

## ORDINANCE 202

**AN ORDINANCE OF THE TOWN OF SAINT PAUL, TEXAS, ADOPTING REGULATIONS GOVERNING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE TOWN OF SAINT PAUL; ADOPTING DISTANCE REGULATIONS FROM CHURCHES, PUBLIC HOSPITALS, AND PUBLIC AND PRIVATE SCHOOLS; AUTHORIZING ANNUAL LICENSE AND PERMIT FEES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE;**

**WHEREAS**, the Town Commission desires to establish regulations governing the sale and service of alcoholic beverages as authorized by the Texas Alcoholic Beverage Code;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SAINT PAUL, TEXAS:**

**SECTION 1.** That the Town of Saint Paul, Texas, hereby adopts the following regulations to govern the sale and service of alcoholic beverages in the town, as authorized by the Texas Alcoholic Beverage Code, to wit:

### **SALE OF ALCOHOLIC BEVERAGES**

#### **1. Sale of Alcoholic Beverages near a Church, Public or Private School or Public Hospital; Exceptions**

(a) The sale of alcoholic beverages is prohibited by a dealer whose place of business is within:

(1) Three hundred feet (300') of a church, public or private school, or public hospital; or

(2) One thousand feet (1,000') of a private school, if the Town Commission by resolution, approves a request from the governing body of the private school.

(b) Subsection (a) (1) does not apply to the holder of a license or permit issued by the Texas Alcoholic Beverage Code who also holds a food and beverage certificate by the Texas Alcoholic Beverage Commission covering the premise that is located within 300 feet of a private school. Subsection (a) (2) does not apply to a retail off-premises consumption permit or license if less than 50 per cent of the gross receipts

for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages.

(c) Subsection (a) (2) does not apply to the holder of:

(1) A license or permit issued under V.T.C.A. Alcoholic Beverage Code Chapter 27 (Temporary and Special Wine and Beer Retailer's Permit), V.T.C.A. Alcoholic Beverage Code Chapter 31 (Caterer's Permit), or V.T.C.A. Alcoholic Beverage Code Chapter 72 (Temporary Licenses) who is operating on the premises of a private school; or

(2) A license or permit covering a premise where minors are prohibited from entering under V.T.C.A. Alcoholic Beverage Code Section 109.53 and that is located within 1,000 feet of a private school.

(d) For the purposes of this ordinance, "private school" means a private school, including a parochial school, which offers a course or instruction for students in one or more grades from kindergarten through grade 12 and has more than 100 students enrolled and attending courses at a single location.

(e) 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 street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the places 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 property line of the place of business, and in a direct line across the 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.

(f) For any dealer who held a license or permit from the Texas Alcoholic Beverage Commission on September 1, 1983, 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.

(g) Applications of Distance Requirements:

(1) If at the time an original alcoholic beverage permit or license is granted by the Texas Alcoholic Beverage Commission for a premises, the premises satisfies the requirements regarding distance from schools, churches, and other types of premises set forth in this Ordinance, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit.

(2) On the sale or transfer of the premises or the business on the premises in which a new original license or permit is required for the premises, the premises shall be deemed to satisfy any distance requirements as if the issuance of the new original permit or license were a renewal of a previously held permit or license.

(h) The Town Commission may allow variances to this ordinance if it 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, does not serve its intended purpose, is not effective or necessary, or for any other reason is in the best interest of the Town.

**2. Fees Established; Permit Required**

(a) There is hereby levied an annual permit fee in an amount equal to one-half (1/2) of the fee charged by the State of Texas for each particular permit or license (or the maximum fee that the Town is authorized by law to charge) issued by the Texas Alcoholic Beverage Commission, except when said fee is waived according to the provisions of the Texas Alcoholic Beverage Code. The fee shall be paid to the Town Secretary at the time of application and on the date such State permit or license is renewed with the State thereafter. Following payment of the fee and approval of the permit application, the Town Secretary shall issue a permit for the location for a period of time equal to the State permit or license.

(b) The permit or license issued under the provisions of the Alcoholic Beverage Code shall be prima facie proof of the classification of the permit or license upon which the fee is levied and shall be the sole basis of determination of the amount of the Town's license fee.

(c) In addition to any license fee provided for by state law and the Town for the issuance of a permit or license, the Town Secretary shall collect an administrative review fee from each applicant to defray the Town's cost of review of the original and any renewal Application, review of the code requirements of the Town, measurement to determine if the premises meet minimum distance requirements, and completion and

certification of the Application to the Alcoholic Beverage Commission.  
The amount of the administrative review fee shall be \$100.00.

**SECTION 2.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

**SECTION 3.** All provisions of the ordinances of the Town of Saint Paul in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** Any person, firm, or corporation violating any provisions or terms of this ordinance shall be deemed guilty of a misdemeanor and subject to a penalty upon conviction in the Municipal Court by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 5.** This ordinance shall take effect immediately from and after its passage and publication of the caption, as the law in such cases provides.

Duly passed and approved by the Town Council of the Town of Saint Paul, Texas, on the \_\_\_\_ day of November 2012.

**[SIGNATURES ON FOLLOWING PAGE]**

**APPROVED:**

\_\_\_\_\_  
**OPIE WALTER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**BRUCE DUNN, TOWN SECRETARY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**TOWN ATTORNEY**  
**(rld/10-29-12/57962)**

**ORDINANCE \_\_\_\_\_**

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Duly passed by the Town Council of the Town of Saint Paul, Texas, on the \_\_\_\_ day of November 2012.

**APPROVED:**

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**TOWN SECRETARY**