

Ordinances Governing
OCCUPATION TAXES AND LICENSES
in the
CITY OF ARLINGTON
TEXAS

Amended by Ordinance No. 14-006
(January 21, 2014)

(Chapter Designator: OCCUPATION TAXES)

ORDINANCE HISTORY

<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
91-103	11/05/91	Amend Article I , Section 1.05, relative to alcoholic beverage sales reporting requirements.
96-26	02/06/96	Amend Article I , Subsection 1.04(B), <u>Restriction on Locations of Places of Business</u> , relative to the measurement of the distance between a place of business where alcoholic beverages are sold and a public school.
02-134	12/10/02	Amend Article I , <u>Manufacture, Sale And Distribution Of Vinous And Malt Beverages</u> , relative to the prohibition of the sale of alcoholic beverages within 300 feet of a private school, daycare center and child care facility, providing definitions and a method of measurement.
05-046	06/21/05	Amend Article I , <u>Manufacture, Sale and Distribution of Alcoholic Beverages</u> , Section 1.04 , <u>Restriction on Locations of Places of Business</u> .
14-006	01/21/14	Amend Article I , <u>Manufacture, Sale and Distribution of Alcoholic Beverages</u> , by the amendment of Section 1.04 , <u>Restriction on Locations of Places of Business</u> ; by the addition of a new Section 1.07 , <u>Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center</u> , and the renumbering of the remaining section.

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ARTICLE I

**MANUFACTURE, SALE AND DISTRIBUTION
OF ALCOHOLIC BEVERAGES**

Section 1.01 Fee

There is hereby levied and assessed and shall be collected an annual fee from every person, firm, corporation or association of persons pursuing or engaging in any businesses in the City of Arlington, Texas, for which a permit or license is required under the "Texas Alcoholic Beverage Code", as enacted by Acts 1977, 65th Legislature, Chapter 194, and amended by Acts 1977, 65th Legislature, Chapter 453, both effective September 1, 1977, and all amendments thereto. The fee shall be in the maximum amount permitted by the Legislature of the State of Texas.

Section 1.02 Application for License

Each person subject to Section 1.01 of this Article shall annually apply for a license from the City Secretary. The applicant shall furnish a copy of a license to engage in such business issued by the Tax Collector of Tarrant County, Texas, on a form prescribed by the Comptroller of the State of Texas. All licenses issued hereunder shall terminate upon the expiration of one (1) year from the date of issuance, and no license shall be issued for more than one (1) year. A new license may be issued to terminate contemporaneously with the expiration of the State license, and the charges for such license shall be prorated.

Section 1.03 Collection of Fee and Issuance of License

Upon investigation of compliance with all applicable ordinances and payment of the fee, the City Secretary shall issue to the applicant the proper license, which shall state on its face the location, type of business for which it is issued, and the date when it will expire. The license shall be posted in a prominent place, visible to the customers of the establishment.

OCCUPATION TAXES

1.04

Section 1.04 Restriction on Locations of Places of Business

- A. The sale of alcoholic beverages is not permitted within three hundred feet (300') of:
1. a church, public school, or public hospital; or,
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- B. The sale of alcoholic beverages is not permitted within three hundred feet (300') of a "day-care center" or a "child-care facility" as those terms are defined by Section 42.002 of the Texas Human Resources Code. This provision only applies to a place of business selling alcoholic beverages pursuant to a permit issued by the Texas Alcoholic Beverage Commission ("TABC") under Chapter 25, 28, 32, 69 or 74 of the Tex. Alco. Bev. Code which does not also hold a food and beverage certificate from the TABC.
- C. 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.
- D. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private 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 place of business 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, and in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the place of business is located.
- E. The measurement of the distance between the place of business where alcoholic beverages are sold and a day-care center or a child-care facility shall be calculated in the same manner as used for a public or private school, with the following

exceptions (in which event the place of business in question is exempted from the distance requirements):

1. the place of business selling alcoholic beverages and the day-care center or child-care facility are located on different stories of a multistory building; or
2. the place of business selling alcoholic beverages and the day-care center or child-care facility are located in separate buildings and either the place of business selling alcoholic beverages or the day-care center or child-care facility is located on the second story or higher of a multistory building.

F. Variance for Alcohol Sales

1. The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.
2. No variance may be granted under this subsection except after a public hearing for which notice has been given. Notice of a request for a variance from this subsection shall be given to owners of property within three hundred feet (300') of the business. The notice area for a variance request relating to a church or public hospital shall be measured in a direct line from the front door of the place of business. The notice area for a variance request relating to a public or private school shall be measured in a direct line from the property line of the place of business. The notice shall be sent via regular United States mail not less than ten (10) days before the date set for hearing, to all such owners who have rendered their property for City taxes as the ownership appears on the last approved City tax roll.
3. The City Council may assess a reasonable fee for the administrative costs associated with processing a variance request under this subsection. (Amend Ord 14-006, 1/21/14)

OCCUPATION TAXES

1.05

Section 1.05 Reporting Requirements

- A. The owner, operator or person in control of an establishment licensed by the State for on-premise alcoholic beverage consumption, which is located in a zoning district in which bars are not permitted, may be required to file with the Director of Planning and Development Services an affidavit on a form provided by the Director. The affidavit shall reflect gross sales for the preceding twelve (12) month period (or for the period since the restaurant began its operation, whichever is shorter), and each affidavit shall show gross sales of food and gross sales of alcoholic beverages, as those terms are defined in the Zoning Ordinance, as separate figures.
- B. The person operating an establishment subject to the reporting requirements of Section 1.05(A) may be required to file with the Director of Planning and Development Services a copy of the filings supplied to the State of Texas for sales tax and a copy of any tax return required by the Texas Alcoholic Beverage Code.
- C. Legally nonconforming uses having no limitations imposed by ordinance or by the Zoning Board of Adjustments on the amount of alcoholic beverages sold shall not be subject to this chapter's reporting requirements. Establishments operating with a special exception authorizing the sale of alcoholic beverages with no restrictions on the amount of alcoholic beverages sold shall not be subject to the reporting requirements of this chapter.
- D. Submission of the aforementioned data shall not constitute a waiver of any claim of confidentiality regarding public access to the information.
- E. The person operating an establishment subject to the reporting requirements of this chapter shall permit the Director of Planning and Development Services or his designee to view and copy the books, records and receipts relative to sale of food and alcoholic beverages at any time after four hours notice; and such permission shall not be construed to constitute a waiver of any claim of confidentiality the operator may have.
- F. No person shall fail to keep a record in the manner required by this chapter, fail to file any return in the manner required by this chapter, keep a false record, or file a false return.

Section 1.06 Scope of Ordinance

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington levying and assessing fees and shall not operate to repeal or affect any such ordinance.

Section 1.07 Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center

- A. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is located outside of the central business district.
- B. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a substance abuse treatment center that is located outside of the central business district.
- C. “Central business district” means all property located in the “DN Overlay District” or the “DB District”.
- D. The City Council may allow an exception to this section for special temporary events. (Amend Ord 14-006, 1/21/14)

Section 1.08 Violations of Ordinance

A person, firm, corporation or association of persons subject to the licensing or reporting provisions of this chapter who sells an alcoholic beverage without having paid the fee herein levied commits a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00. In addition, the City Secretary shall report such failure to pay to the Texas Alcoholic Beverages Commission. (Amend Ord 14-006, 1/21/14)

ARTICLE II
COIN MACHINES

Section 2.01 License Fee

There shall be levied and collected from the owner and operator, or if he be not found or known, the keeper or exhibitor, of all coin operated vending machines, where a coin of five cents or over is used in the operation thereof, whether same be a game of skill or a game of chance, and further, whether same be a marble machine, a slot machine (where five cents be the fee) race horse machine, by whatsoever guise same be called or used, all marble tables, all ticket-punching machines, and all other machines operated by a coin of over one cent, whether same be mentioned herein or not, save and except cigarette vending machines, coin-operated telephones and gas meters, a fee of TWO and 50/100 DOLLARS (\$2.50) per month, for each and every month same are to be or are operated in the limits of the City of Arlington, Texas.

Section 2.02 Receipt for Payment, Occupation Tax

The duty of the collecting of this tax is hereby enjoined on the City Secretary, who shall issue, on the payment thereof, to the owner or operator of such machine, a proper receipt therefor.

Section 2.03 Receipt in Operator's Possession

It shall be unlawful to keep, own, operate, or exhibit within the City of Arlington any such machine, whether named herein or not, without the owner, operator, keeper or exhibitor of same having in his possession the receipt for the current month's tax. (Amend Ord 76-23, 3-2-76)

ORDINANCE NO. 96-26

AN ORDINANCE AMENDING THE "**OCCUPATION TAXES AND LICENSES**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I**, ENTITLED MANUFACTURE, SALE AND DISTRIBUTION OF VINOUS AND MALT BEVERAGES, AT **SECTION 1.04**, RESTRICTION ON LOCATIONS OF PLACES OF BUSINESS, AT **SUBSECTION (B)**, RELATIVE TO THE MEASUREMENT OF THE DISTANCE BETWEEN A PLACE OF BUSINESS WHERE ALCOHOLIC BEVERAGES ARE SOLD AND A PUBLIC SCHOOL; PROVIDING FOR A FINE OF UP TO **\$500** FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

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

1.

That the "**Occupation Taxes and Licenses**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, by the amendment of **Subsection 1.04(B)**, so that hereafter said Subsection shall be and read as follows:

- 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 where they occur. The measurement of the distance between the place of business where alcoholic beverages are sold and the public school shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Five Hundred and No/100 Dollars (\$500)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 30th day of January, 1996, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 6th day of February, 1996, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas.**

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY _____

ORDINANCE NO. 02-134

AN ORDINANCE AMENDING THE "**OCCUPATION TAXES AND LICENSES**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, BY THE AMENDMENT OF **ARTICLE I**, ENTITLED MANUFACTURE, SALE AND DISTRIBUTION OF VINOUS AND MALT BEVERAGES, RELATIVE TO THE PROHIBITION OF THE SALE OF ALCOHOLIC BEVERAGES WITHIN 300 FEET OF A PRIVATE SCHOOL, DAYCARE CENTER AND CHILD CARE FACILITY, PROVIDING DEFINITIONS AND A METHOD OF MEASUREMENT; PROVIDING FOR A FINE OF UP TO \$200 FOR EACH VIOLATION OF THE ORDINANCE, PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY, GOVERNMENTAL IMMUNITY, INJUNCTIONS, PUBLICATION AND AN EFFECTIVE DATE

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

1.

That the "**Occupation Taxes and Licenses**" Chapter of the Code of the City of Arlington, Texas, 1987, **Article I**, Manufacture, Sale and Distribution of Vinous and Malt Beverages, is hereby amended in its entirety to read as follows:

ARTICLE I

**MANUFACTURE, SALE AND DISTRIBUTION
OF ALCOHOLIC BEVERAGES**

Section 1.01 Fee

There is hereby levied and assessed and shall be collected an annual fee from every person, firm, corporation or association of persons pursuing or engaging in any businesses in the City of Arlington, Texas, for which a permit or license is required under the "Texas Alcoholic Beverage Code", as enacted by Acts 1977, 65th Legislature, Chapter 194, and amended by Acts 1977, 65th Legislature, Chapter 453, both effective September 1, 1977, and all amendments thereto. The fee shall be in the maximum amount permitted by the Legislature of the State of Texas.

Section 1.02 Application for License

Each person subject to Section 1.01 of this Article shall annually apply for a license from the City Secretary. The applicant shall furnish a copy of a license to engage in such business issued by the Tax Collector of Tarrant County, Texas, on a form prescribed by the Comptroller of the State of Texas. All licenses issued hereunder shall terminate upon the expiration of one (1) year from the date of issuance, and no license shall be issued for more than one (1) year. A new license may be issued to terminate

contemporaneously with the expiration of the State license, and the charges for such license shall be prorated.

Section 1.03 Collection of Fee and Issuance of License

Upon investigation of compliance with all applicable ordinances and payment of the fee, the City Secretary shall issue to the applicant the proper license, which shall state on its face the location, type of business for which it is issued, and the date when it will expire. The license shall be posted in a prominent place, visible to the customers of the establishment.

Section 1.04 Restriction on Locations of Places of Business

- A. The sale of alcoholic beverages is not permitted within three hundred feet (300') of:
 - 1. a church, public school, or public hospital; or,
 - 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- B. The sale of alcoholic beverages is not permitted within three hundred feet (300') of a "day-care center" and a "child-care facility" as those terms are defined by Section 42.002 of the Texas Human Resources Code. This provision only applies to a place of business selling alcoholic beverages pursuant to a permit issued by the Texas Alcoholic Beverage Commission ("TABC") under Chapter 25, 28, 32, 69 or 74 of the Tex. Alco. Bev. Code which does not also hold a food and beverage certificate from the TABC.
- C. 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.
- D. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private 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 place of business 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, and in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the place of business is located.
- E. The measurement of the distance between the place of business where alcoholic beverages are sold and a day-care center or a child-care facility shall be calculated in the same manner as used for a public or private school, with the following

exceptions (in which event the place of business in question is exempted from the distance requirements):

1. the place of business selling alcoholic beverages and the day-care center or child-care facility are located on different stories of a multistory building; or
2. the place of business selling alcoholic beverages and the day-care center or child-care facility are located in separate buildings and either the place of business selling alcoholic beverages or the day-care center or child-care facility is located on the second story or higher of a multistory building.

Section 1.05 Reporting Requirements

- A. The owner, operator or person in control of an establishment licensed by the State for on-premise alcoholic beverage consumption, which is located in a zoning district in which bars are not permitted, may be required to file with the Director of Planning and Development Services an affidavit on a form provided by the Director. The affidavit shall reflect gross sales for the preceding twelve (12) month period (or for the period since the restaurant began its operation, whichever is shorter), and each affidavit shall show gross sales of food and gross sales of alcoholic beverages, as those terms are defined in the Zoning Ordinance, as separate figures.
- B. The person operating an establishment subject to the reporting requirements of Section 1.05(A) may be required to file with the Director of Planning and Development Services a copy of the filings supplied to the State of Texas for sales tax and a copy of any tax return required by the Texas Alcoholic Beverage Code.
- C. Legally nonconforming uses having no limitations imposed by ordinance or by the Zoning Board of Adjustments on the amount of alcoholic beverages sold shall not be subject to this chapter's reporting requirements. Establishments operating with a special exception authorizing the sale of alcoholic beverages with no restrictions on the amount of alcoholic beverages sold shall not be subject to the reporting requirements of this chapter. (Amend Ord 87-01, 1/6/87)
- D. Submission of the aforementioned data shall not constitute a waiver of any claim of confidentiality regarding public access to the information. (Amend Ord 87-01, 1/6/87)
- E. The person operating an establishment subject to the reporting requirements of this chapter shall permit the Director of Planning and Development Services or his designee to view and copy the books, records and receipts relative to sale of food and alcoholic beverages at any time after four hours notice; and such permission shall not be construed to constitute a waiver of any claim of confidentiality the operator may have.
- F. No person shall fail to keep a record in the manner required by this chapter, fail to file any return in the manner required by this chapter, keep a false record, or file a false return. (Amend Ord 87-01, 1/6/87)

Section 1.06 Scope of Ordinance

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington levying and assessing fees and shall not operate to repeal or affect any such ordinance.

Section 1.07 Violations of Ordinance

A person, firm, corporation or association of persons subject to the licensing or reporting provisions of this chapter who sells an alcoholic beverage without having paid the fee herein levied commits a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00. In addition, the City Secretary shall report such failure to pay to the Texas Alcoholic Beverages Commission.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed Two Hundred Dollars and No Cents (\$200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as such ordinance is expressly repealed; or except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or otherwise illegal, unenforceable or void, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in the ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 3rd day of December, 2002, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 10th day of December, 2002, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ORDINANCE NO. 05-046

AN ORDINANCE AMENDING THE "**OCCUPATION TAXES AND LICENSES**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I** ENTITLED MANUFACTURE, SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES, BY THE AMENDMENT OF **SECTION 1.04, RESTRICTION ON LOCATIONS OF PLACES OF BUSINESS**; PROVIDING FOR A FINE OF UP TO \$200 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

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

1.

That the "**Occupation Taxes**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Manufacture, Sale and Distribution Of Alcoholic Beverages, by the amendment of **Section 1.04, Restriction on Locations of Places of Business**, so that said section shall be and read as follows:

Section 1.04 Restriction on Locations of Places of Business

- A. The sale of alcoholic beverages for off premise consumption is not permitted within one hundred feet (100') of:
1. a church, public school, or public hospital; or,
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.

- B. Except as provided in Section 1.04(C), the sale of alcoholic beverages for on premise consumption is not permitted within three hundred feet (300') of:
1. a church, public school, or public hospital; or,
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- C. The sale of alcoholic beverages for on premise consumption on any property located in the "DN Overlay District" or the "DB District" is not permitted within one hundred feet of:
1. a church, public school, private school, or public hospital; or
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- D. The sale of alcoholic beverages is not permitted within one hundred feet (100') of a "day-care center" or a "child-care facility" as those terms are defined by Section 42.002 of the Texas Human Resources Code. This provision only applies to a place of business selling alcoholic beverages pursuant to a permit issued by the Texas Alcoholic Beverage Commission ("TABC") under Chapter 25, 28, 32, 69 or 74 of the Tex. Alco. Bev. Code which does not also hold a food and beverage certificate from the TABC.
- E. 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.
- F. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private 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 place of business 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, and in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the place of business is located.
- G. The measurement of the distance between the place of business where alcoholic beverages are sold and a day-care center or a child-care facility shall be calculated in the same manner as used for a public or private school, with the following exceptions (in which event the place of business in question is exempted from the distance requirements):
1. the place of business selling alcoholic beverages and the day-care center or child-care facility are located on different stories of a multistory building; or
 2. the place of business selling alcoholic beverages and the day-care center or child-care facility are located in separate buildings and either the place of business selling alcoholic beverages or the day-care center or child-care facility is located on the second story or higher of a multistory building.
- H. Variance for Alcohol Sales
1. The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued

for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.

2. No variance may be granted under this subsection except after a public hearing for which notice has been given. Notice of a request for a variance from this subsection shall be given to owners of property within three hundred feet (300') of the business. The notice area for a variance request relating to a church or public hospital shall be measured in a direct line from the front door of the place of business. The notice area for a variance request relating to a public or private school shall be measured in a direct line from the property line of the place of business. The notice shall be sent via regular United States mail not less than ten (10) days before the date set for hearing, to all such owner who have rendered their property for City taxes as the ownership appears on the last approved City tax roll.
3. The City Council may assess a reasonable fee for the administrative costs associated with processing a variance request under this subsection.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Hundred and No/100 Dollars (\$200)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of

Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **14th** day of **June, 2005**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **21st** day of **June, 2005**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

Ordinance No. 14-006

An ordinance amending the “Occupation Taxes and Licenses” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, entitled Manufacture, Sale and Distribution of Alcoholic Beverages, by the amendment of Section 1.04, Restriction on Locations of Places of Business; by the addition of a new Section 1.07, Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center; and the renumbering of the remaining section; providing for a fine of up to \$500 for each offense in violation of this ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

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

1.

That the “Occupation Taxes and Licenses” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I, Manufacture, Sale and Distribution of Alcoholic Beverages**, by the amendment of **Section 1.04, Restriction on Locations of Places of Business**, so that said section shall be and read as follows:

Section 1.04 Restriction on Locations of Places of Business

- A. The sale of alcoholic beverages is not permitted within three hundred feet (300’) of:
1. a church, public school, or public hospital; or,
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- B. The sale of alcoholic beverages is not permitted within three hundred feet (300’) of a “day-care center” or a “child-care facility” as those terms are defined by Section 42.002 of the Texas Human Resources Code. This provision only applies to a place of business selling alcoholic beverages pursuant to a permit issued by the Texas Alcoholic Beverage Commission (“TABC”) under Chapter 25, 28, 32, 69 or 74 of the Tex. Alco. Bev. Code which does not also hold a food and beverage certificate from the TABC.

- C. 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.
- D. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private 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 place of business 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, and in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the place of business is located.
- E. The measurement of the distance between the place of business where alcoholic beverages are sold and a day-care center or a child-care facility shall be calculated in the same manner as used for a public or private school, with the following exceptions (in which event the place of business in question is exempted from the distance requirements):
1. the place of business selling alcoholic beverages and the day-care center or child-care facility are located on different stories of a multistory building; or
 2. the place of business selling alcoholic beverages and the day-care center or child-care facility are located in separate buildings and either the place of business selling alcoholic beverages or the day-care center or child-care facility is located on the second story or higher of a multistory building.
- F. Variance for Alcohol Sales
1. The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.
 2. No variance may be granted under this subsection except after a public hearing for which notice has been given. Notice of a request for a

variance from this subsection shall be given to owners of property within three hundred feet (300') of the business. The notice area for a variance request relating to a church or public hospital shall be measured in a direct line from the front door of the place of business. The notice area for a variance request relating to a public or private school shall be measured in a direct line from the property line of the place of business. The notice shall be sent via regular United States mail not less than ten (10) days before the date set for hearing, to all such owners who have rendered their property for City taxes as the ownership appears on the last approved City tax roll.

3. The City Council may assess a reasonable fee for the administrative costs associated with processing a variance request under this subsection.

Further, Article I is hereby amended by the **addition** of a new **Section 1.07, Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center**, and the **renumbering** of the remaining section so that said section shall be and read as follows:

Section 1.07 Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center

- A. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is located outside of the central business district.
- B. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a substance abuse treatment center that is located outside of the central business district.
- C. "Central business district" means all property located in the "DN Overlay District" or the "DB District".
- D. The City Council may allow an exception to this section for special temporary events.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

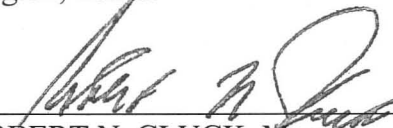
The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.


PRESENTED AND GIVEN FIRST READING on the 7th day of January, 2014, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 21st

day of January, 2014, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



ROBERT N. CLUCK, Mayor

ATTEST:



MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY 