

**ORDINANCE NUMBER 2015-50**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING THE MUNICIPAL CODE OF ORDINANCES BY AMENDING SECTION 12-2, RECODIFYING SECTION 13-8 AS SECTION 12.5-2, RECODIFYING SECTION 13-13 AS SECTION 12.5-3 AND REPEALING SECTIONS 12-2.1 THROUGH 12-2.5 AND SECTION 13-7; PROVIDING FOR A REPEALER CLAUSE, SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Chapter 109 , Subchapter C, of the Texas Alcoholic Beverage Code, City Council passed and approved Ordinance 2015-02, on January 6, 2015, regulating the sale of alcoholic beverages near a church, public or private school, or public hospital through its Code of Municipal Ordinances; and

**WHEREAS**, Ordinance 2015-02 established a new Code of Municipal Ordinances Chapter 12.5; and

**WHEREAS**, City Council now wishes to amend the Code of Municipal Ordinances Section 12-2 (entitled "*Same—Application for permit; renewal; change of location*") to comply with Ordinance No. 2015-02:

**WHEREAS**, City Council now wishes to recodify the Code of Municipal Ordinances Section 13-8 (entitled "*Consumption of alcoholic beverages on streets, sidewalks, etc*") Section 13-13 (entitled "*Alcoholic Beverages—Extended hours for sale*") as Sections 12.5-2 and 12.5-3 respectively; and

**WHEREAS**, City Council now wishes to repeal Code of Municipal Ordinances Section 12-2.1 (entitled "*Alcoholic beverage use district specific use permit*"); Section 12-2.2 (entitled "*Same—Operating data, development safeguards, exemptions, etc*"); Section 12-2.3 (entitled "*Same—Created for definite period of time; recommendation of discontinuance or extension*"); Section 12-2.4 (entitled "*Same—Different applications by agents of property owners considered new applications*"); and Section 12-2.5 (entitled "*Same—Validity and reapplication; penalty for violation of Sections 12-2.1 through 12-2.5*") as the permitted location of such uses is now addressed in the City's Zoning Ordinance; and

**WHEREAS**, City Council now wishes to repeal Code of Municipal Ordinances Section 13-7 (entitled "*drunkenness in public place*") as such offenses are prosecutable under state law pursuant to Texas Penal Code Section 49.02 (entitled "*Public Intoxication*");

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

**SECTION I.  
FINDINGS ADOPTED**

That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION II.  
SECTION 12-2 AMENDED**

That the City of Copperas Cove Code of Municipal Ordinances Chapter 12 (entitled “*Occupational Licenses, Taxes and Regulations*”) is hereby amended by amending Section 12-2 (entitled “*Same—Application for permit; renewal; change of location*”) by adding the language that is underlined (underlined) and deleting the language that is stricken (~~stricken~~) as follows:

*Sec. 12-2. - Same—Application for permit; renewal; change of location.*

*Any person applying for a permit or license issued by authority of the state alcoholic beverage code, or for a renewal of such permit or license, or to change the location of the place of business designated in such permit or license, shall present an affidavit to the city secretary showing the proposed location of the applicant's business and a statement that the applicant's place of business is in compliance with Section 12.5-1. (entitled “Sales near school, church, hospital, day care center or child care facility”). ~~three hundred (300) feet or more from any church, public school or public hospital.~~ The proposed location shall be in a use district designated as commercial ~~for~~ and that allows the sale of liquor, beer or private clubs. The annual fee for such permit shall be one-half (½) the amount of the state-imposed permit fee for businesses selling alcohol within the city limits.*

**SECTION III.  
SECTIONS 13-8 AND 13-13 RECODIFIED**

That the City of Copperas Cove Code of Municipal Ordinances Section 13-8 (entitled “*Consumption of alcoholic beverages on streets, sidewalks, etc*”) is recodified, in its entirety, as City of Copperas Cove Code of Municipal Ordinances Section 12.5-2; and City of Copperas Cove Code of Municipal Ordinances Section 13-13 (entitled “*Alcoholic Beverages—Extended hours for sale*”) is recodified, in its entirety, as City of Copperas Cove Code of Municipal Ordinances Section 12.5-3.

**SECTION IV.**

**SECTIONS 12-2.1 through 12-2.5 and 13-7 REPEALED**

That the City of Copperas Cove Code of Municipal Ordinances: Section 12-2.1 (entitled "*Alcoholic beverage use district specific use permit*"); Section 12-2.2 (entitled "*Same—Operating data, development safeguards, exemptions, etc.*"); Section 12-2.3 (entitled "*Same—Created for definite period of time; recommendation of discontinuance or extension*"); Section 12-2.4 (entitled "*Same—Different applications by agents of property owners considered new applications*"); Section 12-2.5 (entitled "*Same—Validity and reapplication; penalty for violation of Sections 12-2.1 through 12-2.5*"); and Section 13-7 (entitled "*drunkenness in public place*") are hereby repealed and the offense described in Section 13-7 shall be prosecuted pursuant to Texas Penal Code Section 49.02 (entitled "*Public Intoxication*").

**SECTION V.**

**REPEALER**

That 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 VI.**

**SEVERABILITY**

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 VII.**

**EFFECTIVE DATE**

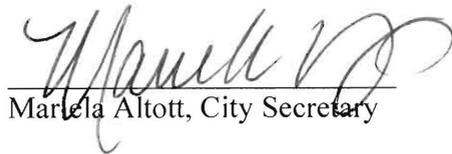
This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED** by the City Council of the City of Copperas Cove, Texas, on this 1<sup>st</sup> day of December 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**

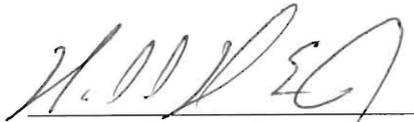
  
Frank Seffrood, Mayor

**ATTEST:**

  
Marilela Altott, City Secretary



**APPROVED AS TO FORM:**

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