

ORDINANCE 2458

AN ORDINANCE AMENDING CHAPTER 12 OF THE CITY OF HURST CODE OF ORDINANCES BY ADDING ARTICLE XIII, "CONVENIENCE STORES," REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$500.00 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Hurst, Texas has determined that the regulations provided in this Ordinance are necessary to reduce the occurrence of crime, to prevent the escalation of crime, and to successfully prosecute crime that occurs on convenience store properties; and

WHEREAS, convenience store owners play a key role in implementing reasonable safety measures and in promoting safety in their establishments; and

WHEREAS, training convenience store employees in safety procedures, posting notice of crime prevention strategies, increasing visibility, and utilizing safety devices can increase the safety of store employees and patrons; and

WHEREAS, the registration of convenience stores with the police official would facilitate the application and enforcement of this ordinance and other laws; and

WHEREAS, all statutory and constitutional requirements for the passage of this Ordinance have been adhered to, including but not limited to the Texas Open Meeting Act; and

WHEREAS, the City Council determines that the passage of this Ordinance is in the best interests of the health, safety, and welfare of the public.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HURST, TEXAS, AS FOLLOWS:

SECTION 1.

THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference.

SECTION 2.

THAT Chapter 12, Licenses and Business Regulations, Article XII, Prepayment for Gasoline and Diesel is hereby amended by adding Sections 12-704—12-720, which shall read as follows:

Secs. 12-704—12-720. – Reserved

SECTION 3.

THAT Chapter 12, Licenses and Business Regulations, is hereby amended by adding a new Article XIII, which shall read as follows:

ARTICLE XIII. – CONVENIENCE STORES**Sec. 12-721. - Definitions.**

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

Convenience goods means basic food, household and/or pharmaceutical items.

Convenience store means any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space. Convenience store does not include any business where there is no retail floor space accessible to the public.

Drop safe means a cash management device where money can be deposited without the depositor having access to the contents.

Employee means any person who is employed in consideration of direct or indirect monetary wages, commissions, or profits, any contract employee, and any other person engaged in the operation of a convenience store.

Health officer means the director of the department of health and human services or his designee.

Height strip means markings to aid in estimating the height of suspects.

Manager means the person designated by the owner to be responsible for the daily operation of a convenience store.

Owner means the person or persons who hold title to or leases property for the purpose of operating a convenience store.

Police official means the chief of police or the official's designees.

Registered agent means the person identified by the owner of a convenience store in the registration filed pursuant to this article that is authorized to receive on behalf of the owner any legal process and/or notice required or provided for in this article.

Safety training program means the training program promulgated by the police department for convenience stores or a nationally recognized training program that includes all the training elements of the police department's training program.

Sec. 12-722. – Registration of convenience stores.

- (a) It shall be unlawful for any person to operate a convenience store in the city that has not been registered as required by this section. No fee shall be charged for the registration required by this section.

- (b) The owner of a convenience store shall register by providing to the police official the following information regarding the convenience store:
- (1) The name, telephone number, facsimile number, email address, and business or residence address of the owner; and, if the owner is a corporation, whether foreign or domestic, the name of the registered agent of the owner and the telephone number and facsimile number and business or residence address of the registered agent, which address information shall include the street name and number, office or suite number if a business address, and the city, state, and zip code.
 - (2) The nature and extent of the owner's interest in the property. If there is only one owner, the extent of the owner's interest is 100%; and
 - (3) The name, telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code, of the current manager and, if the manager is other than an individual, the name, title, telephone number, facsimile number and business or residence address, including street name and number, city, state and zip code, of the individual to be contacted for any purpose under this article relating to the convenience store.
- (c) The use of a public or private post office box or other similar address shall not be sufficient for the purposes of complying with this subsection.
- (d) Any change of ownership of a convenience store, including, but not limited to, the sale of the convenience store or any ownership interest therein, shall require the purchaser or transferee to update the information provided under subsection (b) of this section and to file the updated information with the police official within 30 days of the effective date of the ownership change. The same requirement shall apply to any change relating to the owner's registered agent and manager. A prior owner shall advise the police official that he no longer holds any ownership interest in the property.
- (e) The owner of a newly constructed or established convenience store shall comply with the provisions of this section not later than the thirtieth day following completion of construction or new opening of the convenience store, whichever occurs first.
- (f) After a convenience store complies with the provisions of this section, the police official will provide to the convenience store:
- (1) A registration statement, a true and correct copy of which shall be posted in the convenience store at all times in a conspicuous place accessible at all times to the public.

Sec. 12-723. – Employee, manager, supervisor safety training.

- (a) All newly-hired employees, managers, and immediate supervisors of managers must complete a safety training program before reporting for duty and at least annually thereafter. Employees, managers and immediate supervisors of managers who are employed by a convenience store on the effective date of this ordinance must complete a safety training program not later than the ninetieth day following the effective date of this ordinance.
- (b) All persons who complete the required safety training program shall sign a statement indicating the date, time and place the safety training program was completed. The owner shall keep the statements or copies of the statements on file in the convenience store for at least two years and make them available to the police official or the health officer immediately upon request.

Sec. 12-724. – Trespass affidavit.

The owner of a convenience store shall execute a trespass affidavit as promulgated by the police department in order to enforce all applicable trespass laws on the owner's behalf at such property. A true and correct copy of the trespass affidavit shall be posted at the convenience store at all times in a conspicuous place accessible at all times to the public.

Sec. 12-725. – Security signs; height strips.

- (a) A convenience store shall have posted at all public exits and entrances 'No Loitering' and 'No Trespassing' signs in lettering two inches or larger, in English and in Spanish. Additionally, a convenience store shall post such signs on the front, sides, and rear of the convenience store.
- (b) A convenience store shall have height strips posted at all public exits.

Sec. 12-726. – Visibility.

A convenience store shall maintain an unobstructed line of sight allowing a clear view of and from the cash register and sales transaction area through all windows and public access doors. Such windows and doors must be clear of all items that would obstruct a clear view including, but not limited to, tinting, signage, advertisements, shelving, and merchandise. Such unobstructed line of sight must, at a minimum, extend from three feet above the ground to at least six feet above the ground.

Sec. 12-727. – Alarm system.

- (a) A convenience store shall have a silent panic or holdup alarm system for which a permit has been issued in accordance with Article VI of this Chapter. This system shall, at a minimum, include a panic button located within reach of the cash register and out of view of the customer. Such panic button will generate an alarm signal indicating a holdup or other life-threatening emergency requiring a police department response.
- (b) A convenience store shall have posted at all public exits and entrances signs or decals indicating that a security alarm system is in use.

Sec. 12-728. – Drop safe.

- (a) A convenience store shall have a drop safe on the premises to keep the amount of cash available to employees to a minimum. A drop safe must be bolted to the floor. A drop safe may have a time-delay mechanism to allow small amounts of change to be removed.
- (b) A convenience store shall have a cash accountability policy mandating the maximum amounts of cash that can be kept in cash registers.
- (c) A convenience store shall have posted at all public exits and entrances signs or decals indicating that employees cannot open the safe and that employees have minimum cash on hand.

Sec. 12-729. – Surveillance camera system.

- (a) A convenience store shall have a minimum of two 1080p color digital high-resolution surveillance cameras. One camera must have an overall view of the counter/register area and the other camera a view of the main entrance/exit area and both shall display the date and time of the recording.
- (b) The entrance/exit area camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face.
- (c) The cameras shall be operated at all times, including hours when the store is not open for business.
- (d) The owner shall provide the police department with digital color video in connection with crime investigations upon request.
- (e) The video surveillance system must be equipped to record and store a continuous video recording of daily activity for at least 30 days. The owner shall maintain such a library of the recorded digital images for not less than 30 days.
- (f) A convenience store shall have posted at all public exits and entrances signs or decals indicating that surveillance cameras are in use.

Sec. 12-730. – Offenses.

Any person who fails to comply with any applicable provision in this article commits an offense, and upon conviction, shall be punished by fine not to exceed \$500.

SECTION 4. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Hurst, Texas, shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding not guilty or nolo contendere, or dismissal.

SECTION 5. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed Five Hundred Dollars (\$500.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 6. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 7. This ordinance shall take effect as follows:

For convenience stores in operation on the date of passage and approval of this Ordinance:

- (1) All employees, managers and owners shall receive training as required in Sec. 12-723 of this Ordinance not later than the ninetieth day following the effective date of this Ordinance.
- (2) Secs. 12-727 (alarm system), 12-728 (drop safe), and 12-729 (surveillance camera system) of this Ordinances shall become effective on the 365th day following the date of passage and approval of this Ordinance. A convenience store owner may request one 90-day extension to meet the requirements of this Ordinance by submitting an application demonstrating a hardship to the Chief of Police. Only one 90-day extension may be granted by the Police Chief for each convenience store.
- (3) All other Sections of this Ordinance become effective on the thirtieth day following the date of passage and approval of this Ordinance.

For convenience stores not yet in operation on the date of passage and approval of this Ordinance:

All Sections of this Ordinance shall become effective on the thirtieth day following the date of passage and approval of this Ordinance.

AND IT IS SO ORDERED.

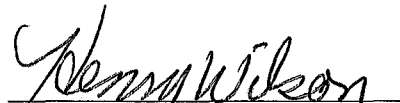
PASSED on the first reading on the 22nd day of October 2019, by a vote of 5 to 0.

APPROVED on the second reading on the 12th day of November 2019, by a vote of 6 to 0.


ATTEST:

CITY OF HURST


Rita Frick, City Secretary


Henry Wilson, Mayor

Approved as to form and legality:



City Attorney