSING OF PERMITS TO APPLICANTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City staff is recommending the creation of rules and regulations relating to the sale of alcohol within the city limits of the City of Redwater; and

WHEREAS, an election was held on November 3, 2015, wherein the citizens of the City of Redwater voted favorably for "The Legal Sale of Beer and Wine for Off-Premise Consumption Only"; and

WHEREAS, election results have been canvassed and the results declared official, with the measure passing favorably; and

WHEREAS, section 109.32 of the Texas Alcoholic Beverage Code authorizes the City of Redwater, Texas, by ordinance to prohibit the sale of alcoholic beverages in residential areas; and

WHEREAS, Section 11.38 of the Texas Alcoholic Beverage Code authorizes a city to levy and collect a fee not to exceed one-half of the state fee for each permit issued for premises located within the city; and

WHEREAS, the City Council of the City of Redwater, Texas, have determined that the following regulations are necessary in order to protect public health, safety and welfare; and

WHEREAS, the City Council hereby finds that the creation of rules and regulations relating to the sale of alcohol within the city limits of the City of Redwater, Texas, is in the best interest of the citizens of the City of Redwater, Texas; and

WHEREAS, the City Council finds and declares that the meeting at which this ordinance is considered is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas, Government Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REDWATER, TEXAS, AS FOLLOWS:

SECTION 1

That the recitals set forth above are hereby found by the City Council to be true and correct, and are incorporated by reference herein and expressly made a part hereof as if copied verbatim.

SECTION 2: DEFINITIONS

Alcoholic beverage: Alcohol or any beverage containing more than one half of one percent of alcohol by volume which is capable of use for beverage purposes either alone or when diluted.

City: The City of Redwater, Texas

Dealer: As that term is used in Section 109.33 of the Texas Alcoholic Beverage Code to sell an alcoholic beverage and shall include PERSON as that term is defined herein.

Off-Premise Consumption: The sale of sealed alcoholic beverages by an establishment permitted herein for the sale of consumption off premise.

Permittee: A person who is the holder of a permit provided for in this ordinance, or an agent, servant, or employee of that person.

Person: A natural person or association of natural persons, trustee, receiver, partnership, corporation, organization of the manager, agent, servant, or employee of any of the aforementioned.

Premises: the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

Residential District: any of the following zoning districts under the City of Redwater Zoning Ordinance: "R1" and "R2".

Wine and Beer Retailers Off Premise Permit: a permit issued by the Texas Alcoholic Beverage Commission authorizing the sale of wine, beer, and malt liquors pursuant to Chapter 26 of the Alcoholic Beverage Code.

SECTION 3: AREA(S) WHERE SALE OF ALCOHOL PROHIBITED

It shall be unlawful for any person or dealer to sell alcoholic beverages from a lot zoned in a Residential District, regardless of whether or not the lot or tract is used as a residence.

SECTION 4: SIGNAGE

No person may erect or maintain a billboard, electric sign, or any outdoor advertising in violation of any ordinance of the City of Redwater, Texas.

SECTION 5: PERMIT FEE

- (a) The City shall levy and collect a fee equal to one-half the state fee for each permit issued for premises located within the City, as authorized by the Texas Alcoholic Beverage Code, §11.38
- (b) All payments shall be made to the City along with the submission of the Application for Wine and Beer Retailers Off Premise Permit.

SECTION 6: HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES

Hours for the sale of alcoholic beverages shall be the same as the Texas Alcoholic Beverage Code "standard hours" as set out in §109.32(a)(2), §105.04, and §105.05.

SECTION 7: CERTIFICATION BY CITY SECRETARY

- (a) The City Secretary shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by ordinance. §61.37(b), TABC
- (b) The application presented for certification must have the signature of the State Comptroller.

SECTION 8: PERMITTED USES

The sale of alcoholic beverages for off-premise consumption shall only be permitted by neighborhood convenience centers that derive fifteen percent or more of its gross revenue from the sale of non-alcoholic products and products not subject to motor fuel tax.

SECTION 9: PENALTY FOR VIOLATION

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon final conviction thereof shall be fined an amount not to exceed the limit established by the state statute.

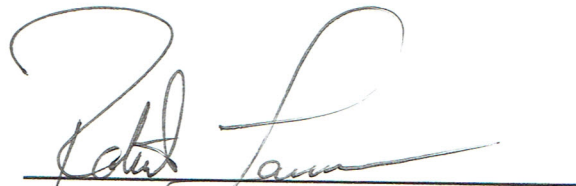
SECTION 10: SEVERABILITY

If any section, provision, subsection, paragraph, sentence, clause, phrase, or word in this ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Redwater, Texas, hereby declares it would have enacted such remaining portions, despite such invalidity.

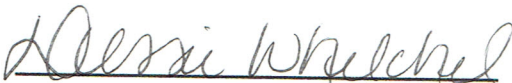
SECTION 11: EFFECTIVE DATE

This ordinance shall be in full force and effect after the date of adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF REDWATER, TEXAS, ON THIS DAY THE
7 OF DECEMBER, 2015.


Robert Lorange, Mayor

ATTEST:


Dessie Whelchel, City Secretary, TRMC

