

Ordinances Governing
OCCUPATION TAXES AND LICENSES
in the
CITY OF ARLINGTON
TEXAS

Amended by Ordinance No. 14-006
(January 21, 2014)

(Chapter Designator: OCCUPATION TAXES)

ORDINANCE HISTORY

<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
91-103	11/05/91	Amend Article I , Section 1.05, relative to alcoholic beverage sales reporting requirements.
96-26	02/06/96	Amend Article I , Subsection 1.04(B), <u>Restriction on Locations of Places of Business</u> , relative to the measurement of the distance between a place of business where alcoholic beverages are sold and a public school.
02-134	12/10/02	Amend Article I , <u>Manufacture, Sale And Distribution Of Vinous And Malt Beverages</u> , relative to the prohibition of the sale of alcoholic beverages within 300 feet of a private school, daycare center and child care facility, providing definitions and a method of measurement.
05-046	06/21/05	Amend Article I , <u>Manufacture, Sale and Distribution of Alcoholic Beverages</u> , Section 1.04 , <u>Restriction on Locations of Places of Business</u> .
14-006	01/21/14	Amend Article I , <u>Manufacture, Sale and Distribution of Alcoholic Beverages</u> , by the amendment of Section 1.04 , <u>Restriction on Locations of Places of Business</u> ; by the addition of a new Section 1.07 , <u>Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center</u> , and the renumbering of the remaining section.

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ARTICLE I

**MANUFACTURE, SALE AND DISTRIBUTION
OF ALCOHOLIC BEVERAGES**

Section 1.01 Fee

There is hereby levied and assessed and shall be collected an annual fee from every person, firm, corporation or association of persons pursuing or engaging in any businesses in the City of Arlington, Texas, for which a permit or license is required under the "Texas Alcoholic Beverage Code", as enacted by Acts 1977, 65th Legislature, Chapter 194, and amended by Acts 1977, 65th Legislature, Chapter 453, both effective September 1, 1977, and all amendments thereto. The fee shall be in the maximum amount permitted by the Legislature of the State of Texas.

Section 1.02 Application for License

Each person subject to Section 1.01 of this Article shall annually apply for a license from the City Secretary. The applicant shall furnish a copy of a license to engage in such business issued by the Tax Collector of Tarrant County, Texas, on a form prescribed by the Comptroller of the State of Texas. All licenses issued hereunder shall terminate upon the expiration of one (1) year from the date of issuance, and no license shall be issued for more than one (1) year. A new license may be issued to terminate contemporaneously with the expiration of the State license, and the charges for such license shall be prorated.

Section 1.03 Collection of Fee and Issuance of License

Upon investigation of compliance with all applicable ordinances and payment of the fee, the City Secretary shall issue to the applicant the proper license, which shall state on its face the location, type of business for which it is issued, and the date when it will expire. The license shall be posted in a prominent place, visible to the customers of the establishment.

OCCUPATION TAXES

1.04

Section 1.04 Restriction on Locations of Places of Business

- A. The sale of alcoholic beverages is not permitted within three hundred feet (300') of:
1. a church, public school, or public hospital; or,
 2. a private school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and which has more than 100 students enrolled and attending courses at the location in question.
- B. The sale of alcoholic beverages is not permitted within three hundred feet (300') of a "day-care center" or a "child-care facility" as those terms are defined by Section 42.002 of the Texas Human Resources Code. This provision only applies to a place of business selling alcoholic beverages pursuant to a permit issued by the Texas Alcoholic Beverage Commission ("TABC") under Chapter 25, 28, 32, 69 or 74 of the Tex. Alco. Bev. Code which does not also hold a food and beverage certificate from the TABC.
- C. The measurement of the distance between the place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.
- D. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private school shall be:
1. in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or,
 2. if the place of business is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the place of business is located.
- E. The measurement of the distance between the place of business where alcoholic beverages are sold and a day-care center or a child-care facility shall be calculated in the same manner as used for a public or private school, with the following

exceptions (in which event the place of business in question is exempted from the distance requirements):

1. the place of business selling alcoholic beverages and the day-care center or child-care facility are located on different stories of a multistory building; or
2. the place of business selling alcoholic beverages and the day-care center or child-care facility are located in separate buildings and either the place of business selling alcoholic beverages or the day-care center or child-care facility is located on the second story or higher of a multistory building.

F. Variance for Alcohol Sales

1. The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.
2. No variance may be granted under this subsection except after a public hearing for which notice has been given. Notice of a request for a variance from this subsection shall be given to owners of property within three hundred feet (300') of the business. The notice area for a variance request relating to a church or public hospital shall be measured in a direct line from the front door of the place of business. The notice area for a variance request relating to a public or private school shall be measured in a direct line from the property line of the place of business. The notice shall be sent via regular United States mail not less than ten (10) days before the date set for hearing, to all such owners who have rendered their property for City taxes as the ownership appears on the last approved City tax roll.
3. The City Council may assess a reasonable fee for the administrative costs associated with processing a variance request under this subsection. (Amend Ord 14-006, 1/21/14)

OCCUPATION TAXES

1.05

Section 1.05 Reporting Requirements

- A. The owner, operator or person in control of an establishment licensed by the State for on-premise alcoholic beverage consumption, which is located in a zoning district in which bars are not permitted, may be required to file with the Director of Planning and Development Services an affidavit on a form provided by the Director. The affidavit shall reflect gross sales for the preceding twelve (12) month period (or for the period since the restaurant began its operation, whichever is shorter), and each affidavit shall show gross sales of food and gross sales of alcoholic beverages, as those terms are defined in the Zoning Ordinance, as separate figures.
- B. The person operating an establishment subject to the reporting requirements of Section 1.05(A) may be required to file with the Director of Planning and Development Services a copy of the filings supplied to the State of Texas for sales tax and a copy of any tax return required by the Texas Alcoholic Beverage Code.
- C. Legally nonconforming uses having no limitations imposed by ordinance or by the Zoning Board of Adjustments on the amount of alcoholic beverages sold shall not be subject to this chapter's reporting requirements. Establishments operating with a special exception authorizing the sale of alcoholic beverages with no restrictions on the amount of alcoholic beverages sold shall not be subject to the reporting requirements of this chapter.
- D. Submission of the aforementioned data shall not constitute a waiver of any claim of confidentiality regarding public access to the information.
- E. The person operating an establishment subject to the reporting requirements of this chapter shall permit the Director of Planning and Development Services or his designee to view and copy the books, records and receipts relative to sale of food and alcoholic beverages at any time after four hours notice; and such permission shall not be construed to constitute a waiver of any claim of confidentiality the operator may have.
- F. No person shall fail to keep a record in the manner required by this chapter, fail to file any return in the manner required by this chapter, keep a false record, or file a false return.

Section 1.06 Scope of Ordinance

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington levying and assessing fees and shall not operate to repeal or affect any such ordinance.

Section 1.07 Consumption of Alcoholic Beverages Near Homeless Shelter or Substance Abuse Treatment Center

- A. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is located outside of the central business district.
- B. The possession of an open container or the consumption of an alcoholic beverage is prohibited on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a substance abuse treatment center that is located outside of the central business district.
- C. “Central business district” means all property located in the “DN Overlay District” or the “DB District”.
- D. The City Council may allow an exception to this section for special temporary events. (Amend Ord 14-006, 1/21/14)

Section 1.08 Violations of Ordinance

A person, firm, corporation or association of persons subject to the licensing or reporting provisions of this chapter who sells an alcoholic beverage without having paid the fee herein levied commits a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00. In addition, the City Secretary shall report such failure to pay to the Texas Alcoholic Beverages Commission. (Amend Ord 14-006, 1/21/14)

ARTICLE II
COIN MACHINES

Section 2.01 License Fee

There shall be levied and collected from the owner and operator, or if he be not found or known, the keeper or exhibitor, of all coin operated vending machines, where a coin of five cents or over is used in the operation thereof, whether same be a game of skill or a game of chance, and further, whether same be a marble machine, a slot machine (where five cents be the fee) race horse machine, by whatsoever guise same be called or used, all marble tables, all ticket-punching machines, and all other machines operated by a coin of over one cent, whether same be mentioned herein or not, save and except cigarette vending machines, coin-operated telephones and gas meters, a fee of TWO and 50/100 DOLLARS (\$2.50) per month, for each and every month same are to be or are operated in the limits of the City of Arlington, Texas.

Section 2.02 Receipt for Payment, Occupation Tax

The duty of the collecting of this tax is hereby enjoined on the City Secretary, who shall issue, on the payment thereof, to the owner or operator of such machine, a proper receipt therefor.

Section 2.03 Receipt in Operator's Possession

It shall be unlawful to keep, own, operate, or exhibit within the City of Arlington any such machine, whether named herein or not, without the owner, operator, keeper or exhibitor of same having in his possession the receipt for the current month's tax. (Amend Ord 76-23, 3-2-76)