

ORDINANCE NO. 2500

AN ORDINANCE REPEALING THE EXISTING SECTION 4-3 OF THE WAXAHACHIE CITY CODE, AND REPLACING IT WITH A NEW SECTION BY WHICH BEER AND WINE MAY BE SOLD IN THE CITY, ALL IN ACCORDANCE WITH THE PROVISIONS OF THE TEXAS ALCOHOLIC BEVERAGE CODE, ESTABLISHING PERMIT FEES, PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES IN A RESIDENTIAL AREA, DECLARING AN EMERGENCY, AND SETTING AN EFFECTIVE DATE.

The law concerning the sale of alcoholic beverages has changed in Waxahachie because of the passage of a local option election allowing the sale of beer and wine under certain circumstances, which renders the old Section 4-3 obsolete, and the City Council has found that the public interest will be best served by placing the restrictions herein set out on the sale of beer and wine, all in accordance with the Texas Alcoholic Beverage Code;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

That the existing Section 4-3 of the Waxahachie City Code is hereby repealed, and the following new Section 4-3 is hereby passed and adopted:

SECTION 4-3. ALCOHOLIC BEVERAGE SALES.

Code of Ordinances

Beer and Wine stores shall be subject to compliance with the Texas Alcoholic Beverage Code, as it exists or may be amended, and to the following development criteria.

Sale of Alcoholic Beverages Prohibited in Residential Areas

The sale of beer and wine is prohibited at any location that is within a residential zoning district or an identified portion of a Planned Development district exclusively restricted to residential uses.

Fee Established

No person shall manufacture, distribute, sell or serve alcoholic beverages within the City without first having obtained a permit or license for the specific location from the Texas Alcoholic Beverage Commission.

Annual Fee: There is hereby levied an annual permit fee and annual license fee in the amount equal to one-half of the fee charged by the State of Texas for each particular permit or license (or the maximum fee that the City is authorized by law to charge) issued by the Texas Alcoholic Beverage Commission, not to exceed \$375.00 per year, or \$750.00 for two years, except when said fee is waived according to the provisions of the Texas Alcoholic Beverage Code. The fee shall be paid at time of application and on the date such permit or license is renewed with the State thereafter.

Distance Requirement

A. No person may sell alcoholic beverages if the place of business is within:

1. Three hundred (300) feet of a church, public or private school or public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be 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.

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.

- B. Subsection (A)(1) does not apply to the holder of:
 - (1) a license or permit issued by the Texas Alcoholic Beverage Code who also holds a food and beverage certificate by the Texas Alcoholic Beverage Commission; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 (Unaccompanied minor in Package Liquor Store).
- C. In this section, “private school” means a private school, including a parochial school, that:
 - (1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
 - (2) has more than 100 students enrolled and attending courses at a single location.
- D. The City Council may allow variances to the regulation if the City Council 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 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.
- E. If at the time an original alcoholic beverage permit or license is granted by the Texas Alcoholic Beverage Commission for a premise, the premise satisfies the requirements regarding distance from schools, churches and other types of premises set forth in this section, the premise shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit.
- F. On the sale or transfer of the premises or the business on the premise in which a new original license or permit is required for the premise, the premise shall be deemed to satisfy any distance requirement as if the issuance of the new original permit of license were a renewal of a previously held permit or license.

A public emergency affecting life, health, property, or the public peace is found to exist, as a local option beer and wine election has been passed in Waxahachie, and new regulations concerning the sale of beer and wine must be put in place without delay, and this ordinance is to be effective upon passage and publication.

PASSED, APPROVED AND ADOPTED this 5th day of January, 2009.

MAYOR

ATTEST:

City Secretary