

**To the Mayor and Members of the City Council****April 18, 2023**

Page 1 of 1

SUBJECT: REGULATING SALE OF ALCOHOL NEAR CHILD-CARE FACILITIES

This report responds to Councilmember Carlos Flores' request to review the City's regulation of alcohol sales and to consider whether to require a 300-foot distance between restaurants that sell alcohol and child-care facilities.

In 1984, the City Council enacted Chapter 4, Alcoholic Beverages, Section 4-4, Sale Near Churches, Schools, Hospitals, in accordance with Section 109.33, Texas Alcoholic Beverage Code (TABC), making it unlawful for any person who is engaged in the business of selling alcoholic beverages to sell alcohol within 300 feet of churches, public or private schools, and public hospitals.

TABC Section 109.331 provides that a municipality may adopt an ordinance to apply the 300-foot distance separation to child-care facilities licensed by the Texas Department of Family and Protective Services.

Per TABC, the 300-foot distance must apply to all businesses selling alcohol and not just to restaurants. The 300-foot distance may not apply to businesses where: 1) the child-care facility is located on a different story of the same multistory building, or 2) the child-care facility is located in separate buildings and either the business or the child-care facility is located on the second story or higher of a multistory building.

If the City Council wishes to amend City Code to require a 300-foot distance between child-care facilities and businesses that sell alcohol, staff will need to determine if affected child-care facilities are licensed by the Texas Department of Family and Protective Services. Staff anticipates the number of alcohol distance variances heard by the City Council would increase. Staff would recommend the current alcohol distance exemption for the Central Business District, Near Southside, West 7th Urban Village, and Panther Island continue to apply.

For any questions, please contact Daniel Leal, Assistant Development Services Director at 817-392-8018, or Melinda Ramos, Deputy City Attorney at 817-392-7631.

David Cooke,
City Manager