

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Planning and Inspections Department, Planning Division

**AGENDA DATE:** Introduction: December 22, 2015  
Public Hearing: January 12, 2016

**CONTACT PERSON/PHONE:** Larry F. Nichols, (915) 212-1550, [nicholslf@elpasotexas.gov](mailto:nicholslf@elpasotexas.gov)  
Arturo Rubio, (915) 212-1613, [rubioax@elpasotexas.gov](mailto:rubioax@elpasotexas.gov)

**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:**

An Ordinance amending Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations) Section 20.10.060 (Alcohol Beverages), Subsection B. (Restrictions), to revise the alcohol sales prohibition within 300 feet of a church, school, commercial day care or public hospital. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. (All Districts)

**BACKGROUND / DISCUSSION:**

On December 17, 2015 the CPC recommended denial on a 5-1 vote.

**PRIOR COUNCIL ACTION:**

On June 2, 2015 City Council representatives requested that staff review and provide recommendations for changes to the Alcohol Sales Exception regulations.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

City Plan Commission (CPC) – CPC recommended denial on a 5-1 vote

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:**

Larry F. Nichols  
Director, Planning and Inspections Department

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**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## **MEMORANDUM**

**DATE:** December 14, 2015

**TO:** The Honorable Mayor and City Council  
Tommy Gonzalez, City Manager

**FROM:** Arturo Rubio, Lead Planner, Planning and Inspections

**SUBJECT:** Title 20 (Zoning) Amendment

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On December 17, 2015 the CPC recommended denial on a 5-1 vote.

Received one letter in support from the public

**Attachments:** Proposed Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS) SECTION 20.10.060 (ALCOHOLIC BEVERAGES), SUBSECTION B. (RESTRICTIONS), TO REVISE THE ALCOHOL SALES PROHIBITION WITHIN 300 FEET OF A CHURCH, SCHOOL, COMMERCIAL DAY CARE OR PUBLIC HOSPITAL. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

**WHEREAS**, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

**WHEREAS**, pursuant to the Texas Alcoholic Beverage Code Sections 109.33(a) and 109.0331, the City Council of the City of El Paso has enacted regulations prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church, school, commercial day care or public hospital; and

**WHEREAS**, pursuant to the Texas Alcoholic Beverage Code the City Council wishes to amend the current regulations in order to simplify and streamline the administrative process; and

**WHEREAS**, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

**WHEREAS**, the El Paso City Council has determined that this amendment is in the best interest of the public and will promote the public health, safety and welfare of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**SECTION 1.:** That Title 20 Zoning, Chapter 20.10 (Supplemental Use Regulations), Section 20.10.060 (Alcoholic Beverages), Subsection B. (Restrictions) No.1. of the El Paso City Code be amended as follows:

The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a church, public or private school, or public hospital; however, this section shall not apply where the applicant has approval from the affected church, public or private school, or public hospital in writing.

**SECTION 2.:** That Title 20 Zoning, Chapter 20.10 (Supplemental Use Regulations), Section 20.10.060 (Alcoholic Beverages), Subsection B. (Restrictions) No.2. of the El Paso City Code be amended as follows:

The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a day-care center or a child-care facility as defined in the Texas Human Resources Code § 42.002 and the permit or license holder does not hold a food and beverage certificate issued

**ORDINANCE NO. \_\_\_\_\_**

by the Texas Alcoholic Beverage Commission, unless expressly varied pursuant to the requirements of this section, except that this provision shall not apply:

- a. If the permit or license holder and the day-care center or child-care facility are located on different stories of a multistory building; or
- b. If the permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building; or
- c. Neither section a. or b. within this subsection, is applicable if the applicant has approval from the affected day-care center or child-care facility in writing.

**SECTION 3.:** Except as expressly herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

**CITY OF EL PASO:**

**ATTEST:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO CONTENT:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Brie L. Franco  
Assistant City Attorney

\_\_\_\_\_  
Larry F. Nichols, Director  
Planning & Inspections Department

**ORDINANCE NO.** \_\_\_\_\_

Ray Mancera  
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Ray@manceragroup.com

**Public Comment:**

**In Favor of Amendment to Title 20 Relating to Restrictions to  
Alcoholic Beverages**

**Proposed Language to Item 11 CPC 12-17-15 Meeting That Reads:**

**City of El Paso – City Plan Commission Ordinance to Amend  
Title 20 Zoning, Chapter 20.10 (Supplemental Use  
Regulations) Section 20.10.060 (Alcohol Beverages)  
Subsection B. (Restrictions)**

- The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a church, public or private school, or public hospital and would require a waiver from City Council to allow the use per Section 20.10.060 of the El Paso City code.
- The amendment proposes to simplify and streamline the administrative process by allowing applicants to submit concurrence from the affected church, public or private school, or public hospital and not require a public hearing to request a waiver unless the affected entity described **is unresponsive to applicant's request or objects to applicant's request** ~~would not provide concurrence~~ and; therefore, warrant an appeal to the City Council.



# **Title 20 Zoning Code Amendment**

- **Distance Restrictions on the Sale, Storage or Handling of Alcoholic Beverages (Draft Ordinance Prepared)**
- **CPC Recommended denial 5-1**
- **Received one letter in support of the amendment from the public.**

**Strategic Goal #3 Promote the Visual Image of El Paso**

**3.1 Provide Business Friendly Permitting and Inspection Processes**

**3.2 Improve the Visual Impression of the Community**



# Timeline

- **On June 23 City Council members requested that staff review the existing Alcohol Sales Prohibition Code Regulations and provide options to make the requirements less burdensome and more flexible while maintaining appropriate distance requirements. The Council was also concerned that there are a significant number of applicants and that the process is lengthy and it requires a public hearing.**
- **On June 23 the Planning Division staff began research and analysis on Alcohol Sales Prohibition regulations within the State of Texas. Staff presented and gathered information to complete the proposed amendments.**
- **Legal prepared the proposed draft Ordinance.**



## Section 20.10.060 (Alcoholic Beverages), Subsection B. (Restrictions) No.1.:

The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a church, public or private school, or public hospital; ~~unless expressly granted an exception pursuant to the requirements of this section~~ however, this section shall not apply where the applicant has approval from the affected church, public or private school, or public hospital in writing.





## **Section 20.10.060 (Alcoholic Beverages), Subsection B. (Restrictions) No.2.:**

**Unless expressly varied pursuant to the requirements of this section, except that this provision shall not apply:**

- a. If the permit or license holder and the day-care center or child-care facility are located on different stories of a multistory building; or**
- b. If the permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building; or**
- c. If the applicant has approval from the affected day-care center or child-care facility in writing.**



# Research

**Researched six Texas Cities to include San Antonio, Houston, Austin, Laredo, Galveston, Dallas and The American Planning Association.**