

City of Houston, Texas, Ordinance No. *2023-1001*

**AN ORDINANCE AMENDING SECTIONS 3-2 AND 3-3 OF CHAPTER 3 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO THE LOCATION OF ALCOHOL PREMISES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, the Texas Legislature has enacted certain provisions of the local option state laws with respect to the measurement of distances of alcohol premises (premises where alcoholic beverages may be sold pursuant to licenses and permits issued by the Texas Alcohol Beverage Commission ("TABC") to churches, schools, and public hospitals; and

**WHEREAS**, one of the state law provisions authorizes measurement of the 300-foot distance between alcohol premises and churches, schools, and/or public hospitals so that there may be a disproportionate effect if the alcohol premises is located in a shopping center or other facility that is situated upon a large tract of land, or is a multi-tenant premises; and

**WHEREAS**, the City Council finds that the strict application of the existing alcohol distance regulations in those high density zones might prohibit the placement of alcohol premises with a food and beverage certificate issued by the TABC that would enhance the economic development of the zones and/or beneficially serve the everyday needs of the people who reside and work within the zones; and

**WHEREAS**, the City is not required by state law to have and administer distance regulations for alcohol premises because those are local option provisions; and

**WHEREAS**, the Texas Attorney General has opined that because the exercise of the distance regulations is optional, the City is not required to exercise all of the authority granted to it by the state alcohol premises location laws; and

**WHEREAS**, by Resolution No. 93-103, adopted on November 17, 1993, the City Council defined certain boundaries that delineated the City's central business district; and

**WHEREAS**, the Downtown District, Central Houston, and Downtown Redevelopment Authority have developed a Strategic Alignment Plan for the Houston central business district to champion downtown Houston; and

**WHEREAS**, the Strategic Alignment Plan has five goals, and City Council wishes to implement strategies that will help to achieve these goals, which are:

- (1) Champion major projects, initiatives and investments that will improve downtown Houston;
- (2) Enhance and maintain a comfortable, welcoming, and well-managed public realm;
- (3) Drive vibrancy through improved street level connectivity, a commitment to walkability, and inclusive programming strategies;
- (4) Foster a vital and thriving economy through business growth, residential expansion and enhanced reasons to be in downtown; and
- (5) Develop a network of intelligence and goodwill by genuinely engaging and convening stakeholders; and

**WHEREAS**, allowing alcohol premises that are permitted by TABC and have a food and beverage certificate from TABC (referred to herein as "TABC Approved Restaurant") within 300 feet of protected land uses will be a step towards implementing the Strategic Downtown Alignment Plan; and

**WHEREAS**, downtown Houston's residential landscape is undergoing a remarkable transformation, with an ever-increasing number of people making downtown their neighborhood of choice, and is now home to 11,000+ residents; and

**WHEREAS**, TABC Approved Restaurants will provide an asset to a community that has a common desire for an environment that offers walkability and a wealth of opportunities for leisure and entertainment; and

**WHEREAS**, the Houston Downtown Management District, Central Houston, Inc., and Downtown Redevelopment Authority work closely with downtown residents and businesses to make downtown a place to live, work, play and worship, allowing TABC Approved Restaurants to be located within 300 feet of a sensitive land use assists in reaching that goal; and

**WHEREAS**, the Administration & Regulatory Affairs Department ("ARA") and the Mayor's Office of Economic Development met with stakeholders from all the churches and schools located within the proposed zone, as well as the Board of Central Houston, Inc., various business owners, Houston First, and residential building managers; and

**WHEREAS**, based on feedback from the stakeholders, the requirements to operate a TABC Approved Restaurant in the central business district within 300 feet of a sensitive land use were developed; and

**WHEREAS**, by Ordinance No. 2003-1319, adopted on December 23, 2003, the City Council amended Section 3-2 of the Code of Ordinances, Houston, Texas, to allow for the creation of mixed land use/entertainment zones for areas that are determined by City Council to have high density mixed land use development, and designated MIXED LAND USE/ENTERTAINMENT ZONE 1, situated within the central business district; and

**WHEREAS**, by Ordinance No. 2021-1113, adopted on December 15, 2021, the City Council further designated MIXED LAND USE ENTERTAINMENT ZONE 2, since that certain portion of the City, situated in the Midtown Area, has evolved into a mixed land use/entertainment zone with a variety of urban neighborhood land uses situated in close proximity to each other; and

**WHEREAS**, the City Council desires to amend Sections 3-2 and 3-3 of the Code of Ordinances, Houston, Texas, to facilitate the establishment of alcohol premises within mixed land use/entertainment zones and expand the boundaries and requirements for the central business district as it pertains to the MIXED LAND USE/ENTERTAINMENT ZONE 1 within said boundaries; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

**Section 2.** That Subsection (h) of Section 3-2 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(h) The provisions of this subsection (h) shall only be applicable within mixed land use/entertainment zones established by city council.
  - (1) Any such zone shall be at least ten acres or ten city blocks in size and shall be characterized by the following:
    - a. High density mixed land use development, including uses such as residential, commercial, retail, institutional, and entertainment with a predominance of multi-story and multi-tenant buildings.
    - b. Special public development interests, such as may be characterized by or associated with a tax increment reinvestment zone, improvement district, enterprise zone, historic district, transit corridor, or contractual street amenities development program.
  - (2) The mixed land use/entertainment zones established by city council pursuant to this subsection (h) that are currently in effect are:

- a. MIXED LAND USE/ENTERTAINMENT ZONE 1, as described in Ordinance No. 2023-~~1001~~ adopted on November 15, 2023<sup>1</sup>; and
  - b. MIXED LAND USE/ENTERTAINMENT ZONE 2, as described in Ordinance No. 2021-1113, adopted on December 15, 2021.
- (3) Where an ordinance designating a mixed land use/entertainment zone attaches specific limitations and/or conditions on eligibility of an alcohol premises within that zone to be excepted from the distance requirements of subsection (a), an alcohol premises that qualifies for an alcohol license or permit under the terms of such ordinance shall not be affected by the other provisions of this section to the extent there is any conflict between the provisions of this section and the terms of the designating ordinance.
- (4) Within a zone established under this subsection, a street level alcohol premises may be situated without regard to the other requirements and provisions of subsection (a), provided that not more than two other alcohol premises exists at street level in the same block face. In this subsection, a "block face" is the area on both sides of a city street block between two intersections. Alternatively, if three premises already exist at street level in the same block face, then additional premises may exist, but only if they are concealed; for this purpose and consistent with any applicable rules promulgated as provided below, concealment shall require that the additional premises be situated in the basement or on the second or a higher story of a building and have no signage or other indicia of the availability of alcohol that is visible from the street level.

The provisions of this subsection shall not affect any alcohol premises that otherwise qualifies for an alcohol license or permit under the other provisions of this section. The director of planning and development may issue rules that are consistent with the requirements of this subsection for the administration of this subsection. Without limitation, the rules shall address requirements for compliance with this subsection and the priority between alcohol license and permit applications in case two or more applications are received for street level locations in the same block face. The rules may require the applicant for the alcohol license or permit, joined by the owner of the land upon which it is situated, to execute and record in

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<sup>1</sup> The City Secretary's Office will insert the ordinance number and date of passage.

the real property records of the county a covenant that is enforceable by the city to ensure compliance with this section and the director's rules.”

**Section 3.** That the definition of *central business district* found in Subsection (a) of Section 3-3 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“*Central business district* means the area designated in Ordinance No. 2023-1001 adopted on November 15, 2023<sup>2</sup> by city council as ‘MIXED LAND USE/ENTERTAINMENT ZONE 1.’”

**Section 4.** That the City Council hereby designates the following area as a mixed land use/entertainment zone for purposes of Subsection (h) of Section 3-2 of the Code of Ordinances, Houston, Texas:

**MIXED LAND USE/ENTERTAINMENT ZONE 1.** BEGIN AT THE intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northwesterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

**Section 5.** That the City Council requires a food and beverage certificate issued by the TABC for any alcohol premises situated in the MIXED LAND USE/ENTERTAINMENT ZONE 1.

**Section 6.** That within MIXED LAND USE/ENTERTAINMENT ZONE 1, alcohol premises may be situated without regard to the other requirements and provisions of Subsection (a) of Section 3-2 of the Code of Ordinances, Houston, Texas, provided

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<sup>2</sup> The City Secretary's Office will insert the ordinance number and date of passage.

that the alcohol premises:

- (a) Has no signage that is placed upon or visible from the exterior that references or suggests the existence of or availability of alcohol on the premises; and
- (b) Does not operate pursuant to a retailer late hours certificate, as that term is defined and described in Chapters 29 and Sections 105.01, 105.03, 105.04, 105.05 of the Texas Alcoholic Beverage Code; and
- (c) Does not operate as or within an extended hours area, as that term is defined and described in Section 105.06 of the Texas Alcoholic Beverage Code.

**Section 7.** That any provision of Ordinance No. 2003-1319, adopted on December 23, 2003, that is inconsistent with any provision of this Ordinance is hereby revoked, except that:

- (a) If at the time an original alcoholic beverage permit or license is granted, the premises to which it attached satisfies the requirements regarding distance from schools, churches, public hospitals, and other types of premises established in this code and any other law or ordinance of the state or a political subdivision of the state in effect at that time, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit; and

- (b) On the sale or transfer of the premises or the business on the premises for 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.

**Section 8.** That this Ordinance shall not affect any alcohol premises that otherwise qualifies for an alcohol license or permit under the provisions of Section 3-2 of the Code of Ordinances, Houston, Texas.

**Section 9.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 10.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the

event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 15<sup>th</sup> of November, 2023.

APPROVED this 15<sup>th</sup> day of November, 2023.



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Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

Prepared by Legal Dept.   
AT/ko 11/13/2023      Assistant City Attorney  
Requested by Tina Paez, Director, ARA

Meeting 11/15/2023

Aye	No	
✓		<b>Mayor Turner</b>
....	....	<b>Council Members</b>
✓		Peck
✓		Jackson
Absent - Out of City on City Business		Kamin
✓		Evans-Shabazz
Absent on personal business		Martin
Absent - Out of City on City Business		Thomas
✓		Huffman
✓		Cisneros
✓		Gallegos
Absent - Out of City on City Business		Pollard
Absent - Out of City on City Business		Castex-Tatum
✓		Knox
✓		Robinson
Absent		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW

Date: 11/21/2023