

## Chapter 10 - ALCOHOLIC BEVERAGES

### ARTICLE I. - IN GENERAL

Sec. 10-1. - Minimum distance of places of sale from church, hospital, public school or daycare center.

It shall be unlawful for any person to sell or engage in the business of selling intoxicating liquor or beer within the city where the place of business of such person is situated within 300 feet of a church, public school, public hospital or daycare center.

**State Law reference**— Authority of municipalities to impose location restrictions, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.

Sec. 10-2. - Measurement of distance of place of sale from church, hospital or school.

(a) Churches and public hospitals. The measurement of the distance between a place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

(b) Public and private schools. The measurement of the distance between a place of business where alcoholic beverages are sold and public schools shall be:

(1) In a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections; or

(2) In a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the business is located if the business is located on or above the fifth story or a multistory building.

(3) For any permit or license covering premises on September 1, 1983, pursuant to V.T.C.A. Alcoholic Beverage Code § 109.33, the measurement of the distance between the premises and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

Sec. 10-3. - Notice to public school officials of application for license for premises within 1,000 feet of school.

Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This section does not apply to a permit or license covering premises where minors are prohibited from entering the premises.

Sec. 10-4. - Exception to distance requirements.

As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this article was in effect on that date, for purposes of section 10-1, but not section 10-3, the measurement of the distance between the place of business of the dealer and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

Sec. 10-5. - Variances to distance requirement.

The city council may allow variances to the distance regulations in this article if it determines that enforcement of the regulations in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, or 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.

Sec. 10-6. - ~~Hours of consumption generally~~[Reserved](#).

~~Pursuant to authority granted by the provisions of V.T.C.A., Alcoholic Beverage Code §§ 1.01—251.55, the city, which is a home rule city in the county, which county has a population under 500,000 according to the last preceding federal census, does hereby adopt the hours for the consumption of any alcoholic beverage in any public place that apply to counties of more than 500,000 population, so that it shall be unlawful for any person to consume any alcoholic beverage in any public place within the city or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the alcoholic beverage in such public place within the city at any time on Sunday between the hours of 2:15 a.m. and 7:00 a.m.~~

Sec. 10-7. - ~~Hours of consumption for private clubs holding late hour permit~~[Reserved](#).

~~It shall be lawful for any private club located in the city which holds a private club late hour permit from the state to permit persons to consume or be served alcoholic beverages on club premises each night until 2:00 a.m. in accordance with V.T.C.A., Alcoholic Beverage Code §§ 33.01, 33.02 and 33.03.~~

Sec. 10-8. - Possession by minors.

- (a) *Definitions.* For the purposes of this section the following words or terms shall have the meanings ascribed thereto.

*Alcoholic beverage* shall mean as defined in V.T.C.A., Alcoholic Beverage Code § 1.04, as amended.

*Drug* shall mean as defined in V.T.C.A., Health and Safety Code, § 481.002, as amended.

*Minor* shall mean any person under the age of 21 years.

*Open party* shall mean a social gathering at a residence or premises at which nonfamily or nonrelated persons are present.

*Property line* shall mean the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

*Residence or premises* shall mean a motel room, hotel room, home, apartment, condominium or other dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

- (b) *Unlawful.* It shall be unlawful for any person owning or having possession or control of a residence or premises to allow an open party to take place at such residence or premises if alcoholic beverages or drugs are possessed, consumed, or used by any minor thereat if such person knew or reasonably should have known of the existence of such possession, consumption or use. It shall be a defense to prosecution under this section that such person took reasonable measures to prevent

or eliminate any prohibited possession, consumption or use of an alcoholic beverage or drug as set forth herein.

- (c) *Exceptions.* The provisions of this section shall not apply to:
  - (1) The possession, consumption or use of an alcoholic beverage by a minor while in the presence of such minor's parent, legal guardian, grandparent, spouse, aunt or uncle if such parent, legal guardian, spouse, aunt or uncle is not a minor; or
  - (2) The possession, consumption or use of a drug by a minor pursuant to a lawful prescription issued by a medical doctor.
- (d) *Penalty.* Any person who shall violate any provision of this section shall be deemed guilty of a class C misdemeanor and upon conviction, shall be fined in an amount not to exceed the maximum amount allowable by law.

Sec. 10-9. - Permit and license fees and issuance.

- (a) Unless state law exempts an alcoholic beverage permittee or licensee from payment of a fee established by this section, a permittee or licensee must, in addition to any other applicable fees required for issuance of a permit or license, pay the city permit or license fees equivalent to one-half the amount of the state fee for each permit and license issued by the Texas Alcoholic Beverage Commission.
- (b) An applicant shall pay the fees prescribed under state law to the city secretary or his or her designee for each premises located within the municipal limits of the city which is issued a permit or license by the Texas Alcoholic Beverage Commission.
- (c) A permittee or licensee who engages in an activity for which a permit or license is issued at a premises located within the municipal limits of the city before the applicant pays the fees established by this section commits a class C misdemeanor and, upon conviction, shall be fined in an amount not to exceed the maximum amount allowable by law.

Secs. 10-10—10-30. - Reserved.

ARTICLE II. - RESERVED

Secs. 10-31—10-35. - Reserved.