

ORDINANCE NO. 1502-1

An Ordinance of the City Council of the City of Pearland, Texas, amending Chapter 4, *Alcoholic Beverages*, Section 4-2, *General Requirements* of the City of Pearland Code of Ordinances as it applies to Food and Beverage Certificate holders (i.e., restaurants), having a savings clause, a severability clause, and a repealer clause, providing for publication, codification, and an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS

Section 1 That Chapter 4, *Alcoholic Beverages*, of the City of Pearland Code of Ordinances, is hereby amended to read as follows

“Sec 4-1 Permit Required, Fees.

No person shall manufacture, sell, distribute or store any alcoholic beverage within the city without first obtaining a permit from the City Secretary Prior to the issuance of a permit pursuant to this Chapter, the applicant for the permit shall pay to the city such fees as are authorized by state law

Sec. 4-2. General requirements

- (a) *Churches and public hospitals.* The sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church or public hospital is prohibited
- (b) *Public and private schools within 300 feet.* The sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a public school or a "private school" as that term is defined in V T C.A., Alcoholic Beverage Code § 109 33, is prohibited This section does not apply to the holder of

(1) A license or permit who also holds a food and beverage certificate covering a premises that is located within 300 feet of a public or private school, or

(2) A license or permit covering a premises where minors are prohibited from entering under V T C.A.,

ORDINANCE NO. 1502-1

Alcoholic Beverage Code § 109 53, and that is located within 300 feet of a private school

- (c) *Day care centers and childcare facilities.* The sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a day care center or childcare facility, as those terms are defined by V T C.A., Human Resources Code § 42 002 is prohibited

(1) This section does not apply to a permit or license holder who sells alcoholic beverages if

- a The permit or license holder and the day care center or childcare facility are located on different stories of a multistory building, or
- b The permit or license holder and the day care center or childcare facility are located in separate buildings and either the permit or license holder or the day care center or childcare facility is located on the second story or higher of a multistory building

(2) This section applies only to a permit or license holder under the following chapters of the V T C.A., Alcohol Beverage Code Ch 25 (Wine and Beer Retailer's Permit), Ch 28 (Mixed Beverage Permit), Ch 32 (Private Club Registration Permit), Ch 69 (Retail Dealer's On-Premises License), or Ch. 74 (Brewpub License) who does not hold a food and beverage certificate

(3) This section does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by V T C.A., Human Resources Code § 42 002

ORDINANCE NO. 1502-1

Sec 4-3 Measurement of distance

- (a) *Churches and public hospitals.* The measurement of the distance between the 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, day care centers and childcare facilities.* The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school, day care center, or childcare facility shall be
- (1) In a direct line from the property line of the public or private 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 place of business is located on or above the fifth story of 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. 4-4 Noncontiguous Operations

A mixed beverage permit holder who holds a food and beverage certificate may designate, as part of the permit holder's premises, a secured noncontiguous area located on a public sidewalk adjoining the premises, so long as the area designated meets the following requirements

- (a) The area does not encroach upon any dedicated public right-of-way or portion thereof;
- (b) The area is separated from the permit holder's premises only by a sidewalk or portion that is adjacent to said premises,

ORDINANCE NO. 1502-1

- (c) The area is directly across the adjoining sidewalk from the permit holder's premises and does not reduce or obstruct the road frontage of any establishment located adjacent to the permit holder

Sec. 4-5. Hours of Sale.

The holder of a permit authorizing the on-premise consumption of alcohol shall comply with the provisions of V T C.A., Alcoholic Beverage Code § 105 03 and 105 05, except that such permittee's shall be allowed to apply for a late hours permit to sell alcohol between midnight and 2 a m on any day

Sec. 4-6 Variances

City Council may grant a variance to regulation under Section 4-2, if the governing body determines that enforcement of the regulation 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, is not effective or necessary, or for any other reason, 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 "

Section 2. Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City

Section 3. Severability If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof

ORDINANCE NO. 1502-1

Section 4 Repealer All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 5 Codification It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove

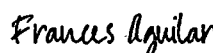
Section 6. Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance The Ordinance shall then become effective ten (10) days from and after its publication, or the publication of its caption, in the official City newspaper

PASSED and APPROVED ON FIRST READING this the 13th day of May, A. D ,
2024



KEVIN COLE
MAYOR

ATTEST

DocuSigned by:


00EG22634FFFF446...
FRANCES AGUILAR, TRMC, MMC
CITY SECRETARY

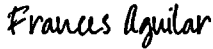
ORDINANCE NO. 1502-1

PASSED and APPROVED ON SECOND AND FINAL READING this the 20th day
of May, A. D , 2024

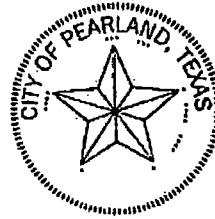


J. KEVIN COLE
MAYOR


ATTEST

DocuSigned by:


90EC22531FFF415...
FRANCES AGUILAR, TRMC, MMC
CITY SECRETARY



APPROVED AS TO FORM

DocuSigned by:


E13CA898BB1F4B6...
DARRIN M. COKER
CITY ATTORNEY