

**CITY OF ABERNATHY**

**ORDINANCE NO. 505**

**AN ORDINANCE OF THE CITY OF ABERNATHY AMENDING THE CITY ZONING ORDINANCE NO. 310 TO ESTABLISH COCKTAIL LOUNGES AS A PERMITTED USE AND REMOVING SAID COCKTAIL LOUNGES FROM CONDITIONAL USE REQUIREMENTS WITHIN AREAS ZONED C-2 - HEAVY COMMERCIAL; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.**

WHEREAS, the City of Abernathy zoning Ordinance No. 310 establishes zoning regulations for the City of Abernathy; and

WHEREAS, Ordinance 310, Article 1341 defines a “Cocktail Lounge” as “a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, restaurants, and similar uses”; and

WHEREAS, Ordinance 310, Article 1860 provides for the Permitted Uses in the C-2 Heavy Commercial District and Article 1865 provides for Conditional Uses in the said District; and

WHEREAS, Alcoholic Beverage Code Section 109.57 details that the City of Abernathy may not impose stricter standards on premises or businesses required to have an alcohol license or permit than are imposed on similar premises or businesses that are not required to have such a license or permit; and

WHEREAS, the City Council for the City of Abernathy has found that it will be in the best interest of the City of Abernathy and promote the purposes of the Zoning Ordinance if Cocktail Lounges are included as a Permitted Use and deleted as a Conditional Use in the C-2 Heavy Commercial District; and

WHEREAS, a public hearing on this matter was held by the City Council as required by law; now therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABERNATHY, TEXAS:**

1. THAT Article 1860 (a) be amended to add and include Cocktail Lounge.
2. THAT Article 1865 (a) be amended to delete Cocktail Lounge.
3. THAT all ordinances or parts of ordinances that conflict herein are hereby repealed and declared no further in force or effect.
4. If any section, sub-section, sentence cause, phrase, or portion of this ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence cause, phrase, or portion shall be deemed a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portion.
5. THAT this ordinance shall take effect from and after its adoption by the City Council of the City of Abernathy, Texas

**Adopted the 13<sup>th</sup> day of July, 2009.**