

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

FORT BEND COUNTY LOCAL ALCOHOL DISTANCE REGULATIONS
EFFECTIVE JULY 22, 2014

WHEREAS, the Texas Alcohol Beverage Code Section 109.33 and 109.36 authorizes a county commissioners court to enact restrictions on the sale and consumption of alcohol in those areas in the county outside an incorporated city or town; and

WHEREAS, the Fort Bend County Commissioners Court finds that local alcohol restrictions serve a public purpose; and

WHEREAS, these local alcohol restrictions shall apply in all unincorporated areas of Fort Bend County, Texas; and

WHEREAS, in the event of conflict, these local alcohol restrictions effective July 22, 2014 shall supersede any conflicting restrictions of the County; and

WHEREAS, any other local alcohol restrictions adopted by Fort Bend County not addressed herein shall remain in effect.

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF FORT BEND COUNTY THAT SUBJECT TO THE REQUIREMENTS OF STATE LAW THAT THE FOLLOWING RESTRICTIONS ARE HEREBY ADOPTED:

Section I. Definitions

All terms have the same meaning as found in Texas Alcohol Beverage Code Section Chapter 109, as applicable.

Section II. Sale of Alcohol Restrictions, as authorized by Texas Alcohol Beverage Code Section 109.33

- A. The sale of alcoholic beverages is prohibited within 300 feet of a church, public or private school, or public hospital.
- B. The sale of alcoholic beverages is prohibited within 1,000 feet of a public school, if the Commissioners Court receives and approves a request from the board of trustees of a school district under Section 38.007, Texas Education Code.
- C. The sale of alcoholic beverages is prohibited within 1,000 feet of a private school if Commissioners Court receives and approves a request from the governing body of the private school.

- D. Requests from any school seeking a 1,000 feet restriction shall:
1. Be in writing and addressed to the County Judge;
 2. State the reason(s) the restriction is being sought and
 3. Provide a map of the school location(s) with the requested 1,000 feet distance restriction shown.
 4. Additional requirements for written requests from public schools:
 - a. The written request shall state in detail how the request complies with Section 38.007, Texas Education Code; and
 - b. Specify whether the distance prohibition is requested to be in regards to specified campuses or district wide.
- E. Requests for 1,000 feet restrictions shall be effective upon having the request approved and recorded in the minutes of the Fort Bend County Commissioners Court. A complete list of schools with a 1,000 feet restriction will be on file with the County Judge's Office.
- F. Except as provided by Texas Alcohol Beverage Code Section 109.331, distance restrictions for schools also apply to a day-care center and a child-care facility as those terms are defined by Section 42.002, Texas Human Resources Code.
- G. It is the obligation of the Applicant to confirm all measurements. This shall be done by:
1. Arranging for the local TABC office to provide written confirmation of the measurements to the County Judge's Office; OR
 2. Providing a Sworn Measurements Affidavit with information obtained from a Texas licensed Surveyor or Engineer. The required form is available upon request at the County Judge's Office.
- H. These distance restrictions prohibiting the sale of alcoholic beverages within specified distances from churches, public hospitals, public schools, private schools, day care and child care facilities are subject to any and all conditions and exceptions established in the Texas Alcoholic Beverage Code.
- I. Variances to these local distance restrictions may be granted by the Fort Bend County Commissioners Court if the Court determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
1. Variance requests shall be sent in writing to the County Commissioner where the property is located.
 2. The variance request shall identify the date on which an application was initiated with the TABC and state the reason the variance should be granted.
 3. Variance requests may be placed on Commissioners Court for consideration by the receiving County Commissioner.
 4. If a variance is granted, an order will be issued by Commissioners Court stating that the variance is approved and identifying any conditions or limits (if any) to the variance.

Section III: Possession and Consumption of Alcohol Restrictions, as authorized by Texas Alcohol Beverage Code Section 109.36

- A. Possession of an open container or the consumption of an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is not located in a central business district or a substance abuse treatment center that is not located in a central business district is strictly prohibited, except as provided by Section 3(B).
- B. Special, temporary events approved in advance by Commissioners Court are not subject to Section 3(A).
- C. A person who violates these restrictions on possession or consumption of alcohol is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both.

Section IV: Severability

If any part or provision of these restrictions, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these restrictions or the application thereof to other persons or circumstances. Commissioners Court hereby declares that it would have enacted the remainder of these restrictions without any such part, provision or application.

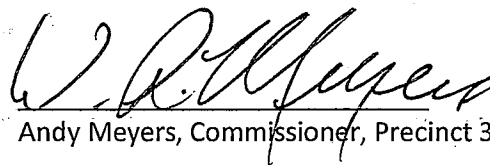
PASSED AND APPROVED BY COMMISSIONERS COURT this 22nd day of July, 2014.



Robert E. Hebert, County Judge

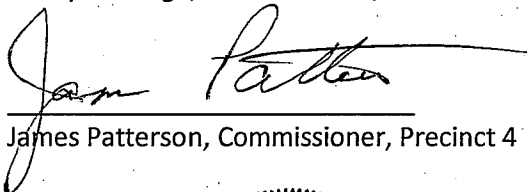


Richard Morrison, Commissioner, Precinct 1



Andy Meyers, Commissioner, Precinct 3

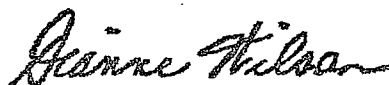
Grady Prestage, Commissioner, Precinct 2



James Patterson, Commissioner, Precinct 4



ATTEST:



Dianne Wilson County Clerk

Affidavit of Measurements in Support of the TABC Prequalification Packet

State of Texas §
County of _____ §
§

BEFORE ME, the undersigned authority, the affiant personally appeared and, who, being duly sworn, deposes and says:

“My name is _____ . I am the applicant on a Texas Alcohol and Beverage Commission (“TABC”) Prequalification Packet for the following business:

Name of business: _____
Address: _____
Type of TABC permit or license: _____.”

“I understand and acknowledge that Fort Bend County prohibits the sale of alcoholic beverages near certain protected uses (“protected use” means a church, public or private school, public hospital, day-care center, or child-care facility as defined in the Fort Bend County Local Alcohol Distance Restrictions or Chapter 42 of the Texas Human Resources Code).”

“I swear and affirm that I have conducted (or caused to be conducted) a physical inspection of the area and a diligent search of public records to determine if the place of business is located near any protected uses.”

“I have attached to this affidavit a signed and sealed survey map: (a) showing the place of business where alcoholic beverages will be sold and the measured distance from protected uses using the appropriate measurement in the Fort Bend County Local Alcohol Distance Restrictions; and (b) prepared by a state of Texas licensed surveyor or engineer within ten days of submitting a complete alcohol-measurement certification application.”

“I swear and affirm that the attached signed and sealed survey map shows that the place of business where alcoholic beverages will be sold meets the location requirements in the Fort Bend County Local Alcohol Distance Restrictions.”

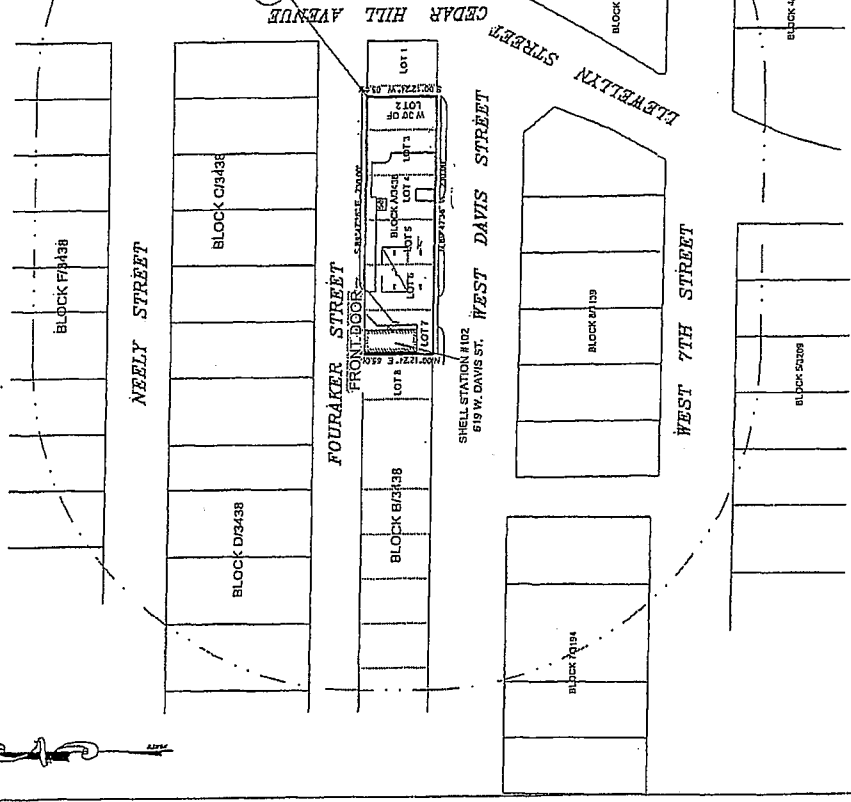
“I understand and agree that the TABC shall revoke the permit or license and the county of Fort Bend shall revoke the certificate of occupancy if they were issued on the basis of false, incomplete, or incorrect information supplied.”

Signature: _____ Date: [Click here to enter a date.](#)
Title: _____

This affidavit was acknowledged before me on [Click here to enter a date](#) by _____ on behalf of _____.

NOTARY PUBLIC

EXAMPLE SURVEY



REQUIRED STATEMENT

I have conducted (or caused to be conducted) a physical inspection of the area and a diligent search of the public records to determine if the place of business is located near any protected uses. This survey map shows that the place of business where alcoholic beverages will be sold meets the location requirements of Fort Bend County.

SURVEYOR'S SEAL AND SIGNATURE

SURVEY MAP FOR
BEER AND WINE SALES
APPLICATION
619 WEST DAVIS STREET
SHELL STATION No. 102
Lots 3 thru 7 & file
West 30' of Lot 2, Block A13438
Revised Plat of Terrace Gardens,
Volume 3, Page 361, M.R.D.C.T.

Owner
ASA Management
619 W. Davis Street
Dallas, Texas 75208

SURVEY DATE AND SCALE

November 11, 2010 Scale: 1" = 100'