

**ORDINANCE NO. 20211209-058**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 4-9 RELATING TO MINIMUM DISTANCE REQUIREMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES NEAR PRIVATE SCHOOLS, DAY-CARE CENTERS, CHILD-CARE FACILITIES, AND CERTAIN OTHER USES; AND CREATING AN OFFENSE.**

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

**PART 1.** Subsection (B) of City Code Section 4-9-1 (*Definitions*) is amended to add a new definition of "Private School" to read as follows:

- (5) PRIVATE SCHOOL means a private school, including a parochial school, that:
  - (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
  - (b) has more than 100 students enrolled and attending courses at a single location.

**PART 2.** City Code Section 4-9-4 (*Minimum Distance from Certain Uses*) is amended to read as follows:

**§ 4-9-4 MINIMUM DISTANCE FROM CERTAIN USES.**

- (A) A person may not sell or engage in the business of selling an alcoholic beverage at a place of business located within 300 feet of a church, public school, private school, or public hospital except as provided by the Texas Alcoholic Beverage Code.
- (B) A permit or license holder under Chapters 25 (*Wine and Beer Retailer's Permit*), 28 (*Mixed Beverage Permit*), 32 (*Private Club Registration Permit*), 69 (*Retail Dealer's On-Premise License*), or 74 (*Brewpub License*) of the Texas Alcoholic Beverage Code who does not hold a food and beverage certificate may not sell or engage in the business of selling an alcoholic beverage at a place of business located within 300 feet of a day-care center or child-care facility except as provided by the Texas Alcoholic Beverage Code.

- (C) Distances under this section shall be calculated using the method prescribed by the Texas Alcoholic Beverage Code.
- (D) The method prescribed for calculating distance from a public school shall be applied to a day-care center or child-care facility, whether the day-care center or child-care facility is a principal or accessory use, except as otherwise provided by the Texas Alcoholic Beverage Code.

**PART 3.** Subsection (B) of City Code Section 4-9-5 (*Waiver of Minimum Distances*) is amended to read as follows:

- (B) The council may consider the written consent to a waiver under this section from each church, public school, private school, public hospital, day-care center or child-care facility within 300 feet from the applicant's proposed place of business filed by the applicant with the director of the Development Services Department to be a sufficient justification for a waiver.

**PART 4.** City Code Section 4-9-7 (*Exceptions to Required Minimum Distances*) is amended to read as follows:

**§ 4-9-7 EXCEPTIONS TO REQUIRED MINIMUM DISTANCES.**

- (A) Section 4-9-4 (*Minimum Distances from Certain Uses*) does not apply to:
  - (1) the renewal or transfer of a permit or license to sell alcoholic beverages, if the permit or license being renewed or transferred was originally issued before the date a church, public school, private school, public hospital, day-care center, or child-care facility use was established within 300 feet from the place of business named in the permit or license; or
  - (2) a new application at a location, if the sale of alcoholic beverages at the proposed place of business was authorized not less than one year before the date a church, public school, private school, public hospital, day-care center, or child-care facility use was established within 300 feet from the place of business, and the new application is filed no later than 90 days after the date the previous permit or license

authorizing the sale of alcoholic beverages at that location expired or was terminated.

(B) Subsection 4-9-4(A) does not apply to the holder of:

- (1) a license or permit who also holds a food and beverage certificate covering a premise that is located within 300 feet of a private school; or
- (2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 of the Texas Alcoholic Beverage Code and that is located within 300 feet of a private school.

(C)[(B)] Subsection [Section] 4-9-4(B) [(Minimum Distances from Certain Uses)] does not apply to a permit or license holder who sells alcoholic beverages if:

- (1) the permit or license holder's place of business and the day-care center or child-care facility are located on different stories of a multistory building; or
- (2) the permit or license holder's place of business and the day-care center or child-care facility are located in separate buildings and either the permit or license holder's place of business or the day-care center or child-care facility is located on the second story or higher of a multistory building.

**PART 5.** This ordinance takes effect on December 20, 2021.

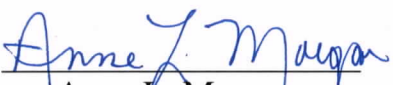
**PASSED AND APPROVED**

\_\_\_\_\_, December 9, 2021

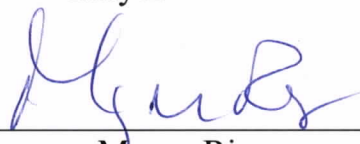
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Steve Adler  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
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Myrna Rios  
Interim City Clerk