

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING SECTION 57 OF CHAPTER 6, "ALCOHOLIC BEVERAGES" AND SECTION 6 OF CHAPTER 64, "STREET FESTIVALS" 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 City of Montgomery has an ordinance prohibiting public consumption of alcoholic beverages;

**WHEREAS**, the City of Montgomery ordinance has an exception that permits public consumption of beer and wine in a limited public area;

**WHEREAS**, the City of Montgomery staff, for commercial reasons and an increased interest by street festival organizers, desires to permit public consumption of alcoholic beverages, in a limited public area, in accordance with all local, county, and state laws, rules, and regulations; and

**WHEREAS**, upon the recommendation of the City of Montgomery staff, the City Council of the City of Montgomery, Texas, desires to amend Section 6-57, entitled Consumption on street, sidewalk, or alley, and Section 64-6, entitled Street festivals, of the Code of Ordinances.

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

**SECTION 1.** That the city code of ordinances Section 6-57 is hereby amended, such that it reads, in its entirety, as follows:

**"Sec.6-57. – Consumption on 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) Exceptions:**

*i. 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 section as exhibit A.*

*(2) This exception is authorized only from 7:00 a.m. to 12:00 midnight, Monday through Saturday; 12:00 midnight to 1:00 a.m. on Sundays; and 12:00 noon to 12:00 midnight on Sundays.*

*ii. Waiver request of the consumption of beer and wine to allow the consumption of alcoholic beverages in the limited public area defined above (except for such city properties where deed restrictions prohibit alcohol). Upon receiving a written request from the applicant, the City Administrator and the Chief of Police will review the request to determine if the following conditions and circumstances (including, but not limited to) are satisfied:*

*(1) The written request is related to a street festival event per Section 64-6 of the city code of ordinances;*

*(2) The event is anticipated to involve fifty (50) or more people;*

*(3) Appropriate security is provided to ensure laws governing legal age for drinking and public intoxication will not be violated and that public property at the site of the event is safeguarded;*

*(4) The applicant shall provide a detail/guideline of the operation of the street festival event to be reviewed by the Chief of Police;*

*(5) Any permit under this chapter must be available at the site of the street festival event and must be produced for inspection upon request by any law enforcement official; and,*

*(6) Applicants who have been denied a waiver by the City Administrator and the Chief of Police, may appeal to the City Council.*

*(c) The throwing of any opened container of any type generally 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 2.** That the city code of ordinances Section 64-6 is hereby amended, such that it reads, in its entirety, as follows:

*“Sec.64-6. – Street festivals.*

*Street festivals must obtain a permit from the city prior to the use of any public street or upon any property owned or leased by the city. In addition to the requirements of [section 64-31](#), street festival organizers are required to provide a certificate of insurance listing the city as additional insured in an amount established by the city. The organizer of the street festival must maintain and provide to the city a list of all vendors at the event that includes sufficient information for each vendor to comply with the permit application requirements of this chapter.*

- (a) Each applicant for a street festival shall be required to file for a permit application, 30 days prior to the event, with the city secretary.*
- (b) The fee for street festival permits shall be \$50.00 with a clean-up deposit of \$200.00 that shall be paid prior to the permit issuance.*
- (c) The street festival permit applicant shall provide detailed application information including, but not limited to:
  - (1) Identify organization conducting the event and event coordinator contact information;*
  - (2) Include any authorization(s) for use of private property, street locations and/or street closure requests;*
  - (3) List all activities to be conducted at the event;*
  - (4) Provide detailed site plan showing how event will be set up;*
  - (5) Provide date and time of on-site preparation and clean-up after the event;*
  - (6) If alcohol will be sold, a TABC permit, and proof of host liquor liability insurance shall be provided;*
  - (7) If alcohol will be sold and consumed on the street, sidewalk or alley, street festival applicants must meet the requirements of Section 6-57, Alcoholic Beverages, Consumption on the street, sidewalk, or alley.*
  - (8) If animals or livestock are to be used in conjunction with the event, a handwashing station shall be provided, and the location shown on the site plan; and*
  - (9) Certificate of insurance listing the city as additional insured.**
- (d) Individual vendors operating under a street festival permit are allowed to operate during festival hours.*
- (e) The event coordinator shall provide a detailed list of all participating vendors including contact information, except food vendors. Food vendors*

*and food trucks shall be required to obtain a separate food vendor permit from the city.*

- (f) The issuance of the street festival permit shall be approved by the city administrator and coordinated with the police chief.*
- (g) The street festival permit upon approval of the city administrator shall be issued by the city secretary.”*

**SECTION 3.** This amendment as codified in Section 6-57 and Section 64-6 of the City Code, shall prevail and all other ordinances in conflict are hereby repealed to the extent of any conflict.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor Byron Sanford

ATTEST:

\_\_\_\_\_  
Nici Browe, City Secretary

APPROVED AS TO FORM:

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/s/Alan P. Petrov, City Attorney