

## ARTICLE 4.05 ALCOHOLIC BEVERAGES\*

### Sec. 4.05.001 Permit requirements

(a) Fees; term.

(1) Fees established. The annual permit fee for issuing a license or permit to operate, conduct and maintain a business establishment selling alcoholic beverages in the city is:

(A) The fee for liquor stores with all alcoholic beverage permits shall be as set in the [fee schedule](#) of this code.

(B) The fee for stores with beer and wine only permits shall be as set in the [fee schedule](#) of this code.

(b) Qualification for permit. Upon the exhibition of a permit duly issued by the state to the applicant, the city secretary shall, in the name of the city, issue and deliver to the applicant a permit to engage in the business in the city of the character described in and authorized by the permit from the state held by the applicant. The permit so issued in the name of the city shall authorize the conduct of such business upon the premises described in a permit from the state and shall remain in force only so long as the permit from the state remains in force.

(c) Zoning compliance required. No permit shall be granted under the terms of this section unless the location at which the business is sought to be established and maintained is permitted under the zoning ordinance of the city as of or after the effective date hereof.

(d) Business hours. It is unlawful for any person to sell or deliver any beer, wine or liquor, except within those hours as prescribed by state law.

(e) Violation and penalty.

(1) Any person violating any provision of this section is guilty of a misdemeanor.

(2) In addition to any other penalty imposed pursuant to the provisions of this article, the city permit shall be revoked by the judge of the municipal court or the city council or a court of competent jurisdiction.

(3) Penalties provided for by this section shall be subject to the limitation of the legislative act known as the Texas Alcoholic Beverage Code and if there is any conflict between the penalties of this section and state law, then to that extent that state law shall control, and the municipal court of the city shall have jurisdiction of any offense under this section and under the state law only where so constituted by a general law of this state conferring such jurisdiction thereon.

### Sec. 4.05.002 Private club late hours permitted

(a) Hours of operation. It shall be lawful for the holder of a private club late hours permit, within the corporate limits of the city, to sell or offer for sale mixed beverages in and/or on the licensed premises of such a public place and permit persons to consume or be served mixed beverages in and/or on the licensed premises of such a public place on Sunday, during the extended hours of one o'clock (1:00) a.m. to two o'clock (2:00) a.m., on Saturday, during the extended hours of one minute after twelve o'clock (12:01) a.m. to two o'clock a.m. and on New Year's day, during the extended hours of one minute after twelve o'clock (12:01) a.m. to two o'clock (2:00) a.m. only, as granted and authorized by the Texas Alcoholic Beverage Code, and this article in and/or on the premises so licensed. (1993 Code, sec. 3-5-2)

(b) License fee. No holder of a private club late hours permit issued by the state alcoholic beverage commission shall engage in such operation within the corporate limits of the city without first having paid to the city secretary a nonrefundable annual city fee as set in the [fee schedule](#) of this code. (Ordinance 321-11-2017, ex. A, adopted 4/10/17)

(c) Penalty. Any person who violates any provision of this section shall be punishable as provided in [section 1.01.009](#) of this code.

### Sec. 4.05.003 Restrictions

(a) Sales near schools, churches or hospitals restricted. The sale of alcoholic beverages by any dealer whose place of business is within three hundred feet (300') of a church, public school or hospital is prohibited. The measurement of the distance between the

place of business where the alcoholic beverages are sold, and the church or public hospital shall be along the property lines of the street fronts and from front door to front door and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be from the nearest property line of the public school to the nearest doorway by which the public may enter the place of business, along street lines and in direct line across intersections.

(b) Penalties. The violation of this section is an offense punishable by fine of at least one hundred dollars (\$100.00) but no more than two hundred dollars (\$200.00), and each violation thereof shall be and is deemed to be distinct and separate offense and punished as such.

#### **Sec. 4.05.004 Possession or consumption prohibited in certain areas**

(a) Park area. It shall be unlawful for any person to possess or consume any alcoholic beverage, as defined by the Texas Alcoholic Beverage Code in any city owned or operated park.

(b) Schools and school activities. It shall be unlawful for any person to possess or consume any alcoholic beverage in the buildings or on the grounds of any public school in the city limits or at any school related activity conducted within the city limits.

(c) Athletic fields. It shall be unlawful for any person to possess or consume any alcoholic beverage in any city owned athletic field.

(d) Penalty. Violation of this section is an offense punishable by fine at least one hundred dollars (\$100.00) but no more than two hundred dollars (\$200.00).

### **ARTICLE 14.02 ZONING ORDINANCE**

#### **Sec. 14.02.154 Sale of alcoholic beverages**

(a) Zoning compliance required. No permit shall be granted under the terms of this chapter unless the location at which the business is sought to be established and maintained is a permitted use under the comprehensive zoning ordinance of the city as of or after the effective date thereof.

(b) Compliance required. Compliance with city codes and ordinances is required for sale of alcoholic beverages for off-premises and on-premises sale and consumption of alcoholic beverages as follows:

(1) Alcoholic beverage sales for off-premises consumption (beer and wine only). A building utilized for the retail sale of beer and/or wine for off-premises consumption only shall be inspected and shall comply with all applicable local regulations, including but not limited to building codes, fire codes, plumbing codes, electrical codes and ordinances.

(2) Alcoholic beverage sales for off-premises consumption - liquor (package) store. The following provisions shall be required for liquor (package) stores:

(A) A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.

(B) A liquor (package) store shall operate in premises that are not physically completely separate from any other business and the exterior design of the store shall show evidence of coordination with contextual influences of neighboring properties in regard to building setbacks, orientation, and relationship of structures to each other and to the street. The layout of the site shall respect and build upon the arrangement of buildings, open spaces and landscape elements of adjacent sites.

(3) Alcoholic beverage sales for on-premises consumption in conjunction with a restaurant use. A restaurant utilized for the retail sale of alcoholic beverages for on-premises consumption shall be inspected and shall comply with all applicable local regulations, including but not limited to building codes, fire codes, plumbing codes, electrical codes and ordinances.

(4) Alcoholic beverages for on premises consumption - bar/tavern. A bar/tavern shall be inspected and shall comply with all applicable local regulations, including but not limited to building codes, fire codes, plumbing codes, electrical codes and ordinances. The following additional provisions shall be required for a bar or tavern:

(A) The city council shall have full discretion to approve or deny a SUP application for a bar or tavern and may impose any reasonable condition deemed necessary by the council, including SUP expiration provisions, business name and signage, and change of ownership requirements to ensure community health, safety and welfare in approving a bar or tavern.

(5) Compliance with business regulations of the city. In addition to compliance with this article, all establishments at which alcoholic beverages are sold shall comply with the requirements contained in [article 4.05](#), “alcoholic beverages” of this code, as may be amended from time-to-time, including without limitation distance requirements for location near schools, churches, hospitals and day-care facilities, as set forth therein or in accordance with the Texas Alcoholic Beverage Code or other applicable state law or court ruling.

(c) Procedures prior to issuance of permit. Before any certification from the Texas Alcoholic Beverage Commission or other documentation of approval is signed by the city representative, such certificate or documentation shall be submitted to the city secretary or designee to assure:

- (1) That the application complies with all provisions of this and all applicable ordinances;
- (2) That a SUP application (if SUP is required) is officially filed with the payment of applicable fees;
- (3) That proof is submitted that a representative of the Texas Alcoholic Beverage Commission has approved the submittal of an application for license; and
- (4) That distance and other requirements of article 4 [[article 4.05](#)] and other applicable city ordinances have been met;
- (4) That the chief of police/director of public safety has reviewed the SUP application.

(d) Additional development conditions/waivers. The city council may attach additional development conditions, or grant specific waivers to applicable city code requirements, to the special use permit that the council, in its discretion, determines are appropriate for buffering, safety, security, and compatibility for and to adjacent properties.

(e) Special use permit (SUP).

(1) SUP required. Except as specifically provided herein, no persons shall manufacture, sell, offer for sale, distribute or engage in any other activity for which a permit or license is required by the Texas Alcoholic Beverage Code within the city without first obtaining a special use permit to do so from the city. All the provisions of the special use permit procedure shall apply as per the city's comprehensive zoning ordinance, as amended. In the event of a conflict between the general regulations governing special use permits and the provisions contained in this section, the provisions of this section shall control.

(2) SUP application. For a person to engage in the sale of alcoholic beverages, a formal application for a SUP shall be filed with the planning and zoning coordinator with the appropriate fee established by the city. The planning and zoning coordinator shall process the application by submitting to the planning and zoning commission for their review and recommendation to the city council for approval or disapproval. The city council will consider and approve or disapprove the granting of a SUP for the sale of alcoholic beverages.

(3) Special use permits and applications in existence as of (effective date of ordinance). Any existing SUP for the sale of alcoholic beverages for on-premises consumption for which the SUP was either issued, or for which an application was received, prior to \_\_\_\_\_ (effective date of ordinance) and such SUP has not expired, or such application has not been approved by the city council, such establishment shall not sell alcoholic beverages such that the gross receipts from alcohol sales exceed 50 percent all gross receipts from all sales by the establishment. A new SUP must be granted by the city council in compliance with the requirements of this section in order to increase any alcohol-to-food sales ratio for on-premises alcohol sales for any existing establishment and for any unapproved SUP where an active application has been submitted.

(f) Criteria and processing of SUP. The following general conditions apply to all special use permits (SUP) allowing the sale of any alcoholic beverages:

- (1) The applicant must design and operate the establishment for which an SUP is sought in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or in the immediately surrounding area.
- (2) The applicant must comply with applicable licensing and permit provisions of the Texas Alcoholic Beverage Code, as amended from the date of the issuance of the SUP by the city council.
- (3) As required, the applicant shall bear the burden of showing that the establishment does not exceed the limitation on gross receipts from the sales of alcoholic beverages applicable to its license and SUP. The applicant shall maintain accounting records of the sources of its gross revenue and allow the city to inspect such records during reasonable business hours.
- (4) The applicant shall demonstrate that the granting of the SUP would not be detrimental to the public health, safety and/or welfare of the citizens of the city.
- (5) The applicant shall, always, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The applicant shall consult with the chief of police/director of public safety who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his/her obligation hereunder.
- (6) The establishment shall provide adequate parking spaces to accommodate its employees and patrons. Provided however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (7) The applicant shall operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment and in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners and [be] in compliance with all applicable city ordinances and state laws.
- (8) Unless specified as a condition of approval by the city council for an SUP, a special use permit issued for any alcoholic beverage sales under this section shall automatically expire upon a change in use of the property, change of ownership to the property and/or business and/or upon the revocation, termination or expiration of the certificate of occupancy.
- (9) All special use permits issued under this section shall be further conditioned that the same may be discontinued if the use for which the SUP was granted ceases to be operated at the permitted location for a minimum period of six (6) continuous months, or as otherwise provided for the revocation of SUPs, as outlined in the comprehensive zoning ordinance, as amended.

(g) Denial of SUP. The city council may deny a SUP if it affirmatively determines that the issuance of such SUP:

- (1) Is incompatible with the surrounding uses or property; or
- (2) Is detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the city and its inhabitants; or
- (3) Is found to be in noncompliance with any city ordinances, including without limitation failure to comply with any one or more of the provisions of this section or with any applicable state law or court ruling.