

Chapter 10 ALCOHOLIC BEVERAGES*

***Editor's note:** Ord. No. 04-2775, § 2, adopted Dec. 14, 2004, amended Ch. 10 in its entirety to read as herein set out. Former Ch. 10, §§ 10-1--10-39, pertained to similar subject matter, and derived from Code 1969, §§ 3-1--3-5, § 3-17, and §§ 3-21--3-28.

Cross references: Advertising, ch. 6; businesses, ch. 26; health and sanitation, ch. 66; offenses and miscellaneous provisions, ch. 82; traffic and vehicles, ch. 114.

State law references: Local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36, 108.55, 109.31 et seq.; local option elections, V.T.C.A., Alcoholic Beverage Code § 251.01 et seq.; public intoxication, V.T.C.A., Penal Code § 49.02.

[Sec. 10-1. Prohibited sales of alcoholic beverages near schools, churches or hospitals.](#)

[Sec. 10-2. Measure of the distance between the place of business where alcoholic beverages are sold and a church, school, or public hospital.](#)

[Sec. 10-3. Requests to city council for variance of the distance regulations imposed pursuant to this chapter.](#)

[Sec. 10-4. Requirement of any person or dealer applying for, granted, or holding a license or permit pursuant to the Texas Alcoholic Beverage Code to sell alcoholic beverages for on-premises consumption to register with the city.](#)

[Sec. 10-5. No filing fee for initial registration or annual registration.](#)

[Sec. 10-6. Annual reporting requirements for authorized restaurants with alcohol sales.](#)

[Sec. 10-7. Penalties for violation of this chapter.](#)

Sec. 10-1. Prohibited sales of alcoholic beverages near schools, churches or hospitals.

In accordance with V.T.C.A, Alcoholic Beverage Code § 109.33, as amended, the city hereby declares that alcoholic beverage sales are prohibited by a dealer, or person authorized to sell alcoholic beverages, whose place of business is within 300 feet of a church, public school or public hospital.

(Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-2. Measure of the distance between the place of business where alcoholic beverages are sold and a church, school, or public hospital.

The measurement of the distance between the place where alcoholic beverages are sold by a dealer or person authorized to sell alcoholic beverages and a church, school, or public hospital shall be as defined and described by V.T.C.A., Alcoholic Beverage Code § 109.33, as amended.

(Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-3. Requests to city council for variance of the distance regulations imposed pursuant to this chapter.

Upon application of a dealer, or person authorized to sell alcoholic beverages, desiring to sell alcoholic beverages within the distance restrictions imposed by section 10-2, the city council may, in its sole discretion, allow variances to the distance regulations contained in section 10-2 if the city council determines that enforcement of the regulations in a particular instance is not in the best interest of the public, constitutes waste or insufficient use of land or other resources,

creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-4. Requirement of any person or dealer applying for, granted, or holding a license or permit pursuant to the Texas Alcoholic Beverage Code to sell alcoholic beverages for on-premises consumption to register with the city.

Any dealer or person applying for, granted or holding a license or permit pursuant to the Texas Alcoholic Beverage Code to sell alcoholic beverages for on-premises consumption within the city must first file an initial registration with the city secretary on the registration form prescribed by the city prior to commencing any sales of alcoholic beverages. Thereafter, no later than January 25 of each year, each dealer or person applying for, granted or holding a license or permit pursuant to the Texas Alcoholic Beverage Code to sell alcoholic beverages in the city must file an annual registration with the city secretary on a form prescribed by the city.

(Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-5. No filing fee for initial registration or annual registration.

There is no filing fee to the city for the initial registration or annual registration.

(Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-6. Annual reporting requirements for authorized restaurants with alcohol sales.

(a) "Restaurant with alcohol sales" shall be defined as a restaurant that derives no more than 75 percent of its gross revenue in the city from the on-premises sale of alcoholic beverages; and such restaurant with alcohol sales is operating pursuant to the terms and conditions of the city's comprehensive zoning ordinance.

(b) The owner, operator or person in control of a restaurant with alcohol sales shall file with the city secretary no later than January 25 of each year an annual report which reflects the gross revenue from the on-premises sale of alcoholic beverages and reports the gross sales of all other items at the restaurant with alcohol sale. As a part of the annual report, a copy of the annual filings of sales tax and alcoholic beverage tax reports filed with the State of Texas must be submitted to the city secretary. The annual report form will be prescribed by the city secretary.

(c) If the annual report is not submitted to the city secretary on the prescribed form, including all required documents on or before January 25 of each year, the city secretary shall notify the owner, operator or person in control of the restaurant with alcohol sales in writing of the failure to comply with this chapter and direct that the annual report be completed and filed with the city secretary no later than ten days from the receipt of the notification. Failure to properly or timely file the annual report with the city secretary shall be deemed an immediate violation of this chapter. In addition to the penalties provided herein, the city may revoke the restaurant with alcohol sales certificate of occupancy for failure to properly or timely comply with this chapter; and the city may seek injunctive relief; and seek other remedies available by law.

(d) If the annual report submitted to the city secretary reflects non-compliance with subsection 10-6(a), the owner, operator or person in control of the restaurant with alcohol sales shall be in violation of this chapter and the city's comprehensive zoning ordinance. In addition to the

penalties provided herein, the city may revoke the restaurant with alcohol sales certificate of occupancy and the city may seek injunctive relief, and seek any other remedies available by law. (Ord. No. 04-2775, § 2, 12-14-04)

Sec. 10-7. Penalties for violation of this chapter.

In addition to the remedies provided by this chapter, any dealer, person or restaurant with alcohol sales who violates any provision of this chapter is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense upon conviction is punishable by a fine not to exceed \$500.00, or the maximum fine per day permitted by the law.

(Ord. No. 04-2775, § 2, 12-14-04)