

ORDINANCE NO. 2257

AN ORDINANCE AMENDING THE CITY OF PORTLAND’S UNIFIED DEVELOPMENT ORDINANCE BY ADDING *LEISURE AND ENTERTAINMENT DISTRICT REGULATIONS* AND RELATED DEFINITIONS; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY AND SPECIFICALLY NEGATING A REQUIREMENT OF A CULPABLE MENTAL STATE; PROVIDING AND ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION IN THE CITY OF PORTLAND, TX.

WHEREAS the City desires to establish regulations for the Leisure and Entertainment District; and,

WHEREAS the Planning and Zoning Commission has conducted a Public Hearing according to law; and,

WHEREAS the City Council has conducted a Public Hearing according to law and determined that the request meets the criteria for approval established by the Unified Development Ordinance.

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

SECTION 1.

Section 406. Permitted Use Table., Chapter 4, Appendix A of the Code of Ordinances is hereby amended to read as follows:

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8DR	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
RESIDENTIAL															
Single-Family Dwelling	P	P	P	P	P				P	P	P				
Two-Family Dwelling					P				SP	SP	SP				
Townhouse						P			P	P	P				
Caretaker Quarters											P				
Manufactured Home							P				SP				
Home Occupation Type 1	P	P	P	P			P	SP	P	P	P	SP			
Home Occupation Type 2							SP		SP	SP	P	SP			
Multifamily Dwelling								P		SP	SP				
Assisted Living Facility	SP	SP	SP	SP	SP	SP		P	SP	SP	P	P	SP	P	
Nursing/Convalescent Home								P	SP	SP	P	P	SP	P	
Community Home	P	P	P	P	P	P	P	P	P	P	P	SP	SP	SP	
Group Home	SP	SP	SP	SP	SP	SP		SP	SP	SP	P	SP	SP	SP	
INSTITUTIONAL/CIVIC/UTILITY															
Agriculture, Farming, Ranching	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Airport, Landing Strip, Helipad, Heliport									SP			SP	SP	SP	
Cemetery									P					P	
Civic Organization, Private								SP	SP	SP	P	P	SP	P	
Municipal Office or Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Hospital								SP	SP		P	P	SP	P	
Medical Clinic or Medical Office									SP		P	P	P	P	
Recycling Center															P
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
School, Elementary or Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
School, College or Vocational	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	P	P	P	P	P
Telecommunication Tower, Commercial	<u>SP</u>											SP	SP	SP	SP
Wind Turbine															
Telecommunication Tower, Governmental	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electric Utility Substation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Water/Wastewater Treatment Facility											SP	SP	SP	SP	P
ENTERTAINMENT/RECREATION															
Adult Entertainment															SP
Amusement Redemption Machine Establishment											P				P
Arena, Stadium, Auditorium														SP	P
Dance Hall, Private Club									SP		SP		SP	SP	
Bowling Alley											P	SP	P	P	
Community Center or Recreation Facility, Private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	P		SP		
Entertainment, Indoor									SP		P	SP	P	P	SP
Entertainment, Outdoor, Temporary, Commercial, Recreation or Amusement									SP	SP	SP	SP	SP	SP	SP
Golf Course, Country Club	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Gun Range, Indoor or Outdoor											SP			SP	P
Park, Recreation Area, Water Supply	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Recreation Vehicle Park									SP	SP	SP				
Stable, Riding									SP		SP				
Theater											P	SP	P	P	
OVERNIGHT ACCOMMODATIONS															
Bed and Breakfast					SP	SP		SP	SP		P				
Boarding House								SP	SP		P				
Hotel, Motel, Inn									SP	SP	SP	SP	SP	SP	
Short Term Rental									SP		P				
COMMERCIAL/RETAIL															
Bank											P	P	P	P	
Brewery, Winery, Brewpub, or Distillery											<u>SP</u>				
Convenience Store									SP		P	P	P	P	P
Contractor's Professional Office											P			P	P
Day Care (5 or more)									SP		P	P			
Farm Equipment Sales														P	P
Flea Market											SP			P	P

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Fuel Sales, Gas Station											P	SP	P	P	P
Laundry, Self-Service											P	SP	SP	P	
Liquor Store													P	P	
Manufactured Housing Sales															P
Marina									P		SP			P	P
Mortuary, Funeral Home									SP		P	P	P	P	
Office, Professional									SP		P	P	P	P	
Office Showroom													SP	P	P
Office Warehouse											P			P	P
Parking Lot, Commercial									SP	SP	P	P	P	P	P
Pawn Shop															P
Personal Services									SP		P	P	P	P	
Quick Printer, Copy Shop, Quick Signs									SP		P	P	P	P	
Repair-- Shoe, Appliance, Electronic									SP		P	P	P	P	P
Restaurant									SP	SP	P	SP	P	P	
Retail, General									SP		P	P	P	P	
Smoker Shop															P
Storage, Self-Storage (Indoor Building access Including Climatized)											SP		SP	SP	P
Storage, Self-Storage or Mini-Storage (Outdoor Building Access)											SP				P
Studio, Professional									SP		P	P	P	P	
Tattoo Parlor															P
Vehicle Parts Sales											P	SP	P	P	P
Vehicle Service, Limited: when located less than 60' from a residential property line												SP	P	P	P
Vehicle Service, Limited: when located at least 60' from a residential property line											P	SP	P	P	P
Vehicle Service, General: when located less than 60' from a residential property line														P	P
Vehicle Service, General: when located at least 60' from a residential property line											P		P	P	P
Vehicle Sales											P		SP	P	P
Veterinarian/Animal Hospital (with indoor kennels only)									SP		P	P	SP	P	P
Veterinarian/Animal Hospital or Kennel with outdoor kennels									SP		SP	SP	SP	SP	P
INDUSTRIAL															
Manufacturing, Light														SP	P
Manufacturing, Heavy															P
Mining, Excavation															SP
Storage Yard											SP				P

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Warehouse, Freight Movement															SP
Wholesale Trade														SP	P
Food Manufacturing/Processing											SP	SP	SP	SP	P

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29 **SECTION 2.**

30 Section 515. Leisure and Entertainment District Regulations., Chapter 5, Appendix A of the Code
 31 of Ordinances is hereby created to read as follows:

32

33 The *Leisure and Entertainment District* is the boundary within the OT-2 Mixed Use District
 34 established by the City Council as authorized by a local option election for the purpose of
 35 permitting the legal sale of one or more prohibited types or classifications of alcoholic beverages.
 36 Leisure and Entertainment District uses, including the manufacture, sale, and consumption of
 37 liquor and alcohol within the District’s boundary, are permitted in accordance with the Permitted
 38 Use Table and shall be subject to these additional requirements:

39

40 1. The Special Use Permit application shall require the following elements:

41

- 42 a. Boundary survey.
- 43 b. Site plan of proposed improvements and uses.
- 44 c. Traffic circulation plan, including parking locations. In no event shall
 45 breweries, wineries, brewpubs, and distilleries utilize fewer than one (1)
 46 parking space per one hundred (100) square feet of gross floor area
 47 dedicated to the consumption of the product by the ultimate consumer.
- 48 d. Hours of operation.
- 49 e. Exhibits detailing the outdoor operations of the business.
- 50 f. Exhibits detailing the location and manner of the manufacturing, brewing,
 51 bottling, canning, packaging, sale, and consumption of alcohol and liquor
 52 permitted under this ordinance.

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54 2. Bars, cabarets, lounges, saloons, and nightclubs are prohibited within the Leisure
 55 and Entertainment District.

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57 3. Businesses permitted by the local option election to permit the legal sale of one or
 58 more prohibited types or classifications of alcoholic beverages, including but not
 59 limited to breweries, wineries, brewpubs, and distilleries, shall be subject to
 60 compliance with the Texas Alcoholic Beverage Code, as amended, and any
 61 applicable local option elections. Businesses shall obtain any other permits and/or
 62 licenses as required by the Texas Alcoholic Beverage Commission for any ancillary
 63 activities related to the sale of alcoholic beverages on and/or off-premises.

64

- 65 4. Businesses permitted by right by the Permitted Use Table that are permitted by the
66 local option election to permit the legal sale of one or more prohibited types or
67 classifications of alcoholic beverages shall obtain a Special Use Permit under this
68 section. Existing businesses in operation at the effective date of the ordinance shall
69 be considered legally non-conforming. Any change in the hours of operation or
70 outdoor operations shall require a Special Use Permit.
71
- 72 5. Breweries, wineries, brewpubs, and distilleries shall not be located within three
73 hundred (300) feet from a church, public school, private school, or public hospital.
74 However, breweries, wineries, brewpubs, and distilleries may be located within
75 three hundred (300) feet of a private school if minors are prohibited from entering
76 the place of business, as required by Section 109.53 of the Texas Alcoholic Beverage
77 Code, as amended.
78
- 79 6. Hours of operation for businesses within the Leisure and Entertainment District
80 that permit the legal sale of one or more prohibited types or classifications of
81 alcoholic beverages shall be between 10:00 a.m. and 10:00 p.m. Monday through
82 Thursday, between 10:00 a.m. and 12:00 a.m. Friday and Saturday, and between
83 12:00 p.m. and 10:00 p.m. on Sunday.
84
- 85 7. Businesses within the Leisure and Entertainment District that permit the legal sale
86 of one or more prohibited types or classifications of alcoholic beverages that wish
87 to extend the hours of operation in this section for a temporary event shall obtain
88 a Temporary Event Permit from the City Manager no fewer than ten (10) business
89 days prior to the event. No more than twelve (12) Temporary Event Permits shall
90 be issued to a business in any calendar year.
91

92 **SECTION 3.**

93
94 Chapter 10 Definitions is hereby amended to add the following definitions:

95
96 *Bar.* An establishment at which the primary business is the sale of alcoholic beverages for on-
97 premises consumption.
98

99 *Cabaret, lounge, saloon, or nightclub.* Any room, space, structure, building, or resort open to
100 the public, enclosed or unenclosed, where food or beer or wine, or other alcoholic beverage is
101 served on the premises, and where patrons are provided with a space for dancing, or are
102 permitted to dance. The term “cabaret”, “lounge”, “saloon”, or “nightclub” does not include
103 restaurants and cafes, unless more than 75 percent of the total revenues of such restaurant or
104 cafe are derived from the sale of alcoholic beverages.
105

106 *Brewery.* A place where malt beverages are manufactured or brewed.
107

108 *Brewpubs or microbreweries.* A restaurant-brewery that sells more than 25 percent of its beer
109 on site for on premise consumption. The beer is brewed primarily for sale in the restaurant and
110 bar. The beer is often dispensed directly from the brewery's storage tanks. Where allowed by
111 law, brewpubs often sell beer "to go" and/or distribute to offsite accounts.
112

113 *Winery.* A building or property that produces wine, or a business involved in the production of
114 wine, such as a wine company. This definition includes tasting rooms, which is an outlet for the
115 promotion of a farm winery's wine by providing samples of such wine to the public and for retail
116 sale of such wine as provided by law. Samples of wine can be given complimentary or for a fee.
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118 *Distillery.* A facility that produces liquor or other spirits per year with 75 percent or more of its
119 liquor sold off-site. Micro-distilleries sell to the public by one or more of the following methods:
120 the traditional three-tier system (distiller to wholesaler to retailer to consumer); the two-tier
121 system (distiller to retailer to consumer); and, directly to the consumer through on-site and/or
122 carry out sales.
123

124 **SECTION 4. PENALTY**

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126 Any person who violates this Ordinance shall be guilty of a misdemeanor and, upon conviction
127 thereof, shall be subject to a fine not exceeding two thousand dollars (\$2,000.00). Each and every
128 day that a violation of this Ordinance occurs shall constitute a separate offense. The culpable
129 mental state required by Chapter 6.02, Texas Penal Code, is specifically negated and dispensed
130 with and a violation is a strict liability offense.
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132 **SECTION 5. REPEALER**

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134 All previously adopted rules, regulations, policies, and ordinances in conflict with this Ordinance
135 are hereby repealed.
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137 **SECTION 6. SEVERABILITY**

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139 If any provision, section, clause or phrase of this Ordinance, or the application of same to any
140 person or set of circumstances is, for any reason held to be unconstitutional, void or invalid, the
141 validity of the remaining portions of this Ordinance shall not be affected thereby, it being the
142 intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or
143 regulations contained herein, shall become inoperative or fail by reason of any
144 unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared
145 severable for that purpose.
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147 **SECTION 7. PUBLICATION AND EFFECTIVE DATE**

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149 This Ordinance shall be published after second reading hereof by publishing the caption thereof
150 in the official newspaper with a statement the public may view the Ordinance in the Office of the
151 City Secretary. This Ordinance shall take effect upon publication.

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PASSED and **APPROVED** on second reading this 15th day of February, 2022.

CITY OF PORTLAND

Cathy Skurow
Mayor

ATTEST:

Annette Hall
City Secretary