

**CITY OF DRIPPING SPRINGS**

**ORDINANCE No. 2020-15**

AN ORDINANCE AMENDING ARTICLE 6.04: ALCOHOL SALES OF THE DRIPPING SPRINGS CODE OF ORDINANCES, STRIKING SEVERAL SECTIONS OF ARTICLE 6.04 INCLUDING PROVISIONS RELATED TO PROXIMITY TO SCHOOLS, CHURCHES AND HOSPITALS AND AMENDING CHAPTER 30: ZONING, EXHIBIT “A” ARTICLE 1.6; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER, SEVERABILITY; PUBLICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

**WHEREAS**, pursuant to Texas Alcoholic Beverage Code § 109.33 a city or county may adopt, by ordinance, the prohibition of the sale of alcohol within 300-feet of a church, public school, or public hospital; and

**WHEREAS**, the City Council (“City Council”) of the City of Dripping Springs (“City”) had so previously adopted such an ordinance, Section 6.04.002 of the City of Dripping Springs Code of Ordinances (“Code of Ordinances”); and

**WHEREAS**, the City seeks now to limit the restriction in some instances, including for food and beverage certificate holders under the Texas Alcoholic Beverage Code; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, the City Council finds this amendment to be in the best interest of the good government, peace, and order of the City.

**NOW, THEREFORE, BE IT ORDAINED by the Dripping Springs City Council:**

**1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

**2. ENACTMENT**

Article 6.04 and Article 3.17 of the City of Dripping Springs Code of Ordinances are amended so to read in accordance with Attachment “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated within Attachment “A”.

### 3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### 4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### 5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

### 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

### 7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED this, the 12<sup>th</sup> day of May 2020, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.**

**CITY OF DRIPPING SPRINGS:**



Bill Foulds, Jr., Mayor

ATTEST:

*Andrea Cunningham*  
Andrea Cunningham, City Secretary



**CITY OF DRIPPING SPRINGS**  
**CODE OF ORDINANCES**  
**CHAPTER 6: BUSINESS REGULATIONS**  
**ARTICLE 6.04 ALCOHOLIC BEVERAGES**

**Sec. 6.04.001 Proper zoning use district required**

No person shall engage in the business of manufacturing, distributing or selling any alcoholic beverage in the city unless the place of business of such person is located in the use district of the city, as established by present and future zoning regulations of the city, in which the sale of such alcoholic beverage is permitted.

**Sec. 6.04.002 Proximity to schools, churches and hospitals**

(a) No person shall sell or engage in the business of selling any alcoholic beverage from a location within three hundred feet (300') of a church, public or private school, or public hospital.

~~(b) The measurement of the distance between the place of business where 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 or private 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) If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line from 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 permit or license holder is located.~~

(b) The city council may also allow variances to this regulation if the city council determines that the enforcement of this 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 the city council, after effective 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.

(c) This section does not apply to a business that holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission.

**Sec. 6.04.003 Sales near day-care center or child-care facility**

(a) As provided in Texas Alcoholic Beverage Code section 109.331 and subsequent amendments, certain applicants for TABC permits to sell alcohol must also observe the 300' rule (as provided in section 6.04.002 of this article) with regard to day-care center or child-care center, or child-care facility as defined by section 42.002 Human Resources Code and subsequent amendments.

(b) This section does not apply to a business that holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission.

**Sec. 6.04.004 Measurement of Distance**

- (a) The measurement of the distance between the business where 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.
- (b) The measurement of the distance between the place of business where alcoholic beverages are sold and the public school 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) If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public 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 permit or license holder is located.
- (c) The measurement of the distance between the business where alcoholic beverages are sold and the day-care center or child-care facility shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections, except this section does not apply to a permit or license holder who sells alcoholic beverages if:
  - (1) the permit or license holder and the day-care center or child-care facility are located on different stories of a multistory building; or
  - (2) the permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building.

**Sec. 6.04.005 Sale of beer prohibited in residential districts**

No person shall engage in the business of selling beer within a residential district of the city, as said districts are designated pursuant to ~~Ordinance 1220-1~~ and the official city zoning map.

**Sec. 6.04.006 Penalty for violation**

Any person violating any of the provisions as set forth in this article, shall be deemed guilty of a misdemeanor and upon final conviction thereof shall be fined in an amount not to exceed one thousand dollars. The city attorney is authorized to bring civil proceedings to enjoin the operation of any premises not in compliance with the provisions of this article

**Secs. 6.04.007–6.04.030 Reserved**

## CHAPTER 30: ZONING

### EXHIBIT "A"

#### SECTION 1: GENERAL PROVISIONS

##### ARTICLE 1.6 DEFINITIONS

###### 1.6 Definitions

1.6.1 General: For the purpose of these regulations, certain terms and words are to be used and interpreted as defined in this Chapter. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. For any term or use not defined herein, Webster's Dictionary (latest edition) shall be used. It should be noted that there are other sections within this Chapter that define terms that are specific to that section.

###### 1.6.2 Specific:

\* \* \*

*Bar*: Use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses, that derive 75 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages ~~except for restaurants~~.

\* \* \*

*Food and beverage certificate holder*: A business that serves alcoholic beverages and has applied for and received a food and beverage certificate from the Texas Alcoholic Beverage Commission because the business receives 60% or less of its revenue from the sale of alcoholic beverages.