

**CITY OF ZAVALLA
ORDINANCE #86
REGULATING ALCOHOL SALES**

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF ZAVALLA, TEXAS REGULATING THE SALE OF ALCOHOLIC BEVERAGES NEAR CHURCHES, PUBLIC PARKS, PUBLIC SCHOOLS OR OTHER EDUCATIONAL INSTITUTIONS PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ZAVALLA:

WHEREAS, on November 7, 2006, the voters of Angelina County voted on the legal sale of beer and wine for off premise consumption and the legal sale of mixed beverages in restaurants by food and beverage certificate holders only; and

WHEREAS, it is prudent to adopt ordinance governing the sale of alcoholic beverages in order to have regulations in place; and

WHEREAS, the City Council does not intend to exceed the authority of the Texas Alcoholic Beverage Code which limits the authority for municipal governments to regulate the sale of alcoholic beverages, but nevertheless desires to exercise it , particularly in proximity to schools, to the maximum extent permissible under Texas law; and

WHEREAS, the Texas Alcoholic Beverage Code allows municipalities to annually collect a permit fee in the amount of one half of the amount of the state imposed permit fee for businesses selling alcohol within the City Limits ; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the public health, safety and welfare of the citizens of Zavalla to establish Regulations governing the sale of alcoholic beverages; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ZAVALLA, TEXAS that this ordinance shall be added to the city ordinances and shall read as follows:

SECTION 1: PERMIT REQUIRED; PERMIT PROCEDURES

- (A) It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for the purpose of sale, distribute or sell any beer , wine or mixed beverages within the city limits unless such person has obtained a permit, as applicable (depending upon the requirements under Texas Law relative to the products to be sold), from the State of Texas.

- (B) The City Council does hereby levy a permit fee which shall be one half the state fee. The license or permit fee, as applicable, shall be paid in cash, cashier's check or money order. City of Zavalla license applications must be completed and application fee of 75.00 paid.
- (C) The City Secretary shall submit each application to the appropriate departments, as determined by the City Council to ensure the application complies with the City Ordinances and regulations. Applicants must show proof that ad valorem taxes are paid.
- (D) Following approval of all necessary departments , the applicant shall be deemed approved and the City Secretary shall issue a City of Zavalla Permit upon payment of the permit fee.
- (E) Applications and Permits shall be kept on file in the City Secretary's Office.

SECTION II- PERMIT RENEWAL FEES

- (A) All permits shall be renewed annually. All permits shall terminate at midnight on the day before the anniversary date of their issuance, and no permit shall be issued covering a term longer than one (1) year. If the permit is not renewed on time, the applicant shall go back through the application process, thus paying a new application fee.
- (B) The City Secretary may cancel a permit if a permittee fails to pay the applicable permit renewal fee. The City Secretary shall send notice of such cancellation to the address on file with the permit application.
- (C) A permittee who sells an alcoholic beverage without first having paid the applicable permit renewal fee under this section commits a misdemeanor punishable by a fine of up to \$500.00.

SECTION III- HOURS OF OPERATION

- (A) Except as provided herein, the hours of sales of alcoholic beverages in the City Shall comply with the State Law provisions regarding the hours of sale of alcoholic beverages.

SECTION IV: SALE OR CONSUMPTION ON CITY OWNED PROPERTY PROHIBITED.

- (A) It shall be unlawful for any person to sell an alcoholic beverage on the premises of Any municipal building or city owned property.
- (B) It shall be unlawful for any person to consume an alcoholic beverage on any

Premises of any municipal building or city owned property.

SECTION V; REGULATION OF THE SALE OF ALCOHOLIC BEVERAGES NEAR PUBLIC OR PRIVATE SCHOOLS, CHURCHES OR HOSPITALS

- (A) The City Council hereby enacts regulations applicable to the City, prohibiting the Sale of alcoholic beverages under certain circumstances. It shall be unlawful for any person to sell or engage in the sale of alcoholic beverages within:
- (1) Three Hundred (300) feet of a Church, Public or Private School, Hospital or day care center.
 - (2) The measure of the distance between the place of business where alcoholic beverages are sold and the church shall be along the property lines of the street from front door to the front door, and in direct line across intersections.
 - (3) The measurement of the distance between the place of business where alcoholic beverages are sold and public and private schools shall be in direct line from the property line of the public or private school to the property line of the place of business, and in direct line across intersections.

SECTION VI: PROHIBITION OF SEXUALLY ORIENTED BUSINESSES WHERE ALCOHOLIC BEVERAGES ARE SOLD, SERVED OR CONSUMED.

- (A) The location of any massage parlor, nude modeling studio or other sexually Oriented business within any premises in which alcoholic beverages are being Sold, served or consumed is prohibited.
- (B) Both nudity & semi-nudity are prohibited in any commercial premise.

SECTION VII: REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES.

- (A) In locations in the City in which the sale of alcoholic beverages is not prohibited at all times, retailers, manufacturers or distributors selling alcoholic beverages for all off premises consumption can sell alcoholic beverages in accordance to State and County mandated time regulations.
- (B) In accordance with 109.32(c) of the Texas Alcoholic Beverage Code , the City Council has determined that, in exercising the authority granted by 109.32 with Regard to the regulation of the sale of beer and wine, it is in the best interest of the public health, safety and welfare of the citizens for such regulations to distinguish Between retailers selling beer and wine for off premises consumptions and retailers, manufacturers or distributors who do not sell beer & wine for on premises consumption.

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ORDINANCE # 86

PASSED AND APPROVED ON THE FIRST READING, THIS THE 11TH DAY OF
DECEMBER, 2006.


HULON MILLER, MAYOR

ATTEST:


DONNA MARSHALL, CITY SECRETARY

PASSED AND ADOPTED ON THE SECOND READING, THIS THE 8TH DAY OF
JANUARY, 2007


HULON MILLER, MAYOR

ATTEST:


DONNA MARSHALL, CITY SECRETARY

