

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TODD MISSION, TEXAS ESTABLISHING A LOCAL PERMIT FEE FOR THE SALE OF ALCOHOL; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT MATTER.

WHEREAS, the City of Todd Mission, Texas (the “City”) is a Type A general law municipality pursuant to the laws of the State of Texas;

WHEREAS, the Texas Alcohol and Beverage Code (“TABC”) provides the sole basis for regulation of alcohol sales within the State of Texas;

WHEREAS, the TABC provides municipalities the ability to restrict the sale of alcohol near schools, churches, and hospitals pursuant to Section 109.33 of the TABC, and to day-care centers and childcare facilities pursuant to Section 109.331 of the TABC;

WHEREAS, TABC Section 11.38 allows municipalities to collect a fee, of one-half of the amount of the State fee, for each permit issued for sale, manufacture, etc. of liquor, and TABC Section 61.36 allows municipalities to collect a fee, of one-half of the amount of the State fee, for each license issued for the sale of malt beverages; and

WHEREAS, the City Council of the City wishes to adopt and enforce allowable restrictions regarding the location of alcohol sales within the City and wishes to impose a local fee upon permits and licenses issued by the State of Texas for alcohol sales within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TODD MISSION, TEXAS, THAT:

Section 1. The recitals and preamble above are found to be true and incorporated herein.

Section 2. Permit Required.

No person shall manufacture, sell, distribute or store any alcoholic beverage, or engage in any other activity with relation to the same for which a permit is required by the State Alcoholic Beverage Code, within the City without first obtaining a permit to do so from the City.

Section 3. Fees Established.

Before a permit is issued under the provisions of this ordinance, the applicant shall pay to the city a fee of one-half the statutory fee provided by the Texas Alcoholic Beverage Code, as amended.

Section 4. Payment of Fees; Annual

All taxes, permits and/or license fees levied by this ordinance shall be paid in advance for one year. The fees assessed by this Ordinance shall be paid annually.

Section 5. Prerequisites to issuance; effect of issuance.

Upon the payment of the applicable fee prescribed by this ordinance to the City, and exhibition to the City of a permit duly issued by the state to the applicant, the City shall issue and deliver to such applicant a permit to engage in business in the City of the character described in and authorized by the permit from the state held by such applicant. The permit of license so issued in the name of the City shall authorize the conduct of such business upon the premises described in the permit from the state.

Section 6. Sales Prohibited.

The sale of alcoholic beverages is hereby prohibited from a place of business within 300 feet of a church, public or private school, public hospital, child-care facility, or day-care facility.

Section 7. Measurement.

The method to measure said 300 feet as detailed in Section 109.33 and 109.331 of the Texas Alcoholic Beverage Code, as amended from time to time, to include exceptions, is hereby incorporated.

Section 8. Exceptions.

The City may provide for exceptions to this Ordinance if allowed by State law under the City's Special Event Permits Ordinance. Granted of an exception under the Special Even Permits Ordinance does not waive the City's right to revoke the Special Event Permit and apply this Ordinance.

Section 9. Severability Clause.

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 10. Penalty Provision.

Whenever in this Ordinance an act is prohibited or the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision shall be punished by a fine not exceeding two thousand dollars (\$2,000.00) for violations of all such provisions that govern fire safety or public health and sanitation, including dumping of refuse, and not exceeding five hundred (\$500.00) for all other violations. Each day any violation of this Ordinance shall continue shall constitute a separate offense. Whenever in this Ordinance the provision does not expressly require proof of a culpable mental state, proof of a culpable mental state is not required for conviction of such offense, it being the intent of the City Council to dispense with the requirement of any culpable mental state in prosecutions filed under such provisions of this Ordinance.

Section 11. Effective Date. This Ordinance shall go into effect upon its adoption by the City Council and after publication as required by the Texas Local Government Code.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Todd Mission, this ____ day of _____, 2024.

George C. Coulam, Mayor

ATTEST:

Julie Lunsford, City Secretary

APPENDIX A FEES

Recreational Vehicle Parks Used for Residential Temporary Purposes

License Fee:

(a) \$ __.00