

ORDINANCE NUMBER 1637

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1438 REGARDING THE DEFINITIONS OF "EATING ESTABLISHMENTS" AND "DRINKING ESTABLISHMENTS" (ZA-87-02).

WHEREAS, the Definitions (Section 1.03) of the City of Milwaukie Zoning Ordinance includes definitions for Eating Establishment and Drinking Establishment, and

WHEREAS, these definitions do not adequately define the uses intended, and

WHEREAS, a Zoning Ordinance Amendment was considered at a public hearing before the Planning Commission on July 14, 1987, and the City Council on August 18, 1987, and

WHEREAS, the City Council finds that the Zoning Ordinance should be amended based upon the findings listed below,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact and conclusions are adopted:

FINDINGS:

1. The current definitions of Eating and Drinking Establishments are differentiated only by the presence of an Oregon Liquor Control Commission (OLCC) permit.
2. The current definitions section does not consider the variety and types of OLCC permits.
3. The current definitions consider a restaurant with an OLCC permit to be a Drinking Establishment whether an attached cocktail lounge is present or not.
4. Drinking Establishments are considered to be High-Impact Commercial Uses, requiring a conditional use permit in most City commercial zoning districts.
5. The proposed new definitions for Eating and Drinking Establishments focus on the existence of an attached but separate drinking area or cocktail lounge. In this way, restaurants which may serve alcoholic beverages at the dining table only are not considered to be of the same category of service as are taverns, bars and cocktail lounges.

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6. No modifications to any of the zoning districts are required by this proposal.

CONCLUSIONS:

1. The current Eating and Drinking Establishment definitions require restaurants to obtain a conditional use permit if an OLCC permit is desired.
2. The proposed new definitions for Eating and Drinking Establishment focus not on OLCC permits, but on the presence of a separate drinking and/or cocktail lounge.
3. The proposed new definitions provide a fairer and more realistic method of evaluating Eating versus Drinking Establishments.
4. The public is best served when Code language and definitions are realistic and clear.

Section 2. Amendments. Section 1.03 of Ordinance Number 1438 is amended as follows:

- A. The definition of Drinking Establishment is amended to read as follows:

DRINKING ESTABLISHMENT: Means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

- B. The definition of Eating Establishment is amended to read as follows:

EATING ESTABLISHMENT: Means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

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Read the first time on August 18, 1987, and moved
to second reading by 4 - 0 vote of the City Council.

Read the second time and adopted by the City Council on
September 1, 1987.

Roger Hall
Roger Hall, Mayor

ATTEST:

Jerri L. Widner
Jerri Widner, City Recorder

Approved as to form:

Greg Eades
Greg Eades, City Attorney