ORDINANCE 2015-19

REGULATING ALCOHOLIC BEVERAGE LICENSES IN THE CITY OF BALCONES HEIGHTS; ESTABLISHING CERTAIN FEES AND FINES; AND AMENDING CHAPTER 111 ALCOHOLIC BEVERAGES OF THE CITY CODE OF ORDINANCES TO REFLECT SUCH CHANGES; SETTING A PENALTY, AN EFFECTIVE DATE AND A SEVERABILITY CLAUSE

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WHEREAS, the City Council of the City of Balcones Heights, Texas, (the "City Council") finds that it will be advantageous, beneficial and in the best interest of the citizens of the City of Balcones Heights, Texas ("Balcones Heights") to regulate the manufacturing, brewing or distribution of any beer; and

WHEREAS, the City Council finds that the adoption or this ordinance is in the best interest to protect the health, safety and public welfare of its citizens; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of the City to collect a local fee pursuant to Section 11.38 of the Alcoholic Beverage Code;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHTS, TEXAS.

SECTION 1. That Chapter 111, "ALCOHOLIC BEVERAGES" be amended to incorporate new Sections composed of Sections 111.30 through 111.41, to read as follows:

ALCOHOLIC BEVERAGE LICENSES

Sec. 111.30. – Required.

It shall be unlawful for any person to manufacture or brew for the purpose of sale or to sell or distribute any beer within the corporate limits of the city without first having applied for and secured a license to do so.

Sec. 111.31. – Application.

Any person desiring to manufacture, sell or distribute beer within the corporate limits of the city shall file with the City Secretary an application, made under oath, for a license so to do. Such application shall state the following:

a. The name and address of the applicant;
b. The address where such applicant desires to manufacture, sell or distribute beer; whether or not the principal business of the applicant is the sale of beer;

c. Whether or not the place of business of the applicant where such beer is to be sold is within three hundred (300) feet of any church, school or other educational institution, the measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections, the measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be from the nearest property line of the public school to the nearest doorway by which the public may enter the place of business, along street lines and in direct line across intersections, for any permit or license covering a premise where minors are prohibited from entering the premises, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections; and whether such applicant desires to do business as a manufacturer, a general distributor, a local distributor or a retail dealer.

Sec. 111.32. – Applicant must have county license.

No license required by this article shall be issued by the City Secretary unless the applicant presents to him a license duly issued to such applicant by the tax collector of Bexar County, authorizing such applicant to manufacture, sell or distribute beer in the county, which county license shall be in full force and effect at the time of the application for a license under this article, and which license shall be examined by the city secretary and returned to the applicant.

Sec. 111.33. – Fee to be the maximum allowed by state law.

Every person licensed to sell liquor, wine or beer or mixed beverages in the city under the Alcoholic Beverage Code shall pay to the city a license fee equal to the maximum allowed as provided for in Section 11.38 of the Alcoholic Beverage Code. Such fee shall be payable on the first of January of each year.

Sec. 111.34. – Issuance generally; contents.

Upon compliance with all provisions of this article, the City Secretary shall issue a license required by this article to the applicant therefore. Such license shall be signed by the City Secretary, under the seal of his office, shall be dated, and shall state on the face thereof for what it is issued, how much was paid for the dame, the date of expiration, and by whom and where such business is to be conducted. The license shall further state whether or not the licensee is authorized to operate as a manufacturer, general distributor, local distributor or retail dealer of beer, as set out in the application of such applicant, and if a dealer, it shall state whether or not the principal business of such licensee is the sale of beer.

Sec. 111.35. – Not to issue for sales near schools or churches.

If the principal business of an applicant for a license under this article is to be the selling of beer, and if the City determines that such place of business is within three hundred (300) feet of a church, school or other educational institution, as measured as provided in section 111-31,

then the City shall not issue a license to such applicant, but shall refuse to so do. If a license is erroneously issued under such conditions, it shall be revoked by the City Secretary immediately upon discovery of such error.

Sec. 111.36. – Posting required.

A license issued under this article shall be posted in a conspicuous place on the premises of the licensee where his business is conducted.

Sec. 111.37. – Assignment or change of place of business.

No license issued under this article shall be voluntarily assigned more than once, and before any assignee of any such license may engage in business thereunder, he shall fully comply with the provisions of this article to the same extent as required of the original license. In case an original licensee or his assignee desires to change the place designated in such license, he may do so by applying to the city secretary as in the case of the original application for such license.

Sec. 111.38. – Separate license for each place of business.

No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one (1) place under the same license, but a separate license must be obtained under this article for each place of business conducted for such purpose or any of them.

Sec. 111.39. – Termination; renewal.

Any license issued under the terms of this chapter shall terminate one (1) year from the date issued, and no license shall be issued for a longer term than one (1) year. Any such license may be renewed upon written application of the licensee filed with the City Secretary not more than thirty (30) days prior to the date of the expiration of the license held by such licensee. Such application shall be in writing and filed by the applicant and shall contain full and complete information as set out and required in the original application upon which such original license was issued. No such renewal license shall be issued unless and until the applicant therefore shall exhibit to the City Secretary, his renewal license issued by the Bexar County tax collector. Upon compliance with the foregoing requirements by such applicant, it shall be the duty of the City Secretary to issue the license as applied for in the same manner as the original license was issued.

Sec. 111.40. – Records to be kept.

The City Secretary shall keep a permanent record of all licenses issued under the terms of this article. Such record shall state the names and addresses of all persons to whom licenses are issued, the address of the place of business of each licensee, the classification of each licensee, the date such license was issued and the amount paid therefore. The city secretary shall also keep a permanent record of all transfers of such licenses and of all such licenses cancelled or revoked and the full details of such transactions.

Sec. 111.41. – Penalty for failure to pay fee.

Failure to pay the license fee as provided in Section 111-33 shall constitute a misdemeanor, and upon conviction thereof shall be punished in accordance with Section 10.99 of this Code.

SECTION 2. REPEALER. All ordinances, resolutions, and municipal orders in conflict herewith are repealed to the extent of such conflict.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added by the Mayor as necessary with the approval of the City Attorney as to form, and as a part of the Ordinance a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

SECTION 4, EFFECTIVE DATE. Effective immediately following the publication of this ordinance in the local newspaper as required by Section 51.052 of the Texas Local Government Code, the following sections will apply within the corporate city limits of Balcones Heights, Texas..

PASSED, ORDERED AND APPROVED THIS 31ST DAY OF AUGUST, 2015.

Suzanne de Leon
Mayor

ATTEST:

Delia Flores, TRMC
City Secretary