

ORDINANCE NO. 2004- 5

An ordinance amending Section 14-10 of the Victoria City Code to allow temporary permits for alcoholic beverages to be issued within 300 feet of churches, public hospitals, and public schools if the Chief of Police has determined in writing that the function being permitted has employed sufficient security to pose a minimal threat of damage to nearby persons or property and does not pose a significant probability of interfering with the operations of the church, public hospital, or public school within 300 feet of the permitted location, repealing conflicting ordinances, providing for severability, providing for codification and savings, providing a penalty not to exceed \$500.00 upon conviction and enforcement, providing for publication, and declaring an effective date.

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

1.

Section 14-10 of the Victoria City Code is amended to read as follows:

Sec. 14-10. Same--Sale of near churches, schools, and hospitals.

(a) The following words shall have the following meanings when used in this section:

- (1) *Church*: Any building used principally for religious worship and in which persons assemble to worship at least once each week, which is owned by such persons, or leased by such persons for a period of at least one year.
- (2) *Public hospital*: A hospital to which the public at large is admitted for medical treatment.
- (3) *Public school*: A school which has one or more of the grades kindergarten through 12th grade and is owned and conducted by the state or a political subdivision or agency thereof.

(b) No person authorized by the state alcoholic beverage commission to sell alcoholic beverages at retail, and no agent, servant, or employee of such person shall sell or offer for sale any alcoholic beverage at a place of business located within 300 feet of a church, public school, or public hospital.

(c) Measurement of the distance between a place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of street fronts and from front door, and in direct line across intersections. Measurement of the distance between a place of business where alcoholic beverages are sold and a public school shall be from the nearest property line of the public school to the nearest doorway by which the public may enter the place of business, along street lines, and in direct line across intersections.

(d) This section shall not apply to a place of business legally selling alcoholic beverages prior to the effective date of this section; provided that, should such place of business discontinue the sale of alcoholic beverages for a continuous period of more than 30 days, then this section shall thereafter apply to such place of business.

(e) This section shall not apply to a place of business legally selling alcoholic beverages for a continuous period of at least 6 months prior to:

- (1) The issuance of a certificate of occupancy for a church, public school, or public hospital; or
- (2) The start of actual occupancy of a church, public school, or public hospital if no certificate of occupancy is required for such structure.

(f) This section shall not apply to the sale of alcoholic beverages pursuant to a "daily temporary mixed beverage permit", a "temporary private club permit" or a "temporary beer or wine & beer license (four day license)", or "temporary license - special 3-day wine & beer permit" if the City's Chief of Police has determined in writing that the function being permitted:

- (1) has employed sufficient security to pose a minimal threat of damage to nearby persons or property, and
- (2) does not pose a significant probability of interfering with the operations of the church, public hospital, or public school within 300 feet of the permitted location,
- (3) is not scheduled to be held between the hours of 8:00 a.m. and 1:00 p.m. on a Sunday, if the permitted location is within 300 feet of a church, and
- (4) is not scheduled to be held between the hours of 8:00 a.m. and 3:45 p.m. on a day of instruction in a public school that is within 300 feet of the permitted location.

3.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

4.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

5.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

6.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$500.00 as provided in Section 1-8 of the Victoria City Code, and in addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this ordinance by injunction issued by a court of competent jurisdiction. The City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, § 10 of the City Charter.

7.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 16th day of MARCH, 2004

AYES: 4

NAYS: 1

ABSTENTIONS: 0

PASSED SECOND READING, this the 6TH day of APRIL, 2004.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 6TH day of APRIL, 2004.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 6TH day of APRIL, 2004.



Gary Middleton
GARY MIDDLETON, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

David Atmar Smith
DAVID ATMAR SMITH, City Attorney

Copies Sent: APRIL 7, 2004

ATTEST:

Scarlet Swoboda

SCARLET SWOBODA, City Secretary

Distribution: Legal Department
Chief of Police
City Secretary