

ORDINANCE NO. 185 E

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, AMENDING ORDINANCE NO. 185 ZONING REGULATIONS TO PROVIDE FOR DEFINITIONS RELATED TO ALCOHOLIC BEVERAGES; AMENDING OTHER RELEVANT SECTIONS RELATED TO REGULATION OF ALCOHOLIC BEVERAGES WITHIN THE CITY, INCLUDING PERMITTED LOCATION OF ALCOHOL RELATED USES AND CONDITIONAL USE REGULATIONS; AMENDING CONDITIONAL USE REGULATIONS TO PROVIDE FOR REVOCATION OF A CONDITIONAL USE; PROVIDING FOR OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

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

Section 1. That Ordinance No. 185 Zoning Regulations (the "Ordinance") is hereby amended by amending the specific sections as provided below.

Section 2. Amending Certain Definitions. Section 5 of the Ordinance is hereby amended to replace or add the definitions listed with the revised or new definitions as provided below in alphabetical order with the definitions therein:

Alcoholic Beverages means any beverage containing more than one-half of one percent alcohol by volume that is consumed diluted or undiluted as a beverage for sale. Beer, wine and liquor are common forms of alcoholic beverages.

Alcoholic Beverages - Off-Premises means the use listing for a convenience store, retail store, or similar facility where the sale of alcoholic beverages for off-premises consumption is an allowed use for the premises according to zoning standards and TABC.

Alcoholic Beverages - On-Premises means the use listing for a restaurant, private club, nightclub, bar, tavern or other similar use which will allow the serving of alcoholic beverages for on-premise consumption and is an allowed use for the premises according to zoning standards and TABC.

Bar means any commercial establishment required to have a state license for the sale of alcoholic beverages for on-premises consumption and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages.

NightClub means any commercial establishment required to have a state license for the sale of alcoholic beverages and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages for on-premises consumption and live entertainment is provided.

Private Club means an establishment required to have a state license for the sale of alcoholic beverages on-premises to its members.

Tavern means an establishment required to have a state license for the sale and on-premises consumption of beer that is not licensed or permitted to sell any other alcoholic beverage.

Section 3. Amending Section 5. Section 5 is hereby amended to delete the following definition:

Alcoholic Beverages-Mixed Drinks means the typical use listing which will allow the serving of alcoholic beverages for on-premise consumption as an incidental use where the gross revenue from the on-premise sales of alcoholic beverages is less than 75% of total gross revenue.

Section 4. Amending Section 35 (c)(ii). Section 35 (c) (ii) (C) and (D) are hereby amended in their entirety to read as follows:

(C) Food and beverage sales, including alcoholic beverages for on-premise consumption (with a conditional use permit) to members only.

(D) Restaurants including alcoholic beverage for on-premise consumption which are operated as part of or in conjunction with a Club House facility for members only.

Section 5. Amending Section 43 (a). Sections 43 (a) (iv), (v), (viii) and (ix) are hereby amended in their entirety to read as follows:

(iv) Private club, dance hall and social club.

(v) Bar, nightclub, Tavern, private club, dance hall and social club with alcoholic beverage sales (with conditional use permit)

(viii) Convenience store, retail food store, variety store, shopping center, grocery stores and supermarkets (not including gasoline or alcohol sales).

(ix) Convenience stores, retail food store, liquor store, variety store, shopping center grocery stores and supermarkets (including the sale of alcoholic beverages and/or gasoline with conditional use permit).

Section 6. Amending Section 44 (a) (xii). Section 44 (a) (xii) is hereby amended in its entirety to read as follows:

(xii) Convenience stores, retail food store, liquor store, variety store, shopping center, grocery stores and supermarkets (including the sale of alcoholic beverages off-premise

consumption and/or gasoline).

Section 7. Amending Section 46 (a). Section 46 (a) (i) is hereby amended in its entirety to read as follows:

- (i) Alcohol beverage-on premises with conditional use permit.

Section 8. Amending Section 63 (b) (xii). Section 63 (b) (xii) is hereby amended in its entirety to read as follows:

(xii) Alcoholic beverages - on premises and alcoholic beverages - off premises for those specific uses and in the specific zoning districts as provided by this Ordinance. The minimum requirements for receiving and maintaining a permit are as follows:

(A) A person may not sell or engage in the business of selling an alcoholic beverage (on-premise or off-premise) at a place of business located within 300 feet of a church, public school, day-care center or child-care facility, or public hospital except as provided by the Texas Alcoholic Beverage Code. Distances under this section shall be calculated using the method prescribed by the Texas Alcoholic Beverage Code.

Exemptions from the distance requirement:

(1) the renewal or transfer of a permit or license to sell alcoholic beverages, if the permit or license being renewed or transferred was originally issued before the date a church, public school, public hospital, day-care center, or child-care facility use was established within 300 feet from the place of business named in the permit or license; or

(2) a new application at a location, if the sale of alcoholic beverages at the proposed place of business was authorized not less than one year before the date a church, public school, public hospital, day-care center, or child-care facility use was established within 300 feet from the place of business, and the new application is filed no later than 90 days after the date the previous permit or license authorizing the sale of alcoholic beverages at that location expired or was terminated.

(B) Late Hours:

(1) A person may not sell or offer for alcoholic beverages at on:

(a) Sunday between 2:00 a.m. and 12:00 noon; or

(b) Monday through Saturday between 2:00 a.m. and 7:00 a.m.

(2) A person may not consume or hold for the purpose of consumption in any public place an alcoholic beverage on:

(a) Sunday between 2:15 a.m. and 12:00 noon; or

(b) Monday through Saturday between 2:15 a.m. and 7:00 a.m.

(C) A person selling alcoholic beverage is subject to all applicable federal, state, and local law. This section shall not be construed to permit or authorize an act in contravention of a federal, state or local law.

Section 9. Adding Section 63 (e). Section 63 (e) is hereby added in its entirety to read as follows:

(e) Revocation. A conditional use permit may be cancelled for failure to comply with the zoning conditions or the conditional use permit conditions. The City shall send notice to the holder of the conditional use permit at the address on the permit identifying the alleged violations. The notice shall state the minimum number of days the conditional use permit holder has to correct the violations, provided it shall not be less than seven (7) days. If the conditional use permit holder continues to fail to comply after notice, the City may set a public hearing to consider revocation of the conditional use permit. The conditional use permit holder shall be notified of the date and time for the City Council to consider revocation of the conditional use permit. A public hearing shall be held to consider evidence. Upon the completion of the public hearing, the City Council may revoke the conditional use permit.

Section 9. Effective Date. This ordinance shall take effect immediately from and after its passage.

Section 10. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

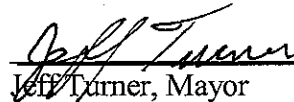
PASSED AND APPROVED on this 18th day of May, 2005.

ATTEST:

THE CITY OF MANOR, TEXAS



Phil Tate, City Secretary



Jeff Turner, Mayor