

**CITY OF MIDLAND, TEXAS
PLANNING AND ZONING COMMISSION
PACKET**

**October 17, 2023 - 10:00 AM
Council Chambers – City Hall**



Notice is hereby given that a public meeting will be held by the Planning and Zoning Commission of the City of Midland, in the Ballroom A, BARBARA AND GEORGE H.W. BUSH CONVENTION CENTER, 105 N. MAIN STREET, MIDLAND, TEXAS 79701 , Midland, Texas, at or following the time specified, to consider the following:

PUBLIC HEARINGS

The Planning and Zoning Commission will hold public hearings on the following items:

1. HOLD A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF MIDLAND AT 10:00 A.M. ON TUESDAY, OCTOBER 17, 2023, IN BALLROOM A, BARBARA AND GEORGE H.W. BUSH CONVENTION CENTER, 105 N. MAIN STREET, MIDLAND, TEXAS 79701 TO CONSIDER THE ADOPTION OF AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", BY ADDING CHAPTER 1A, "CENTENNIAL ENTERTAINMENT OVERLAY DISTRICT", SO AS TO ESTABLISH AN OVERLAY ZONING DISTRICT AND PROVISIONS RELATED TO THE LAND USE AND DEVELOPMENT WITHIN SAID OVERLAY DISTRICT AND TO AMEND THE ZONING MAP ACCORDINGLY. **(DISTRICT: ALL) (DEVELOPMENT SERVICES)**

Jeffrey S. Fisher
Planning Division Manager
Department of Development Services

The City of Midland Planning and Zoning Commission meetings are available to all persons regardless of disability. If you require special assistance, please contact the Planning Division at 432-685-7400 or write to us at P.O. Box 1152, Midland, Texas 79702, at least 48 hours in advance of the meeting.



Planning and Zoning Commission

Approved for Agenda:

MEETING DATE: October 17, 2023

TO: PLANNING AND ZONING COMMISSION

FROM: Rolandrea Russell, Interim Director

SUBJECT: HOLD A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF MIDLAND AT 10:00 A.M. ON TUESDAY, OCTOBER 17, 2023, IN BALLROOM A, BARBARA AND GEORGE H.W. BUSH CONVENTION CENTER, 105 N. MAIN STREET, MIDLAND, TEXAS 79701 TO CONSIDER THE ADOPTION OF AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", BY ADDING CHAPTER 1A, "CENTENNIAL ENTERTAINMENT OVERLAY DISTRICT", SO AS TO ESTABLISH AN OVERLAY ZONING DISTRICT AND PROVISIONS RELATED TO THE LAND USE AND DEVELOPMENT WITHIN SAID OVERLAY DISTRICT AND TO AMEND THE ZONING MAP ACCORDINGLY. (DISTRICT: ALL) (DEVELOPMENT SERVICES)

Recommended Planning and Zoning Commission Action:

 X Approve Deny Directional/Informational

Current Zoning:

CB, Central Business District

Discussion:

This ordinance is to amend Title XI, "Planning and Development", of the City Code of Midland, Texas by adding Chapter 1a, "Centennial Entertainment Overlay District", so as to establish an overlay zoning district and provisions related to the land use and development within said Overlay District and to amend the zoning map accordingly.

The proposed boundary of the Centennial Entertainment Overlay District will include approximately 49.50± acres within the CB, Central Business District. The purpose of this district is to provide for the development of downtown Midland as the regional business center for professional offices. This district is also designed to promote a vibrant

downtown by providing residential, restaurant, retail, hotel, and other unique development opportunities that encourage downtown development and redevelopment efforts.

The purpose of the Centennial Entertainment Overlay District is to provide destination-oriented venues to promote a vibrant and active core in Midland's central business district, leveraging Centennial Park as an engaging public space, and providing residents and employees opportunities to socialize and be entertained. The Centennial Entertainment Overlay District is anticipated to encourage economic development through infill and redevelopment of underutilized properties and adaptive reuse of existing buildings. The balance of land uses for working, living, shopping, and entertainment creates an environment conducive to increasing the quality of life for residents and employees and furthering the City of Midland's unique identity.

The Centennial Entertainment Overlay District will allow all uses allowed in the CB, Central Business District along with additional uses and regulations that will be unique to the Centennial Entertainment Overlay District.

The City Council approved an ordinance calling this joint public hearing on September 26, 2023. The public notices were published in the Midland Reporter-Telegram and on the City's website on September 28, 2023.

The ordinance is now before the Planning and Zoning Commission for a recommendation to establish the overlay district and regulations.

Staff recommends approval.

Attachments:

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XI, “PLANNING AND DEVELOPMENT” OF THE CITY CODE OF MIDLAND, TEXAS, BY ADDING CHAPTER 1A, “CENTENNIAL ENTERTAINMENT OVERLAY DISTRICT” SO AS TO ESTABLISH AN OVERLAY ZONING DISTRICT; ESTABLISHING PROVISIONS RELATED TO LAND USE AND DEVELOPMENT WITHIN SAID OVERLAY ZONING DISTRICT; AMENDING THE ZONING MAP; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ESTABLISHING AN EFFECTIVE DATE OF DECEMBER 1, 2023; AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to approve and adopt an amendment to Title XI, “Planning and Development” of the City Code of the City of Midland, Texas, by adding Chapter 1a, “Centennial Entertainment Overlay District” so as to establish an overlay zoning district and provisions related to land use and development within said overlay zoning district and to amend the Zoning Map; and

WHEREAS, the City Council finds that the zoning regulations contained in Chapter 1a are in accordance with the City’s comprehensive plan and have been designed to:

- A. lessen congestion in the streets;
- B. secure safety from fire, panic, and other dangers;
- C. promote health and the general welfare;
- D. provide adequate light and air;
- E. prevent the overcrowding of land;
- F. avoid undue concentration of population; and
- G. facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements; and

WHEREAS, the City Council finds that the zoning regulations contained in Chapter 1a were made with reasonable consideration, among other things, for the character of each zoning district therein and its peculiar suitability for particular uses, with a view of

conserving the value of buildings and encouraging the most appropriate use of land in the City; and

WHEREAS, the City Council and the Planning and Zoning Commission jointly held a public hearing at 10:00 a.m. on October 17, 2023, at the Barbara and George H. W. Bush Convention Center, 105 N. Main Street, Ballroom A, Midland, Texas 79701, to hear comments regarding the proposed adoption of this ordinance; and

WHEREAS, in accordance with Texas Local Government Code Section 211.007(d), the City Council prescribed that notice of the joint public hearing was to be:

- A. By publication in a newspaper of general circulation in the City of Midland before the 15th day before the date of the public hearing;
- B. By publication on City of Midland's Internet website before the 15th day before the date of the public hearing; and
- C. By posting notice in accordance with Texas Government Code Chapter 551 of the City Council meeting and the Planning and Zoning Commission meeting during which the public hearing will be held; and

WHEREAS, the City Council finds that notice of the public hearing was published and posted as prescribed by the City Council; and

WHEREAS, the City Council finds that all procedural requirements necessary for the adoption of this ordinance have been complied with and satisfied; and

WHEREAS, the City Council finds that the public health, safety and general welfare will be best served by amending Title XI, "Planning and Development" of the City Code of the City of Midland, Texas, as described in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:

SECTION ONE. That Title XI, "Planning and Development" of the City Code of the City of Midland, Texas, is hereby amended by adding Chapter 1a to read in its entirety

as follows:

Chapter 1a - CENTENNIAL ENTERTAINMENT OVERLAY DISTRICT.

11-1a-1 - Purpose.

The purpose of the Centennial Entertainment Overlay District is to provide for destination-oriented venues to promote a vibrant and active core in Midland's central business district, leveraging Centennial Park as an engaging public space, and providing residents and employees opportunities to socialize and be entertained. The Centennial Entertainment Overlay District is anticipated to encourage economic development through infill and redevelopment of underutilized properties and adaptive reuse of existing buildings. The balance of land uses for working, living, shopping and entertainment creates an environment conducive to increasing the quality of life for residents and employees and furthering the City of Midland's unique identity.

11-1a-2 - Application.

This Chapter applies only to property located within the Centennial Entertainment Overlay District.

11-1a-3 - Description of district.

Centennial Entertainment Overlay District means the portion of the City located within the following-described area and shown in Figure 11-1a-3.1:

An approximately 49.50-acre tract located in the City of Midland, Texas, and being a portion of Original Town Addition to the City of Midland, Texas, and all of Original Town Addition, Sections 3, 7, 8, 14 and 15 to the City of Midland, Texas, and being more fully described as follows:

Beginning at a point at the southeast corner of the intersection of W. Missouri Ave. and Big Spring St.,

Thence northerly along the easterly line of Big Spring St. about 1510 ft. to a point at the northeast corner of the intersection of Big Spring St. and Ohio St.,

Thence easterly along the south side line of Ohio St. about 380 ft to northeast corner of the intersection of Ohio Ave. and Colorado St.,

Thence northerly along the easterly line of Colorado St. about 380 ft. to the southeast corner of the intersection of Colorado St. and Tennessee Ave.,

Thence easterly along the south line of Tennessee Ave. about 380 ft. to the southeast corner of the intersection of Tennessee Ave. and Loraine St.,

Thence southerly along the east line of Loraine St about 380 ft. to the southeast corner of the intersection of Loraine St. and Ohio Ave.,

Thence easterly along the south line of Ohio Ave. about 380 ft. to the southwest corner of the intersection of Ohio Ave. and Main St.,

Thence southerly along the east line of N. Main St. about 380 ft. to the northeast corner of the intersection of Main St. and Illinois Ave.,

Thence easterly along the south line of Illinois Ave. a distance of about 340 ft. to a point at the southwest corner of the intersection of Illinois Ave. and Baird St.,

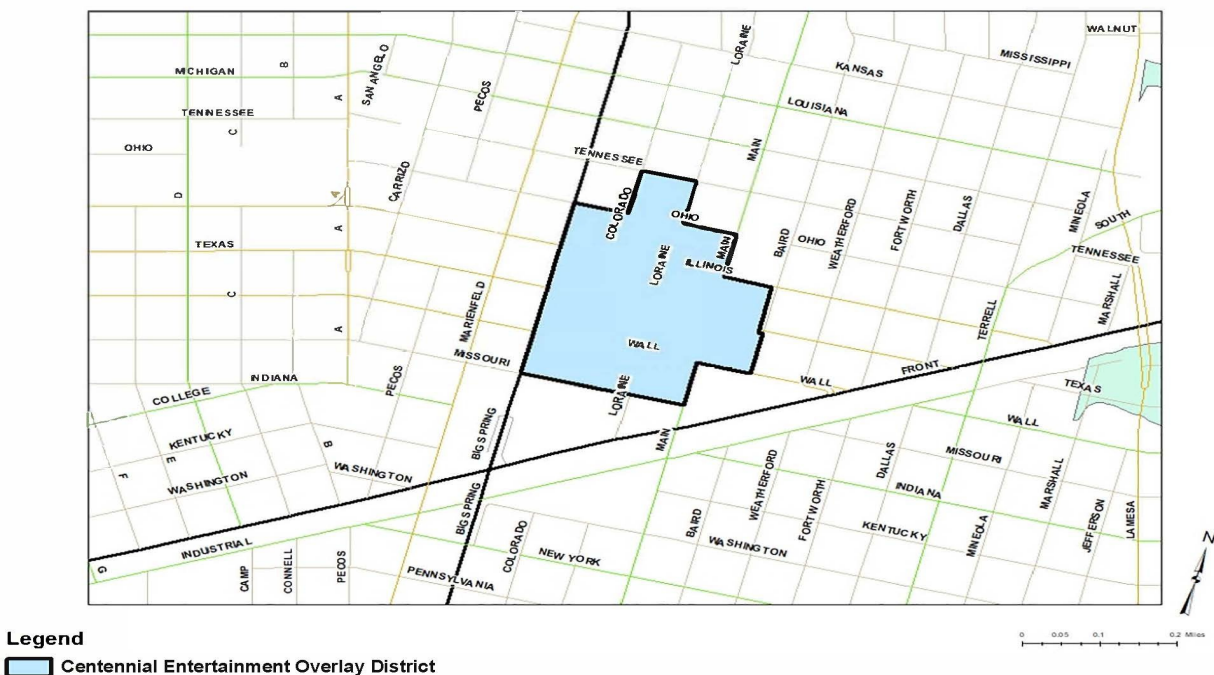
Thence southerly along the west line of Baird St. about 760 ft. to a point in the south line of W. Wall St.,

Thence westerly along the south line of W. Wall St. about 300 ft. to a point at the southeast corner of the intersection of W. Wall St. and S. Main St.,

Thence southerly along the east line of S. Main St. about 380 ft. to a point at the southeast corner of the intersection of S. Main St. and W. Missouri Ave.,

Thence westerly along the south line of W. Missouri Ave. about 1140 ft. to the place of beginning and containing about 49.50 acres.

Figure 11-1a-3.1



11-1a-4 - Definitions.

- A. Except as otherwise provided in this Section, the words and terms used in this Chapter and in the application of this Chapter shall have the same meanings given those words and terms in Chapter 1 of this Title, as amended.
- B. As used in this Chapter and in the application of this Chapter:

1. *Extended Hours Area* has the same meaning given that term in Section 105.06 of the Texas Alcoholic Beverage Code, as amended.
2. *Restaurant or Cafeteria, with Drive-Through Window or Curb Service* means a business, with drive-through window or curb service, that:
 - a. operates its own permanent food service facility with commercial cooking equipment on its premises; and
 - b. prepares and offers to sell multiple entrees for consumption on or off the premises.

To the extent that a provision of this Chapter applies to both a Restaurant or Cafeteria, with Drive-Through Window or Curb Service and a Restaurant or Cafeteria, without Drive-Through Window or Curb Service, such business may be referred to as a Restaurant.

3. *Restaurant or Cafeteria, without Drive-Through Window or Curb Service* means a business, without drive-through window or curb service, that:
 - a. operates its own permanent food service facility with commercial cooking equipment on its premises; and
 - b. prepares and offers to sell multiple entrees for consumption on or off the premises.

To the extent that a provision of this Chapter applies to both a Restaurant or Cafeteria, with Drive-Through Window or Curb Service and a Restaurant or Cafeteria, without Drive-Through Window or Curb Service, such business may be referred to as a Restaurant.

4. *Restaurant Patio* means an outdoor space connected to a Restaurant where food is served from the Restaurant to customers and eaten on the premises. A Restaurant Patio may be unenclosed or enclosed and, if authorized in writing by the City, may occupy a portion of the public right-of-way adjacent to the Restaurant.

11-1a-5 - Compliance with the Zoning Ordinance required.

Except as expressly provided in this Chapter, property shall be developed and used in accordance with the regulations of Chapter 1 of this Title that are applicable to the zoning district in which the property is located as shown on the Zoning Map.

11-1a-6 - Permitted uses.

- A. Property may be used for uses that are permitted in the property's zoning district in accordance with Chapter 1 of this Title; provided, however, that in the event of a conflict between a use's definition contained in Section 11-1a-4 and the same use's definition contained in Chapter 1 of this Title, the definition contained in Section 11-1a-4 shall control.

B. In addition to the uses that are permitted by Subsection A hereof, property may be used for:

1. Alcoholic Beverages Sales for On-Premises Consumption;
2. Bar;
3. Brewery, Local;
4. Brewery, Regular;
5. Distillery;
6. Lounge or Nightclub;
7. Restaurant or Cafeteria, with Drive-Through Window or Curb Service, as defined in Section 11-1a-4;
8. Restaurant or Cafeteria, without Drive-Through Window or Curb Service, as defined in Section 11-1a-4; and
9. Winery.

11-1a-7 - Use of the public right-of-way by restaurants.

- A. A Restaurant Patio shall not be located in any portion of the public right-of-way unless the owner or operator of the Restaurant to which the Restaurant Patio is connected obtains written authorization from the City to so use the public right-of-way. To the extent that a Restaurant Patio is located in the public right-of-way, written authorization from the City to so use the public right-of-way may include authorization to use such portion of the public right-of-way for Alcoholic Beverages Sales for On-Premises Consumption. In the event of a conflict between this Subsection and any other ordinance, this Subsection shall control.
- B. A Restaurant Patio shall not occupy the public right-of-way in a manner that causes less than four (4) feet of clear sidewalk space to be available for pedestrians to use.

11-1a-8 - Extended hours of alcoholic beverage sales.

The Centennial Entertainment Overlay District is an Extended Hours Area. Alcoholic beverages may be sold within the Centennial Entertainment Overlay District in accordance with this Section during the extended hours of sale provided in Section 105.03 and 105.05 of the Texas Alcoholic Beverage Code, as amended.

11-1a-9 - Offense and penalty.

Any person, firm, corporation, or other entity who violates, disobeys, or otherwise fails to comply with or who resists the enforcement of any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00 for each violation. Each day that a violation exists shall constitute a separate and distinct offense.

SECTION TWO. That the Zoning Map is hereby amended in accordance with Section One of this Ordinance.

SECTION THREE. That the provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter

as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. That the provisions of this ordinance pertaining to the sale of alcoholic beverages apply only to property located within the Centennial Entertainment Overlay District, as defined in this ordinance. The portions of Title XI, “Planning and Development”, Chapter 1, “Zoning” of the City Code of Midland, Texas, that existed on June 30, 2019, and that pertained to the regulation of the sale of alcoholic beverages (the “Preexisting Alcoholic Beverage Regulations”) were validated by acts of the Texas Legislature. *See* Tex. Rev. Civ. Stat. Ann. arts. 974d-36 § 1, 974d-37 § 1 (Vernon Supp. 2000); Act of May 27, 1985, 69th Leg., R.S., ch. 815, § 2, 1985 Tex. Gen. Laws 2872, repealed by Act of May 1, 1987, 70th Leg., ch. 149, 1987 Tex. Gen. Laws 707, 1307. To the extent that any provision of the current Title XI, “Planning and Development”, Chapter 1, “Zoning Ordinance” of the City Code of Midland, Texas, pertaining to the regulation of the sale of alcoholic beverages conflicts with the Preexisting Alcoholic Beverage Regulations or was not validated by an act of the Texas Legislature, such provision shall not be effective, and the applicable provision of the Preexisting Alcoholic Beverage Regulations shall remain in effect and shall be deemed to have not been repealed or superseded.

SECTION FIVE. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. That the penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code

of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. That the effective date of this ordinance is December 1, 2023.

SECTION EIGHT. That the City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2023; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

Lori Merritt Blong, Mayor

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rolandrea Russell, Interim Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney