

**ORDINANCE NO. O-2022-28**

**AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; APPROVING A SPECIAL USE PERMIT TO GRANT A VARIANCE TO THE ALCOHOL DISTANCE REQUIREMENTS IN TYLER CITY CODE CHAPER 10 ALLOWING FOR THE SALE OF ALCOHOLIC BEVERAGES 60 FEET FROM THE PROPERTY LINE OF A PUBLIC SCHOOL ON LOT 12L OF NCB 1013, ONE LOT CONTAINING APPROXIMATELY 11.75 ACRES OF LAND LOCATED SOUTH OF THE SOUTHEAST INTERSECTION OF SOUTH BROADWAY AVENUE AND SOUTH SOUTHEAST LOOP 323 (4500 SOUTH BROADWAY AVENUE); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, under Texas Alcoholic Beverage Code Section 109.33(a)(1), the governing body of an incorporated city or town may enact regulations prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church, public or private school, or public hospital; and

**WHEREAS**, the City of Tyler has adopted such alcohol distance regulations in City Code Section 10-96; and

**WHEREAS**, Pursuant to Texas Alcoholic Beverage Code Section 109.33(e) and City Code Section 10-96. d., the City Council may waive the distance requirements in Section 10-96; and

**WHEREAS**, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the special use should be made as set forth herein;

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

**PART 1:** That the following special use is hereby approved as follows:

**I. APPLICATION S22-002**

That the following described property, which is currently zoned "C-1", Light Commercial District, shall hereafter be used under a Special Use Permit and variance to meet the distance requirements from a public school in order to be eligible for a Texas Alcoholic Beverage Commission permit to sell beer and wine for on-premise consumption for an indefinite period of time, to wit:

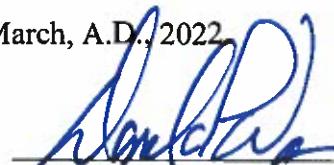
Lot 12L of NCB 1013, one lot containing approximately 11.75 acres of land located south of the southeast intersection of South Broadway Avenue and South Southeast Loop 323 (4500 South Broadway Avenue).

**PART 2:** This Special Use Permit shall be limited to the existing building footprint on Lot 12L of NCB 1013 shown in Attachment "A", which is attached hereto and is incorporated herein. This restriction does not include expansions of the existing footprint, only new buildings.

**PART 3:** Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

**PART 4:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 25<sup>th</sup>, 2022.

**PASSED AND APPROVED** this the 23<sup>rd</sup> day of March, A.D., 2022



DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:



Cassandra Brager

CASSANDRA BRAGER, CITY CLERK



APPROVED:



Deborah G. Pullum

DEBORAH G. PULLUM,  
CITY ATTORNEY

ORDINANCE NO. O-2022-28  
EXHIBIT "A"  
EXISTING BUILDING FOOTPRINT

