

ORDINANCE NO \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY THROUGH THE AMENDMENT OF SECTION 130.26, ENTITLED “UNLAWFUL CONSUMPTION OF ALCOHOL” OF CHAPTER 130, “GENERAL OFFENSES,” TITLE XIII, “OFFENSES AGAINST PEACE AND SAFETY,” RELATING TO THE UNLAWFUL CONSUMPTION OF ALCOHOL IN CERTAIN PUBLIC LOCATIONS; PROVIDING FOR DEFINITIONS; ESTABLISHING AN EXEMPTION FOR THE DOWNTOWN SQUARE; PROVIDING FOR A PENALTY OF \$500 PER DAY; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION AND PUBLICATION.

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

SECTION 1.

The Code of Ordinances, City of Carrollton, Texas is hereby revised by amending §130.26, to read as follows:

“SECTION 130.26 UNLAWFUL CONSUMPTION OF ALCOHOL

- A. Definitions.** For the purposes of this section, the following terms, words, and the derivations thereof shall have the meanings given herein:

*Alcoholic beverage* means 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.

*Beer* means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight.

*Mixed beverage* means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily temporary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit, the holder of a private club registration permit, or the holder of a private club late hours permit.

*Public place* means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Downtown Square* means that area in downtown Carrollton bound by Elm Street, Main Street, Broadway, and Fourth Street.

*Wine and vinous liquor* means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries or honey, and includes wine coolers.

## **B. Offenses, Exceptions, Penalty and Enforcement.**

- (1) Streets, sidewalks and public transit centers. It shall be unlawful for any person to consume any alcoholic beverage on any public street, alley, sidewalk, public parking lot or public transit center in the city.
- (2) Public places. It shall be unlawful for any person to consume any alcoholic beverage on any public place adjacent to any street, sidewalk or alley in the city. However, such consumption shall be lawful if:
  - (a) *Business Establishment.* The public place is a permitted place for the consumption of alcohol holding a valid Texas Alcoholic Beverage Commission (“TABC”) liquor permit and any applicable city permit;
  - (b) *Special Event.*
    - (i) The alcoholic beverage is sold or dispensed by the holder of a valid TABC permit and any applicable city permit, and is consumed within the enclosure described in (b)(iii); and
    - (ii) The alcoholic beverage is sold or dispensed in compliance with and during a properly permitted special event permit; and
    - (iii) The area designated for alcohol dispensing and consumption is provided within a designated, enclosed area (barrier or sides) with secured ingress and egress.
  - (c) *Golf Course.*
    - (i) The alcoholic beverage is consumed on a golf course that holds a valid TABC permit and applicable city permit; or
    - (ii) On a street crossing designated for direct travel between sections of a golf course that holds a valid TABC permit and applicable city alcoholic beverage permit and that crossing is being used only by a golf course patron for the brief travel necessary to safely cross the public roadway.
  - (d) *Private events at the Senior Center or Perry Museum.*
    - (i) The alcoholic beverage is dispensed by the holder of a TABC permit at a private event within the Senior Center or Perry Museum, and is consumed inside the premises.

- (ii) The applicant for the private event shall provide the City with any and all necessary TABC and City permits, facility rental agreements, which will require additional insurance, the applicable deposit, and police presence, if required by the Chief of Police, during the event.
- (iii) For purposes of this subsection d., alcoholic beverages are limited to beer, wine and vinous liquor only.
- (iv) Alcoholic beverages shall only be allowed at events occurring after the regular hours of operation for the facility where the private event will occur.

(e) *Downtown Square.*

Except during an event provided for in subsections B.(2)(b) of this section, a person may consume an alcoholic beverage within the Downtown Square between the hours of 5:00 p.m. and 11:00 p.m. each day.

- (3) Security. The applicant for an event to be held under B(2) of this section shall be required to fund the cost of off-duty city police officers to monitor and provide security for the event. The City Manager or designee will determine whether officer presence is required and will determine the number of officers required based upon factors such as date and time of event, duration of event, nature of the event, number of persons expected to attend the event, or other factor the City Manager or designee believes is necessary for a determination.

(4) Penalty and Enforcement.

- (a) Any failure to comply with the provisions of this ordinance shall constitute a misdemeanor and any person upon conviction thereof shall be punished by a fine in accordance with section 10.99.
- (b) Possession in a public place of an open container of any alcoholic beverage shall be prima facie evidence of an offense under this section.
- (c) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this section.”

## **SECTION 2.**

Any person, operator, owner, manager or responsible person violating a provision of this Ordinance upon conviction, is guilty of an offense punishable as provided in Section 10.99 of the Carrollton City Code, as amended.

## **SECTION 3.**

If any section, subsection, sentence, paragraph, clause, phrase or provision in this Ordinance, or application thereof to any person or circumstance, shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it

would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

#### **SECTION 4.**

Except as herein amended, Chapter 130. General Offenses of the Code of the Carrollton Code of Ordinances, as amended, shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified, and affirmed.

#### **SECTION 5.**

This Ordinance shall become and be effective on and after its adoption and publication.

**DULY PASSED AND APPROVED** by the City Council of the City of Carrollton, Texas, this 2nd day of August, 2016.

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Matthew Marchant, Mayor

#### **ATTEST:**

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Laurie Garber, City Secretary

#### **APPROVED AS TO FORM:**

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Meredith A. Ladd  
City Attorney

#### **APPROVED AS TO CONTENT:**

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Rex D. Redden  
Chief of Police