

## **ORDINANCE #: 2016-01-21A**

**AN ORDINANCE AMENDING ORDINANCE NO. 2014-10-07A CHAPTER 96 CITY OF OVERTON ZONING ORDINANCE; SECTION 29; PART VI – LAND USE SCHEDULE AND SECTION 30 LAND USE DEFINITIONS OF THE CITY OF OVERTON CODE OF ORDINANCE, PROVIDING FOR A PENALTY OF UP TO \$500.00 AS DEFINED IN APPENDIX B “SCHEDULE OF FINES” OF THE OVERTON CODE OF ORDINANCES, A REPEALER, A SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Overton held a Local Option Election for the Legal Sale of All Alcohol including Mixed Beverages on November 3, 2015; and

**WHEREAS**, the City Council of the City of Overton canvassed the votes of said Local Option Election on November 12, 2015 whereby the proposition for the Legal Sale of All Alcohol including Mixed Beverages did pass with a vote tally of 148 votes for and 121 votes against; and

**WHEREAS**, the City Council of the City of Overton is of the opinion that the Comprehensive Zoning Ordinance has certain sections as listed below that need to be revised, updated and expanded to include the legal sale of all alcoholic beverages including mixed beverages within the Land Use Table and the Land Use Definitions defining where the types of businesses engaged in the legal sale of certain types of alcoholic beverages shall be permitted to be located within the City Limits of Overton, Texas; and

**WHEREAS**, notice of a public hearing before the Planning and Zoning Commission was published in a newspaper of general circulation in Overton at least ten (10) days before such public hearing; and

**WHEREAS**, notice of a public hearing before the City Council was published in a newspaper of general circulations in Overton at least fifteen (15) days before such hearing ; and

**WHEREAS**, public hearings to amend the text of the Comprehensive Zoning Ordinance herein described were held before both the Planning and Zoning Commission and the City Council, and the Planning and Zoning Commission has heretofore made a recommendation concerning such amendments; and

**WHEREAS**, said ordinance amendment has been properly heard by the Planning and Zoning Commission of the City of Overton, Texas, as required by State statutes and the Zoning Ordinance of said City; and

**WHEREAS**, said Planning and Zoning Commission has made a recommendation to APPROVE the amendment the land use schedule and land definitions, and all legal requirements, conditions and prerequisites having been complied with, the case having come

before the City Council of said City, after all legal notices, requirements, conditions and prerequisites having been complied with; and

**WHEREAS**, the City Council is of the opinion that the Zoning Ordinance Amendment herein effectuated furthers the purpose of zoning as set forth in the Comprehensive Zoning Ordinance and is in the best interest of the citizens of the City of Overton;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT**

**SECTION 1: ADDITIONS AND AMENDMENTS**

That section 29: Land Use Schedule of Chapter 96 Zoning Ordinance shall be hereby amended to add and amend the following types of land uses to the existing City of Overton Zoning Districts:

**Use of Land and Buildings**

Land and buildings in each of the following classified districts may be used for any of the following listed uses but no land shall hereafter be used and no building or structures shall hereafter be erected, altered or converted which is arranged or designed or used for other than those uses specified for the district in which it is located as set forth by the following schedule of uses:

Legend for interpreting schedule of uses:

<b>X</b>	Designates use permitted in district indicated by right
	Designates use prohibited in district indicated
<b>SU</b>	Designates use may be approved as a Special Use Permit, Part II, Section 17

<b>TYPE OF USE</b>	<b>SF</b>	<b>MF</b>	<b>MH</b>	<b>PD</b>	<b>LC</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>A</b>
<b>Bar</b>					<b>X</b>	<b>X</b>	<b>X</b>		
<b>Billiard (Pool) Hall</b>					<b>X</b>	<b>X</b>	<b>X</b>		
<b>Brewery</b>							<b>X</b>	<b>X</b>	
<b>Brewpub</b>					<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
<b>Civic Center</b>					<b>X</b>	<b>X</b>	<b>X</b>		
<b>Dance Hall / Night Club</b>							<b>X</b>	<b>X</b>	
<b>Distillery</b>							<b>X</b>	<b>X</b>	
<b>Event Center</b>						<b>X</b>	<b>X</b>	<b>X</b>	
<b>Package Store</b>					<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
<b>Restaurant or cafeteria, with</b>						<b>X</b>	<b>X</b>	<b>X</b>	

drive-in or drive through service (30.6.54)									
Restaurant or cafeteria, without drive-in or drive through service (30.6.54)					X	X	X	X	
Restaurant with a Mixed Beverage (MB) or Beer & Wine (BG) Permit					X	X	X	X	
Sexually Oriented Business								X	
Winery							X	X	X

**SECTION 2: REMOVAL**

That Section 29: Land Use Schedule' Of Chapter 96 Zoning Ordinance shall be hereby amended to remove the following type of use from the land use schedule:

TYPE OF USE	SF	MF	MH	PD	LC	GB	LI	HI	A
Liquor, Beer & Wine Store									

**SECTION 3: THAT SECTION 30 DEFINITIONS' OF CHAPTER 96 ZONING ORDINANCE is hereby amended to add the following definitions**

**BAR** - A counter or place where beverages, especially liquors, or light meals are served to customers.

**BILLIARD (POOL) HALL** - An establishment or room for the playing of pool, billiards or other games.

**BREWERY** – A building or establishment for brewing beer or other malt liquors, especially the building where the brewing is done.

**BREW PUB** - A bar serving beer brewed at a small microbrewery on the premises.

**DANCE HALL OR NIGHT CLUB** - An establishment offering to the general public facilities for dancing and entertainment for a fee and subject to licensing and regulation by the City of Overton.

**EVENT CENTER** – A privately owned commercial building or venue leased to the public to be used for a variety of events such as gatherings, special occasions, meetings, weddings and etc.

**PACKAGE STORE** – An establishment offering for sale within a building, liquor as that term is defined in the Texas Alcohol Beverage Code, Section 1.04, to consumers for off-premises consumption only and not for the purpose of resale.

**RESTAURANT WITH A MIXED BEVERAGE (MB) OR BEER & WINE (BG) PERMIT**  
– A food establishment allowing On-Premises Consumption of Alcohol.

**Mixed Beverage (MB) Permit** allows the sale of Liquor, Beer, Wine and Mixed Beverage; however the alcohol must be purchased and consumed on the premises. No City permit license required for the first three (3) years of holding their T.A.B.C. permit.

**Beer & Wine (BG) Permit** allows the sale of Beer and Wine for the consumption on or off premises.

**Food and Beverage Certificate** may be issued to the holder of a Beer Retailer's On-Premise Permit or Wine and Beer Retailer's Permit if food service is the primary business being operated on the licensed premise or to the holder of a Mixed Beverage Permit or Private Club Permit if food service is available on the premises and the gross receipts of alcoholic beverages do not exceed 50% of total gross receipts.

**SEXUALLY ORIENTED BUSINESS** - is a business that is part of the sex industry, such as sites of erotic performance and erotic paraphernalia stores that may possess a license from the Texas Alcoholic Beverage Commission to sell and /or serve alcoholic beverages to their patrons.

**WINERY** - An establishment that may manufacture, bottle, label and package wine containing not more than 24% alcohol by volume; sell or buy wine from permit holders authorized to purchase and sell wine, including wholesalers, winery and wine bottler's permittees; sell wine to ultimate consumers for consumption on the winery premises or in unbroken packages for off-premise consumption; and dispense free wine for consumption on the winery premises.

#### **SECTION 4: VIOLATIONS & PENALTIES**

Any person violating any of the provisions of this Ordinance shall, upon conviction be fined up to \$500.00 as defined in Appendix B "Schedule of Fines" of the Overton Code of Ordinances, and each day and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

#### **SECTION 5: CONFLICTS**

That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

#### **SECTION 6: SEVERABILITY CLAUSE**

That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or section of this ordinance, which shall remain in full force and effect.

**SECTION 7: PUBLICATION**

The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty clauses of this Ordinance as an alternative method of publication provided by law.

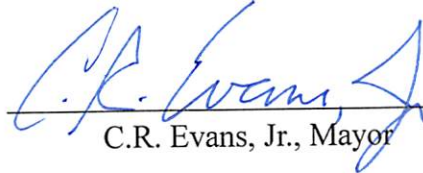
**SECTION 8: EFFECTIVE DATE**

This Ordinance shall become effective from and after the date of its approval and adoption as provided by law.


**PRESENTED ON FIRST READING on the 17th day of December, 2015 AT A REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS.**

**PRESENTED ON SECOND READING AND APPROVED ON THIS 21st DAY OF January, 2016 BY A VOTE OF 3 AYES, 0 NAYS 0 ABSTENTIONS, AT A REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS.**

**CITY OF OVERTON**

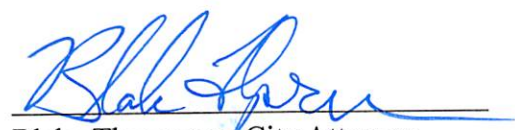
  
C.R. Evans, Jr., Mayor

ATTEST:

  
Rachel Gafford, City Secretary



APPROVED AS TO FORM AND LEGALITY:

  
Blake Thompson, City Attorney