

November 16, 2016

Honorable Mayor and City Council
City Hall
226 West 4th Street
Davenport, Iowa 52801

At its regular meeting of November 15, 2016, the City Plan and Zoning Commission considered Case No. ORD16-03 being an ordinance to amend Title 17 of the Davenport Municipal Code to eliminate the special use permit requirement for new alcohol-related uses and restructure other zoning provisions accordingly. Chapter 17.60 Amendments allows for text amendments of the Davenport Municipal Code. [All Wards]

The City Plan and Zoning Commission forwards Case No. ORD16-03 to the City Council with a recommendation for approval.

Respectfully submitted,



Robert Inghram, Chairperson
City Plan and Zoning Commission

		APPROVED	APPROVED	APPROVED					
Name:	Roll Call	ORD16-03 SUPs 17.48	ROW16-05 1002 Bridge Ave	F16-15 Seiffert's NW 2nd					
Connell	P	Y	Y	Y					
Hepner	P	Y	N	Y					
Inghram	P								
Kelling	P	Y	Y	Y					
Lammers	EX								
Maness	P	Y	Y	Y					
Martinez	P	Y	Y	Y					
Medd	Ex	Y	Y	Y					
Quinn	P	Y	Y	Y					
Reinartz	P	Y	Y	Y					
Tallman	P	Y	Y	Y					
		9-YES 0-NO 0-ABSTAIN	8-YES 1-NO 0-ABSTAIN	9-YES 0-NO 0-ABSTAIN					

TO BE PUBLISHED IN THE WEDNESDAY NOVEMBER 30, 2016 EDITION OF THE QUAD CITY TIMES, HAVING THE NOTICE BILLED TO PO NO. 1708558 AND RECEIVING THE PROOF OF PUBLICATION PRIOR TO THE PUBLIC HEARING

TO WHOM IT MAY CONCERN:

There is on file in the Community Planning and Economic Development Department of the City of Davenport, the following petitions:

Case No. ORD16-3 Ordinance amending various sections of Title 17 to eliminate the special use permit requirement for new alcohol-related uses and restructure other zoning provisions accordingly. Chapter 17.60 Amendments allows for text amendments of the Davenport Municipal Code. [All Wards]

A public hearing on this ordinance will be held before the Committee of the Whole in the Council Chambers, City Hall, Davenport, Iowa on Wednesday, December 07, 2016, at 5:30 p.m. At the hearing interested parties may appear and be heard regarding the proposed ordinances. PO No. 1708558.

Department of Community Planning & Economic Development

Phone: (563) 326-7765

Email: planning@ci.davenport.ia.us



**Community Planning & Economic Development Department
City of Davenport**

FINAL STAFF REPORT

PLAN AND ZONING COMMISSION

Meeting Date: November 15, 2016
Request: Zoning Ordinance Text Amendment
Case No.: ORD16-3
Applicant: City of Davenport-Legal Department

Description:

Case No. ORD16-3 Ordinance amending various sections of Title 17 to eliminate the special use permit requirement for new alcohol-related uses and restructure other zoning provisions accordingly. Chapter 17.60 Amendments allows for text amendments of the Davenport Municipal Code. [All Wards]

Recommendation:

Staff recommends the City Plan and Zoning Commission forward Case No. ORD16-3 to the City Council with a recommendation for approval.

Background:

Approximately 10 years ago the City began requiring a special use permit be obtained for new liquor license locations in most areas in Davenport. During this period only 5 applicants out of 130 were denied a permit by the Zoning Board of Adjustment. While at the same time approximately 20% of the ZBA's agenda was devoted to these permit applications and many hours of staff time were spent preparing staff reports.

Discussion:

As these permits are nearly always approved based upon the objective criteria for granting and none were ever revoked, this ordinance will eliminate the necessity of obtaining a special use permit, so long as the use is permitted by the underlying zoning classification. Instead, the applicant's business will automatically be subject to the standard conditions for its operations that the ZBA typically imposed. These requirements will be imposed by code provisions found elsewhere in the City Code and particularly in Chapter 5.10 which deals with alcohol licensing.

Alcohol is a legal product, and the State's Alcoholic Beverages Division is the paramount authority with respect to whether a license is issued or denied. The change proposed shifts the focus to how the business operates after it opens. At that point, it becomes a question of enforcement of the City's ordinances.

Public Input:

Public notice was published in the Quad City Times on Saturday October 21, 2016.

Recommendation:

Staff recommends the City Plan and Zoning Commission forward Case No. ORD16-3 to the City Council with a recommendation for approval.



**Community Planning & Economic Development Department
City of Davenport**

PUBLIC HEARING REPORT

PLAN AND ZONING COMMISSION

Meeting Date: November 1, 2016
Request: Zoning Ordinance Text Amendment
Case No.: ORD16-03
Applicant: City of Davenport-Legal Department

Description:

Case No. ORD16-3 Ordinance amending various sections of Title 17 to eliminate the special use permit requirement for new alcohol-related uses and restructure other zoning provisions accordingly. Chapter 17.60 Amendments allows for text amendments of the Davenport Municipal Code. [All Wards]

Recommendation:

Staff will make a recommendation at the November 15, 2016 meeting.

Background:

Approximately 10 years ago the City began requiring a special use permit be obtained for new liquor license locations in most areas in Davenport. During this period only 5 applicants out of 130 were denied a permit by the Zoning Board of Adjustment. While at the same time approximately 20% of the ZBA's agenda was devoted to these permit applications and many hours of staff time were spent preparing staff reports.

Discussion:

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Alcohol is a legal product, and the State's Alcoholic Beverages Division is the paramount authority with respect to whether a license is issued or denied. The change proposed shifts the focus to how the business operates after it opens. At that point, it becomes a question of enforcement of the City's ordinances.

Public Input:

Public notice was published in the Quad City Times on Saturday October 21, 2016.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAVENPORT, IOWA:

Ordinance amending various sections of Title 17, entitled "Zoning," of the Davenport Municipal Code to eliminate the need for a special use permit to obtain an alcoholic beverage license or permit for businesses that are zoned for commercial activity.

Section 1. That Subsection 17.48.020(B) is hereby amended to read as follows:

B. In the **C-1 Neighborhood Shopping District through the M-2 Heavy Industrial District** the following uses shall require a special use permit:

1. Class "A" service station(s), for the sale of motor vehicle fuel to the general public subject to the following:
 - a. In addition to the site plan, detailed plans showing the building layout with floor elevations, tank locations and their capacity, pumps and their associated piping, and safety curb locations. In making their determination the zoning board of adjustment shall also consider internal circulation for all traffic movement, such as vehicle stacking at the entrance(s) and exit(s) and pump islands, the backing out of vehicles in designated parking spaces and the maneuvering required for fuel and non-fuel delivery vehicles;
 - b. That there shall be no overnight storage of material, merchandise, and/or equipment except within approved buildings or structures;
 - c. All signage shall comply with the regulations of Chapter 17.45;
 - d. All tank installations and subsequent replacements and/or removals shall comply with all applicable State Department of Natural Resources (DNR) and Federal Environmental Protection Agency (EPA) regulations;
 - e. Gas island canopy(ies) may project into the required front yard setback so that the leading edge of the canopy(ies) is not less than ten feet from the front property line.
2. Public garage(s) when located within one hundred twenty-five feet of an "R" district provided that:
 - a. All work on vehicles be done within a fully enclosed building(s);
 - b. All area(s) for vehicle storage be screened from adjacent property and rights-of-way by a solid fence or wall to a height of not less than six feet;

Section 2. That subsection 17.27.030(A) is amended to read as follows:

34. Taverns, brew pubs, beer and wine gardens;

Section 3. That Section 17.28.030 is amended to read as follows:

17.28.030 Use regulations.

A building or premises shall be used only for the following purposes:

- A. Any use permitted in the C-O office shop district;

- B. Bakery whose products are sold at retail on the premises;
 - C. Bank;
 - D. Catering establishment;
 - E. Repair shops for household items including clothing;
 - F. Filling stations (See Chapter 5.24 of this code);
 - G. Hospitals and clinics for animals, but not open kennels or yards where animals are confined or exercised;
 - H. Interior decorating shop;
 - I. Messenger or telegraph service station;
 - J. Restaurant;
 - K. Public garage; no lot or portion thereof shall be used for the display of used cars, provided that no public garage shall be within one hundred twenty-five feet of the boundary of any residential district;
 - L. Garage, storage, and parking lots;
 - M. Salesroom and showroom;
 - N. Store or shop for the conduct of a retail business;
 - O. Store for the collection and distribution of laundry and dry cleaning articles, but not for the treatment, cleaning or processing of such article;
 - P. Theater, except open air drive-in theaters; provided, however, that no theater shall be erected or reconstructed unless there is provided on the same lot, or within three hundred feet thereof, a space for off-street parking which contains an area adequate to accommodate one automobile for every six seats in the theater;
 - Q. Motel;
 - R. Undertaking establishment;
 - S. Service establishments only when totally enclosed within a structure, including coin-operated laundromats and cleaning establishments when nonflammable cleaning fluids are used;
 - T. Taverns, brew pubs, beer and wine gardens;
 - U. Accessory buildings and uses customarily incidental to the above uses.
- (New: prior code § 42-60).

Section 4. That Section 17.32.020 is amended to read as follows:

17.32.020 Use regulations.

A building or premises shall be used only for the following uses:

- A. The retail sales of merchandise;
- B. Offices;
- C. Restaurants and food services associated with other development in the complex;
- D. Banking facilities;
- E. Hotels and motels;
- F. Indoor recreation uses and outdoor uses that relate to other activities developed on the site;

- G. Parking;
- H. Retail outlets, business parks, mixed office, warehouse distribution uses (provided that all storage activities are carried out completely within a building);
- I. Residential development;
- J. The assembly of products provided that all storage and activity takes place within an enclosed structure, such activity is completely screened from public view and that the components or materials used to construct the products are not corrosive or explosive;
- K. Pharmaceutical and cosmetic compounding;
- L. Medical, dental, research, testing and experimental laboratories;
- M. Taverns, brew pubs, beer and wine gardens
- N. Other similar compatible facilities.

Section 5. That 5.10.105(F) is amended to read as follows:

F. No carry-out liquor sales establishment as defined in Chapter 5.10 shall be located within one-quarter mile of another existing carry-out liquor sales establishment in the area within and adjacent to Downtown Davenport, hereby defined as the area enclosed by the following: Beginning at the intersection of South Marquette Street and the seawall of the Mississippi River, north along the centerline of Marquette Street to the centerline of West 6th Street, east along the centerline of 6th Street to the centerline of Iowa Street, south along the centerline of Iowa Street to the centerline of Federal Street, east and southeast along the centerline of Federal Street and as extended to the seawall of the Mississippi River, and west along said seawall to the point of beginning. Any carry-out liquor sales establishment established prior to the effective date of this paragraph (adopted October 9, 2013 by Ordinance 2013-329) that is nonconforming with regard to the separation requirement between said uses, as specified in this title, may continue unless one or both of these conditions occur, then nonconforming rights cease and the use must convert to a conforming use:

1. The liquor license lapses, is revoked or is discontinued for a period of one year; or,
2. There are changes to the use such that the use no longer meets the definition of a carry-out liquor sales establishment.

Section 6. That a new section 5.10.107 entitled "Licenses issued After October 1, 2016 – Additional Requirements" is adopted that reads as follows:

5.10.107 All Licenses and Permits – Additional Requirements.

- A. No business holding a liquor license or a beer or wine permit shall sell or dispense alcoholic beverages via a drive through or walk-up window.
- B. The business must satisfy the following criteria, in addition to all other existing city ordinances, rules, and regulations, including, but not limited to those concerning noise, lights, and nuisance behavior and conditions:

(1) The business is sufficiently separated from any adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.

(2) The business will not increase congestion on the streets in any adjoining residential area by its customer or employees frequently parking in front of the residences of others. Business locations in operation prior to 1965 are exempt from this requirement.

(3) Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface. Parking lot lighting shall be limited to downcast luminaires. Parking lot lighting shall be directed away from nearby residential properties and city streets;

(4) Attractive litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

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

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

First Consideration _____

Second Consideration _____

Approved _____

Frank Klipsch
Mayor