

ORDINANCE NO. 234-D

AN ORDINANCE REPEALING CITY OF WEST ORANGE, TEXAS ORDINANCES NO. 234, 234-A, 234-B AND 234-C IN THEIR ENTIRETIES AND REPLACING SAID ORDINANCES WITH ORDINANCE NO. 234-D, WHICH ADOPTS ALL RULES AND REGULATIONS AS SET FORTH IN THE TEXAS ALCOHOLIC BEVERAGE CODE AND FURTHER ADOPTS LOCAL AMENDMENTS AS ALLOWED BY THE TABC TO CONTROL THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS OF WEST ORANGE, TEXAS, ESTABLISHING A PENALTY FOR VIOLATION THEREOF AND PROVIDING FOR AN EFFECTIVE DATE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST ORANGE, TEXAS that:

Section 1. Ordinances No. 234, 234-A, 234-B and 234-C previously adopted by the City of West Orange, Texas are hereby repealed in their entireties and deemed null and void. Said ordinances are to be replaced by Ordinance No. 234-D, which will become effective immediately upon its passage.

Section 2. Governance of this Ordinance shall be in accordance with all rules and regulations as set forth in the Texas Alcoholic Beverage Code (TABC), in its entirety, as well as any future amendments or additions to said code as adopted by the Texas Legislature.

Section 3. All definitions of words, terms and phrases as set forth in the Texas Alcoholic Beverage Code are hereby adopted and made part of this Ordinance.

Section 4. As allowed by the Texas Alcoholic Beverage Code, the City of West Orange hereby adopts the following local amendments to further control the sale of alcoholic beverages within the city:

- 1) Sales of alcoholic beverages are permitted within the City of West Orange during "extended hours" as set forth in §105.03 and §105.05 of the TABC;
- 2) There shall be no sale of alcohol of any kind within the city limits of West Orange unless the seller has first obtained a license from the City of West Orange. The application for said license shall be filed with the City Secretary and shall be granted or denied by at least two (2) of three (3) votes cast by the City Secretary, Chief of Police and Code Enforcement Official. If the Application for License is denied by at least two of the three named officials, an Appeal may be made by filing, in writing, within five (5) days of denial, such request for appeal with the City Secretary for consideration by the City Council, whose decision shall be final.

As authorized by TABC §11.38 and §61.36, the City of West Orange shall levy and collect a fee not to exceed one-half the state fee for each permit issued for premises located within the city. This fee is levied and invoiced by the City Secretary on an annual basis, due on or before September 30th of each year. All fees shall be paid to the City Secretary, and payment(s) must be accompanied by copy(ies) of current state alcohol beverage permits. Local permits shall not be issued without proof of current state permit. Upon receipt of payment and proper documentation, City Secretary shall issue local permit and receipt thereof. Local permit is to be displayed on premises in same manner and location as state permit. Local permits are valid, (as long as state permit is valid) from 12:00 a.m. on October 1st of one year through midnight on September 30th of the following year.

3) Alcohol Sales Prohibitions

- a) The City of West Orange hereby prohibits the sale of any type of alcoholic beverages within its city limits by a person or business whose location is within:
 - i) Three hundred (300) feet of a church, public or private (or parochial) school or public hospital;
 - ii) One thousand (1,000) feet of a public school if the City Council receives a request from the board of trustees of the school district under Section 38.007, Education Code; or
 - iii) One thousand (1,000) feet of a private (or parochial) school if the City Council receives a request from the governing body of the private (or parochial) school.

- 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 (or parochial) school shall be in a direct line from the property line of the public or private (or parochial) school to the property line of the place of business, and in a direct line across intersections.
- c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within one thousand (1,000) feet of the nearest property line of a public or private (or parochial) school, measured along street lines and directly across intersections, must give written notice of the application to offices of the public or private (or parochial) school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premises where minors are prohibited from entering the premises under TABC §109.53.
- d) The City Council hereby also retains the authority to allow variances to these regulations if they so determine 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 Council, after consideration of the health, safety and welfare of the public determines is in the best interest of the community.

4) Penalty for Violation

Any person or persons violating any provision of this Ordinance or who shall fail to comply therewith, shall for each and every violation or non-compliance be deemed guilty of a misdemeanor and shall be fined not more than the maximum amount allowed by state law for each and every day of such violation or non-compliance constituting a separate offense.

Section 5. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be deemed invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provisions thereof, other than the part so decided to be invalid or unconstitutional.

Section 6. This ordinance shall become effective immediately from and after its passage.

PASSED AND APPROVED this 17th day of December, 2014.



Roy McDonald, Mayor
City of West Orange, Texas

ATTEST:


Theresa Van Meter, City Secretary

APPROVED:


Joe Alford, City Attorney

