

ORDINANCE NO. 2025-33

AN ORDINANCE OF THE CITY OF MCLENDON-CHISHOLM, TEXAS AMENDING THE ZONING ORDINANCE, AS HERETOFORE AMENDED, BY AMENDING ARTICLE 4 “ZONING DISTRICTS”, SECTION 4-8 “GENERAL BUSINESS DISTRICT” BY SETTING HOURS OF OPERATION, REGULATING NOISE AND LIGHT AND SOUND FOR RESTAURANTS IN THE GENERAL BUSINESS (“GB”) ZONING DISTRICT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council has determined that establishing additional development standards for restaurants within the General Business District will promote compatibility with adjacent residential areas and protect the public’s health, safety, and welfare; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of two public hearings pursuant to Sec. 211.006(b) of the Texas Local Government Code; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the second public hearing for the requested rezoning, and the City Council deems it appropriate to grant the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCLENDON-CHISHOLM, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and are fully incorporated into this Ordinance by reference.

Section 2. Chapter 14A, “Zoning Ordinance”, Article 4, “Zoning Districts”, Section 4-8, “General Business District”, is hereby amended by adding the following subsection 4-8(K) and which subsection shall read as follows:

Sec. 4-8 General Business District.

(a) Purpose and Applicability

- This section establishes regulations for restaurants that do not serve alcoholic beverages and are located within 300 feet of any parcel zoned for residential use. These provisions are intended to preserve neighborhood character, protect residents from late-night disturbances, and minimize adverse lighting and noise impacts. For the purposes of this section, “restaurant” shall mean an establishment primarily engaged in the preparation and sale of food for on-premises consumption and not licensed to serve alcoholic beverages.

(b) Hours of Operation

- Operational hours for restaurants, as defined in this ordinance, shall not operate later than 12:00 A.M. This limitation applies to dine-in, take-out, and drive-through services.

(c) Noise and Sound Restrictions

1. Outdoor amplified sound, including music, public address systems, or speaker systems, is prohibited after 10:00 PM on Sunday through Thursday and 11:00 PM Friday and Saturday.

2. At all times, noise levels at the nearest residential property line (measured from the property line on which the restaurant is located to the property line of the nearest residence) shall not exceed:

- 85 dB(A) between 7:00 a.m. and 10:00 p.m.
- 70 dB(A) between 10:00 p.m. and 7:00 a.m.

The above section (B)(2) does not apply to a food service establishment that is located within 300 feet of a residence that was occupied before any food service establishment was located on the property. For such establishments, noise levels at the nearest residential property line (measured from the property line on which the restaurant is located to the

property line of the nearest residence) shall not exceed: 85dB(A) between 7:00 AM and 10:00PM and 45dB(A) between 10:00 PM and 7:00AM.

Plainly Audible Standard

After 10:00 p.m. on Sunday through Thursday and after 11:00 p.m. on Friday and Saturday, no person shall operate or permit any amplified sound, music, or other noise associated with a restaurant use that is plainly audible at or beyond the property line of any

residentially zoned or occupied parcel. "Plainly audible" means any sound that can be clearly identified and understood, such as music, bass, lyrics, or spoken words, without the aid of a sound-level meter. This provision may be enforced independently of the decibel limits specified above.

(d). Exterior Lighting Regulations

1. Fixture Type and Mounting

- Pole-mounted lighting fixtures are prohibited for restaurants located within 300 feet of a residentially zoned parcel.
- All luminaires must be full cutoff. Floodlights must be aimed no higher than 45 degrees below horizontal. This can be accomplished using full-cutoff fixture design, shielding, visors, louvers or other devices.
- Exterior lighting must have soft, indirect illumination concealed behind landscaping or placed in outdoor lighting fixtures that do not produce direct glare. Lighting must be focused on and provide the minimum amount of illumination required for safety.
- On-site lighting design must be used to identify and illuminate entries, walks and parking areas. Site lighting used for building illumination must be down wall washing only.
- Security lighting must be designed to avoid glare and must direct light toward the building or storage area instead of away. Security lighting must be designed to avoid glare and directed toward the building or on-site amenities, including but not limited to parking areas, walkways, or storage areas consistent with the standards set forth in this ordinance.
- All building-mounted lighting installations associated with nonresidential concept plans, site plans, or planned developments shall be subject to city staff and board review.
- No light source may be aimed at or projected toward the right of way or any parcel designated with residential zoning.

2. Light Trespass Limits

- No line of sight to a bulb is permitted five feet or more beyond a residential property line or public street right-of-way by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with full cutoff fixtures, fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim or a combination of these factors.

3. Hours of Operation for Lighting

- Non-security lighting must be turned off by 10:00 p.m., or within one hour after business closing, whichever is later.
- Security lighting may remain operational but must be dimmed to 50% of normal output during overnight hours. Security lighting may remain on but must be dimmed to 50% of normal output overnight between 10:00 PM and 7:00 AM.

(e) Measurement and Enforcement

1. **Distance Measurement:** Measured in a straight line from the restaurant's nearest property line to the nearest property line of the residentially zoned parcel. Measured in a straight line, without regard to intervening structures, from the nearest property line of the restaurant use to the nearest property line of the residentially zoned and/or occupied property line.

2. **Noise Measurement:** Taken with a calibrated sound level meter, using A-weighted decibels (dB(A)) in accordance with ANSI standards.

3. **Lighting Measurement:** Taken using a calibrated light meter in accordance with IESNA standards.

4. **Enforcement:** The City's Code Compliance Officer or Zoning Administrator is authorized to conduct inspections and enforce compliance.

(f) Variances

In accordance with the provisions of the Chapter 211 of the Local Government Code, and this Zoning Ordinance, the Board of Adjustment (BOA) has the authority to hear and take final action on requests for a Variance from standards as set forth in this section.

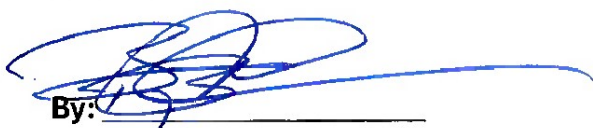
SECTION 3. That all ordinances of the City of McLendon-Chisholm, Texas in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of McLendon-Chisholm, Texas not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or 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 this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

SECTION 6. Any person firm, corporation or business entity violating this ordinance or the provisions of the Code of Ordinance of the City of McLendon-Chisholm, Texas as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of McLendon-Chisholm, Texas, shall be subject to a fine not to exceed the sum of ____ dollars (\$__.00) for each offense, and each day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 7. That all Recitals contained in this Ordinance are fully incorporated herein as if fully written.



By: _____

Bryan McNeal, Mayor

ATTEST:



Angela Jennings, City Secretary