

ORDINANCE NO. 20100422-003

**AN ORDINANCE AMENDING CITY CODE SECTION 4-9-8 REGARDING
CERTIFICATION OF APPLICATIONS FOR A LIQUOR LICENSE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 4-9-8 (*Inspection and Certification*) is amended to read:

§ 4-9-8 [INSPECTION] INVESTIGATION AND CERTIFICATION.

- (A) This section applies to:
- (1) an original application or a renewal application for a permit or license required by the Texas Alcoholic Beverage Code; and
 - (2) a permittee seeking to change the place of business for which a permit or license is issued, if the Texas Alcoholic Beverage Code requires the city clerk to certify that the sale of alcoholic beverages at a place of business is authorized by City ordinance.
- (B) The applicant for a permit or license subject to this section shall file a completed and verified application with the city clerk on the form promulgated by the Texas Alcoholic Beverage Commission. The city clerk shall provide notice of the application to the Planning and Development Review Department, the Health and Human Services Department, the fire chief, and the police chief.
- ~~[(C) An applicant shall make the place of business available for any investigation or inspection required by this section.~~
- ~~[(D) Inspections under this section may relate to requirements established by the Land Development Code, Building Code, Plumbing Code, Electrical Code, and Fire Code, and to any provisions of the City Code administered or enforced by the Health and Human Services Department.]~~
- [(C)]~~[(E) The]~~ After receiving a notice of application from the city clerk, the director of the Planning ~~[Watershed Protection]~~ and Development Review Department, the director of the Health and Human Services Department, the fire chief, and the police chief shall conduct the review required by this section and document their determinations ~~[an application and certify the application]~~ through the City's automated application process.
- [(D)]~~[(F)]~~ The director of the Planning ~~[Watershed Protection]~~ and Development Review Department shall certify whether ~~[an application if the director determines that:-~~

(1) the sale of alcoholic beverages at the place of business is an authorized use at that location[; and

(2) ~~the place of business complies with all applicable provisions of the Land Development Code].~~

~~(E)~~(G) The director of the Health and Human Services Department shall conduct an investigation ~~[certify an application]~~ and document whether ~~[if the director determines that]~~ the place of business complies with the provisions of the City Code enforced by the Health and Human Services Department.

~~(F)~~(H) The fire chief shall conduct an investigation and document whether ~~[certify an application if the fire chief determines that]~~ the place of business complies with applicable provisions of the Fire Code.

~~(G)~~(I) The police chief shall investigate the applicant's moral character and police or criminal record. The police chief may request that ~~[require]~~ the applicant ~~[to]~~ provide a classifiable set of the applicant's fingerprints as part of the investigation under this subsection. The police chief shall report the chief's findings through the automated application process.

~~(H)~~(J) ~~Except as provided in Subsection (K), each]~~ Each City official required to review an application under Subsection ~~(C)~~(E) shall, to the greatest extent practicable, conduct an investigation and inspection as necessary to make the determinations required under this section and take appropriate action to ensure compliance.

~~[(K)]~~ ~~A City official reviewing application under Subsection (E) may certify an application under this chapter without re-inspecting a place of business if:~~

~~(1) the place of business was inspected by the City department over which the official is responsible in the 12 months preceding the date an application was filed; and~~

~~(2) the official determines there has been no material change that affects the certification required by this section since the previous inspection.~~

~~(L)~~ ~~The City officials reviewing an application under Subsection (E) may report an interim certification if the official's department is unable to provide the required certification because a structure or remodeling of a structure at the proposed place of business is incomplete.]~~

~~(I)~~(M) After the city clerk receives the certification[s] required under Subsection (D) of ~~[by]~~ this section, the clerk shall certify on the application that:

(1) the place of business is in a "wet" area and if the business is in a "late hours" area; and

- (2) the sale of alcoholic beverages is not prohibited at the place of business by the City Charter or the City Code.
- (J) The appropriate city department or official shall consider determinations made under Subsections (D), (E), (F), and (G) of this section in determining whether to recommend denial of the permit or license to the Texas Alcoholic Beverages Commission in accordance with state law.
- (K) A structure for which a permit or license application is submitted under the Texas Alcoholic Beverages Code must obtain all required approvals, including a certificate of occupancy under City Code Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*), in order to lawfully operate. Issuance of a certification under this section does not entitle an applicant to a certificate of occupancy.
- ~~[(N) If requested by the applicant, the clerk shall certify an application based on interim certifications, provided that the place of business subject to the application may not be occupied and the business may not be operated until the applicant obtains a certificate of occupancy and food permit from the City.]~~

PART 2. This ordinance takes effect on May 3, 2010.

PASSED AND APPROVED

_____, April 22, 2010

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Lee Leffingwell
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk