

ORDINANCE NO. 09- 13

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS AMENDING TITLE 17: ZONING, OF THE CITY CODE, BY AMENDING CHAPTER 17.6 – COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS;AMENDING 17.6.04 THEREOF TO PROVIDE FOR THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION IN THE B-3 DISTRICT; BY AMENDING 17.6.01 THEREOF PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES WITHIN PRESCRIBED DISTANCES FROM CHURCHES, SCHOOLS AND HOSPITALS; AND BY AMENDING TITLE 3, REVENUE AND FINANCE, OF THE CITY CODE, BY AMENDING CHAPTER 3.3 – PERMIT AND SERVICE FEES, LEVYING A FEE NOT TO EXCEED ONE-HALF OF THE STATE FEE FOR EACH LICENSE OR PERMIT ISSUED UNDER THE TEXAS ALCOHOLIC BEVERAGE CODE; REPEALING ORDINANCES IN CONFLICT HERewith; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS :

1.

That Paragraph A., Permitted uses, of Section 17.6.04, “B-3” Business District, of TITLE 17: ZONING, of the Code of the City be amended as follows:

a. By the addition thereto of a new sub-paragraph designated as “14.”, which shall hereafter be and read as follows:

“14. Sale of alcoholic beverages for off-premises consumption (package sales).”

b. By re-designating sub-paragraph 14 thereof as sub-paragraph 15, which shall hereafter be and read as follows:

“15. Customarily incidental uses.”

2.

That Paragraph B., Special standards, of Section 17.6.01, “General Provisions”, of TITLE 17: ZONING, of the Code of the City be amended by the addition thereto of a new sub-paragraph, designated “6.”, which shall hereafter be and read as follows:

6. In the Zoning Districts in which the sale of alcoholic beverages is otherwise permitted under the terms of this chapter, the sale of alcoholic beverages is prohibited by a dealer whose place of business is within:

- (1) 300 feet of a church, public or private school, or public hospital;
- (2) 1,000 feet of a public school, if the city council receives a request for such prohibition from the board of trustees of a school district; or
- (3) 1,000 feet of a private school, if the city council receives a request for such prohibition from the governing body of the private school.

The method of determining the minimum distances shall be as provided in Section 109.33 of the Texas Alcoholic Beverage Code.

The city council may allow variances to the distance 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.

3.

That Paragraph G, MISCELLANEOUS, Section 3.3.05, Schedule of fees and charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended by the addition thereto of a new subparagraph that shall be and read as follows:

Alcoholic beverage fees: A fee is hereby levied of one-half of the state fee for each permit and license issued by the Texas Alcoholic Beverage Commission for premises located within the city, pursuant to the authority of Section 11.38 and Section 61.36 of the Texas Alcoholic Beverage Code.

4.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith.

5.

That this ordinance is hereby made cumulative of all other ordinances of the City not in conflict herewith.

6.

That if any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

7.

That violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor; and, that any person violating any provision of this ordinance shall be punished in accordance with the provisions of Section 1.1.26 of the City Code: By a fine not exceeding two thousand dollars. For each day that a violation shall continue or be permitted to exist, there shall be deemed a separate violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

8.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation in the City, as provided by law.

9.

That this ordinance shall be in full force and effect from and after the date of its adoption and publication as provided by law.

PRESENTED AND PASSED by a vote of 5 ayes and no nays at a special meeting of the City Council of the City of Dalworthington Gardens held on the 10th day of November, 2009.