

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

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

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

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

- (a) 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
- (b) 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 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.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.