

**Ordinance No. 2009.06**  
**Village of Salado**  
**County of Bell**  
**State of Texas**  
**August 20, 2009**

**BEER, WINE, AND MIXED BEVERAGE  
ORDINANCE AMENDMENT**

**AN ORDINANCE AMENDING THE BEER, WINE AND MIXED  
BEVERAGE ORDINANCE, NO. 2008.09 RELATED TO THE  
REQUIREMENT OF ACQUIRING A PERMIT FROM THE  
VILLAGE OF SALADO.**

**WHEREAS,** the Board of Aldermen of the Village of Salado finds that it is in the best interest of the business owners of the Village to rescind the requirement to obtain an alcoholic beverage permit from the Village; and

**WHEREAS,** the Board of Aldermen is authorized to make amendments to the Beer, Wine and Mixed Beverage Ordinance in conformance with Chapter 211 of the Texas Local Government Code.

**NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE OF SALADO BOARD OF  
ALDERMEN:**

**1. AMENDMENTS**

- A. Remove "WHEREAS, the Board of Aldermen desires to authorize and levy permit fees for the sale of alcoholic beverages as permitted by the Texas Alcoholic Beverage Code" in its entirety.
- B. Revise Paragraph 2.1 of Section 2 of Ordinance No. 2008.09 to read as follows: "It shall be unlawful for any person to manufacture, distill, brew, sell, possess for purpose of sale any beer, wine or other alcoholic beverage, or otherwise engage in any activity for which a license or permit is required by the Texas Alcoholic Beverage Code as amended, unless the person has a current and unrevoked permit issued by the Texas Alcoholic Beverage Commission."
- C. Remove Paragraphs 2.2, 2.3, & 2.4 of Section 2 of Ordinance No. 2008.09.

Ordinance No. 2008.09 is amended in its entirety and shall read as provided in Attachment "A" attached hereto and incorporated herein as if fully set forth for all purposes.

## **2. REPEALER**

- A. All Ordinances or parts of Ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

## **3. SEVERABILITY**

It is hereby declared to be the intention of the Board of Aldermen that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

## **4. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED on this, the 20th day of August, 2009, by a vote of \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and \_\_\_\_\_ abstentions of the Board of Aldermen.**

**THE VILLAGE OF SALADO, TEXAS**

\_\_\_\_\_  
Merle Stalcup, Mayor

ATTEST:

\_\_\_\_\_  
Dianna Zulauf, Village Secretary

## ALCOHOLIC BEVERAGES ORDINANCE

### Section 1. DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Alcohol:** Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

**Alcoholic Beverage:** Includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this Ordinance.

**Beer or Malt Beverage:** Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than fourteen percent (14%) alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic beer" which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent (3%), but more than zero point one percent (0.1%) alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

**Child-care facility:** A facility licensed, certified, or registered by the Department of Human Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

**Day Care Center:** A child-care facility that provides care for more than twelve (12) children under fourteen (14) years of age for less than 24 hours a day.

**Fortified Wine:** Any alcoholic beverage containing more than twenty-one percent (21%) alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

**Permitee:** The individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers, and directors of said partnership or corporation.

**Person:** Any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private or quasi public.

**Place of Worship:** A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**School, private:** A school including a parochial school that is not operated by an Independent School District that offers a course of instruction for students in one or more grades from kindergarten through grade twelve (12) and has more than 100 students enrolled and attending courses at a single location.

**School, public:** Any school operated by an Independent School District that offers a course of instruction for students in one or more grades from kindergarten through grade twelve (12).

**Wine:** Any alcoholic beverage containing not more than twenty-one percent (21%) alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include Fortified Wine or cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

## **SECTION 2. PERMITS**

### **2.1. Permit Required**

It shall be unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale any beer, wine or other alcoholic beverage, or otherwise engage in any activity for which a license or permit is required by the Texas Alcoholic Beverage Code as amended, unless the person has a current and unrevoked permit issued by the Texas Alcoholic Beverage Commission.

## **SECTION 3. THE SALE OF ALCOHOL BEVERAGES IN THE VILLAGE CITY LIMITS**

### **3.1. Sale of Beer and Wine Prohibited in Residential Areas**

The sale of off-premises beer and wine in residential areas is hereby prohibited, in accordance with Section 109.32, Texas Alcoholic Beverage Code. Under this Section, residential areas shall mean any property located in the following districts as described in the Village of Salado Zoning Ordinance, as amended from time to time:

- A. Agriculture (A)
- B. Single-Family Estate Residential (SF-21)
- C. Single-Family Residential (SF-7)
- D. Single-Family Residential-Patio Home (SF-PH)
- E. Single-Family Attached Residential (SFA)
- F. Multi-Family Residential-1 (MF-1)

G. Any residential component of an approved planned development

### **3.2. Sale of Alcoholic Beverages near Churches, Public Hospitals, Public or Private Schools**

A. Churches and Public Hospitals.

1. The sale of alcoholic beverages within 300 feet of a church or public hospital is hereby prohibited.
2. 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 direct line across intersections.

B. Public schools, private schools and day care/child care facilities

1. The sale of alcoholic beverages within 300 feet of a public or private school is hereby prohibited.
2. The sale of alcoholic beverages within 300 feet of a day care or child care facility is hereby prohibited.
3. The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private school shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.
4. The measurement of the distance between the place of business where alcoholic beverages are sold and a day care or child care facility shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.

### **3.3. Exceptions**

- A. The above regulations prohibiting the sale of alcoholic beverages within specified distances from churches, public hospitals, public schools, private schools, day care and child care facilities are subject to any and all conditions and exceptions established in the Texas Alcoholic Beverage Code.
- B. Upon receipt of a variance request, the Board of Aldermen may consider and grant an exception to reduce the distance requirements contained in Section 2.2. if the Board determines that enforcement of the distance requirements 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 permit, does not serve its intended purpose, is not effective or necessary, or for any other

reason the 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 Village.

### **3.4. Hours of Sale of Alcoholic Beverages**

#### **A. Beer and Wine Permit**

The hours of sale and delivery for alcoholic beverages sold under a wine and beer retailer's off-premise permit as established by Section 105.04 of the Texas Alcoholic Beverage Code, are the same as those prescribed for the sale of beer under Section 105.05 of the Texas Alcoholic Beverage code, except that no sale shall be allowed between 2:00 a.m. and noon on Sunday. The hours of sale and delivery for alcoholic beverages sold under a wine and beer retailer's off-premise permit shall be established by Section 105.05 as follows:

1. Monday through Saturday: A wine and beer retailer's off-premise permittee may sell, offer for sale, or deliver wine and beer between the hours of midnight and 2:00 a.m. and between the hours of 7:00 a.m. and midnight on any day except Sunday.
2. Sunday: A wine and beer retailer's off-premise permittee may sell, offer for sale, or deliver wine and beer between the hours of midnight and 2:00 a.m. and between the hours of noon and midnight, except that permittees or licenses authorized to sell for on-premise consumption may sell wine and beer between 10:00 a.m. and noon if the wine and beer is served to a customer during the service of food to the customer.

#### **B. Mixed Beverage Permit**

The hours of sale for mixed beverages shall be as established by Section 105.03, Texas Alcoholic Beverage Code, as follows:

1. Monday through Saturday: A mixed beverage permittee may sell and offer for sale mixed beverages between the hours of midnight and 2:00 a.m. and between the hours of 7:00 a.m. and midnight.
2. Sunday: A mixed beverage permittee may sell and offer for sale mixed beverages between midnight and 2:00 a.m. and between 10:00 a.m. and midnight, except that an alcoholic beverage served to a customer between 10:00 a.m. and 12 noon on Sunday must be provided during the service of food to the customer.

#### **SECTION 4. NO OUTSIDE CONSUMPTION**

- A. It is prohibited for customers to leave the premises with open alcoholic beverages and it is the licensee's responsibility to ensure that no open beverages are sold and carried out.
- B. It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
- C. It is prohibited for the manager or any employee to allow persons to gather outside the property boundaries of an alcoholic beverage establishment and consume alcoholic beverages.

#### **SECTION 5. CERTAIN ESTABLISHMENTS PROHIBITED**

An establishment that derives seventy-five percent (75%) or more of its gross revenue from the on-premises sale of alcoholic beverages is prohibited from operating within the Village, in accordance with Section 109.57(d) of the Texas Alcoholic Beverage Code.

#### **SECTION 6. FAILURE TO REQUIRE AND PROPERLY CHECK IDENTIFICATION**

- A. It shall be a violation not to require and properly check identification to ensure an underage person is not sold or have in his/her possession, alcoholic beverages while in a licensed establishment.
- B. "Identification" in this Section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

#### **SECTION 7. PENALTY**

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this Ordinance shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and each day any violation or noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Section 54.012 of the Texas Local Government Code, as may be amended, may be exercised in enforcing this Ordinance whether or not there has been a complaint filed.