



Tomball, TX Code of Ordinances

CITY OF TOMBALL CODE OF ORDINANCES - CHAPTER 4-2

Chapter 4 - ALCOHOLIC BEVERAGES

Section 4-2 - (f) -

State Law reference— Alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code ch. 1 et seq.; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36, 109.31 et seq., local option elections, V.T.C.A., Alcoholic Beverage Code § 251.01 et seq.

ARTICLE I - IN GENERAL

Sec. 4-1 - Definitions.

For the purposes of this chapter, all definitions of words, terms, and phrases, as set forth in the Alcoholic Beverage Code, are hereby adopted and made a part hereof by reference.

(Code 1978, § 3-1; Code 1993, § 6-1)

State Law reference— Definitions, V.T.C.A., Alcoholic Beverage Code § 1.04.

Sec. 4-2 - Location restricted for sale:

The sale of alcoholic beverages within 300 feet of any church, public or private school or public hospital, within the corporate limits of the city, is hereby prohibited. Measurement shall be done as required by V.T.C.A., Alcoholic Beverage Code § 109.33.

(Code 1978, § 3-2; Code 1993, § 6-2)

State Law reference— Location restrictions, V.T.C.A., Alcoholic Beverage Code § 109.33.

§ 109.33. Sales Near School, Church, or Hospital, TX AL BEV § 109.33

VTCA SECTION 109.33 REFERENCED WITHIN TOMBALL ORDINANCE

Vernon's Texas Statutes and Codes Annotated
Alcoholic Beverage Code (Refs & Amos)
Title 4. Regulatory and Penal Provisions (Refs & Amos)
Chapter 109. Miscellaneous Regulatory Provisions
Subchapter C. Local Regulation of Alcoholic Beverages

V.T.C.A., Alcoholic Beverage Code § 109.33

§ 109.33. Sales Near School, Church, or Hospital

Effective: September 1, 2021
Currentness

(a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within

- (1) 500 feet of a church, public or private school, or public hospital;
- (2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or
- (3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the 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 permit or license holder 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, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.

(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body 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 court or governing board, 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.