

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. _____130_____

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS PROHIBITING THE SALE OF LIQUOR IN ALL RESIDENTIAL AREAS OF THE CITY; PROHIBITING THE SALE OF BEER IN ANY RESIDENTIAL AREA OF THE CITY; PROHIBITING THE SALE OF WINE IN ANY RESIDENTIAL AREA OF THE CITY; PROVIDING REGULATIONS FOR THE SALE OF BEER INCLUDING HOURS BEER MAY BE SOLD WITHIN THE CITY; PROVIDING REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES NEAR CHURCHES AND SCHOOLS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING HOWEVER, WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE THE PENALTY SHALL BE THAT FIXED BY STATE LAW, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWRY CROSSING, TEXAS:

SECTION 1. SALE OF ALCOHOLIC BEVERAGES PROHIBITED IN RESIDENTIAL DISTRICTS.

- a. The sale of liquor is prohibited in all of the residential sections of the city.
- b. The sale of beer is prohibited in any residential area of the city.
- c. The sale of wine is prohibited in any residential area of the city.

SECTION 2. REGULATING THE SALE OF BEER WITHIN THE CITY

In addition to all other regulations required by law, including this ordinance, the sale of beer at locations where such sale may be legally conducted within the city, is also subject to the following regulations:

- a.. Beer may be sold only during the hours permitted by state law.
- b. Reserved for future amendments prescribing additional regulations as may be enacted.

SECTION 3. REGULATING THE SALE OF ALCOHOLIC BEVERAGES NEAR CHURCHES AND SCHOOLS

In addition to all other regulations and prohibitions required by law, including this ordinance, the sale of alcoholic beverages at locations where such sale may otherwise be legally conducted within the city, is also subject to the following prohibitions:

- a. As otherwise applicable pursuant to Section 190.33, Texas Alcoholic Beverage Code, the sale of alcoholic beverages are prohibited by a dealer whose place of business is within 300 feet of a church or public school.
- b. As otherwise applicable pursuant to Section 190.33, Texas Alcoholic Beverage Code, the sale of alcoholic beverages are prohibited by a dealer whose place of business is within 1000 feet of a public school if the City Council of the City of Lowry Crossing receives a request from the board of trustees of a school district requesting that the distance requirement between a dealers business and a public school be 1000 feet instead of 300 feet as established in the above subsection.
- c. See Section 109.33 (b) & (c) for the method of measuring the distance between the place of business and the church or public school.
- d. The City Council may allow variances to the regulation established in subsection (a) above if the governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes a waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does serve its intended purpose, is not effective or necessary or for any other reason, the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
- e. The restrictions set out in Sections 2 and 3 of this ordinance are requirements imposed on such businesses in addition to all other requirements and prohibitions and shall not be construed to grant any additional rights for the sale of alcoholic beverages within the city.

SECTION 4. REPEALING CLAUSE.

All parts of ordinances, inconsistent or in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. SEVERABILITY CLAUSE.

If any article, paragraph or subdivision, clause or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 6. SAVINGS CLAUSE.

An offense the date of which is alleged to be prior to the effective date of this ordinance, shall be governed by the prior law and ordinances, as amended, in effect on the date the offense is alleged to have been committed, and the former law is continued for this purpose.

SECTION 7. PENALTY CLAUSE.

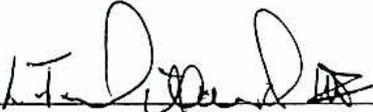
Any person firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense; providing however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law. Each day that a violation occurs or continues constitutes a separate offense.

SECTION 8. EFFECTIVE DATE.

This ordinance shall take effect immediately after its passage and publication of the caption, as the law in such cases provided.

DULY ADOPTED, by the City Council of the City of Lowry Crossing, Texas, on the 24 day of APRIL, 2001.

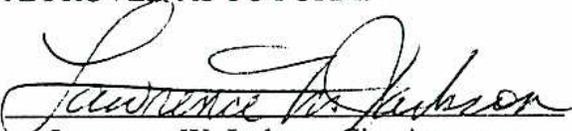
APPROVED:


MAYOR

ATTEST:


CITY SECRETARY

APPROVED AS TO FORM:


Lawrence W. Jackson, City Attorney