

**ORDINANCE NUMBER 2015-02**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS ESTABLISHING CHAPTER 12.5 (ENTITLED "ALCOHOLIC BEVERAGES") OF THE CODE OF ORDINANCES AND PROVIDING DISTANCE REGULATIONS APPLICABLE TO THE RETAIL SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF COPPERAS COVE; PROVIDING FOR A REPEALER CLAUSE, SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 109 , Subchapter C, of the Texas Alcoholic Beverage Code authorizes the governing body of an incorporated city or town to enact certain regulations regarding the sale of alcoholic beverages; and

**WHEREAS**, the City Council of the City of Copperas Cove has determined that it is in the best interest of the City of Copperas Cove and its citizens to regulate the sale of alcoholic beverages near a church, public or private school, or public hospital through its Code of Ordinances:

**NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**Section 1.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 2.** That a new Chapter 12.5 (entitled "*Alcoholic Beverages*"), is hereby established.

**Section 3.** That Chapter 12.5 (entitled "*Alcoholic Beverages*"); Article I. (entitled "*In General*") is hereby established and shall contain the text that follows:

**Section 12.5-1 Sales Near School, Church, Hospital, Day-Care Center or Child-Care Facility**

(a) *Definitions. For the purpose of this ordinance:*

1. "*Private school*" shall have the meaning assigned by Section 109.33(i) of the Texas Alcoholic Beverage Code.
2. "*Day-care center*" and "*child-care facility*" shall have the meanings assigned by Section 42.002 of the Texas Human Resources Code.

- (b) *Distance Requirements. The sale of alcoholic beverages within the city is prohibited by a dealer whose place of business is:*
- i. *within 300 feet of a church, public or private school, or public hospital; or*
  - ii. *Within 1,000 feet of a public school, if the City Council receives a request from the board of trustees of a school district under Section 38.007, Education Code; or*
  - iii. *1,000 feet of a private school if the City Council receives a request from the governing body of the private school.*
- (c) *Measurement of the distance.*
- i. *The measurement of the distance between the place of business where alcoholic beverages are to be 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.*
  - ii. *The measurement of the distance between the place of business where alcoholic beverages are to be sold and a public school, private school, day-care center, or child-care facility shall be 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. 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.*
- (d) *The City Council may allow variances to the distance requirements if the City Council 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 Council, 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.*
- (e) *This section does not apply to those permit holders expressly exempted by Sections 11.38, 109.33 and 109.331 of the Texas Alcoholic Beverage Code.*

**Section 4.** All provisions of the Ordinances of the City of Copperas Cove, codified or uncodified, in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Copperas Cove, codified or uncodified, not in conflict with the provisions of this ordinance, shall remain in full force and effect.

**Section 5.** The repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this ordinance.

**Section 6.** It is the intention of the City Council that this ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this ordinance shall not affect the validity or constitutionality of any other provision of this ordinance.

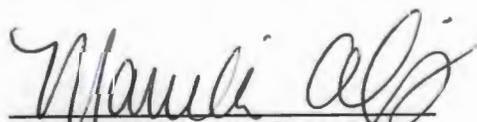
**Section 7.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED** by the City Council of the City of Copperas Cove, Texas, on this 6th day of January 2015, at a meeting held in compliance with the Open Meetings Act, Tex. Govt Code §551.001, et.seq., at which meeting a quorum was present and voting.

**CITY OF COPPERAS COVE**

  
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John Hull, Mayor

**ATTEST:**

  
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Mariela Altott, City Secretary



**APPROVED AS TO FORM:**

  
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Denton, Navarro, Rocha,  
Bernal, Hyde & Zech, P.C., City Attorney