

ORDINANCE NO. 2022 \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING SECTION 57 OF CHAPTER 6, "ALCOHOLIC BEVERAGES," OF THE CITY CODE OF ORDINANCES; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Alcoholic Beverage Code provides for certain regulations to the public consumption of beer and wine; and

**WHEREAS**, upon the recommendation of the City Staff, the City Council of the City of Montgomery, Texas (the "City Council") desires to amend Section 6-57 of the Code of Ordinances ("City Code"), entitled "Consumption on the street, sidewalk or alley."

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

SECTION 1. The City Council adopts the findings and recitals above as true and correct.

SECTION 2. Section 6-57 of the City Code, entitled "Consumption on the street, sidewalk or alley," is hereby amended and restated in its entirety, such that it reads as follows:

*"Section 6-57. Consumption on the street, sidewalk or alley*

- (a) *Drinking alcoholic beverages on a public street, sidewalk or alley of the city, whether afoot, or as a passenger in or an operator of any vehicle, is unlawful and is prohibited.*
- (b) *Exception: Subject to the rules and regulations of the Texas Alcoholic Beverages Code, persons afoot on a public street, sidewalk or alley of the City are permitted to drink beer and wine in a limited public area defined as:*
  - 1) *The north right-of-way line of Eva Street (State Highway 105) extending north to the south right-of-way line of Clepper Street and bounded on the east by Prairie Street, and on the west by Pond Street, extending north to the south right-of-way line of College Street to also include the east of the eastern right-of-way line of Liberty Street between College Street to the south right-of-way line of Clepper Street and an area extending west from the west right-of-way line of Pond Street and bounded on the south by the south right-of-way line of Eva Street, as further described by the map*

*incorporated into this Ordinance as Exhibit "A."*

2) *This exception is authorized only from 7:00 AM to 12:00 Midnight, Monday through Saturday; 12:00 Midnight to 1:00 AM on Sundays; and 12:00 Noon to 12:00 Midnight on Sundays.*

(c) *The throwing of any opened container of any type general used for beverages from or out of any vehicle shall be prima facie evidence that the occupant thereof was then and there drinking alcoholic beverages in violation of this section."*

**SECTION 3.** This amendment to Ordinance No. 1989-2, dated February 14, 1989, Ordinance No. 2017-16, dated July 11, 2017, and to Ordinance No. 2021-04, dated February 9, 2021, as codified in Section 6-57 of the City Code, shall prevail and all other ordinances in conflict are hereby repealed to the extent of any conflict.

**SECTION 4.** If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

**SECTION 5.** It is hereby officially found and determined that the meeting at which this Ordinance was considered 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, Chapter 551, of the Texas Government Code.

**SECTION 6.** All other ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance on all ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

**SECTION 7.** This Ordinance shall take effect immediately upon its passage and adoption.

**PASSED AND APPROVED** by the City Council of the City of Montgomery, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 2022.

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Byron Sanford, Mayor

ATTEST:

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Nicola Browe, City Secretary

APPROVED AS TO FORM:

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Alan P. Petrov, City Attorney