

City of Fayetteville Staff Review Form

2020-0850

Legistar File ID

11/5/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Mary McGetrick

10/6/2020

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

AN ORDINANCE TO AMEND § 111.04 APPLICATION FOR PERMITS IN CHAPTER 111 ALCOHOLIC BEVERAGES OF THE FAYETTEVILLE CODE AND § 164.18 SUPPLEMENTARY USE REGULATIONS IN CHAPTER 164 SUPPLEMENTAL ZONING REGULATIONS AND SPECIALIZED DEVELOPMENT REGULATIONS OF THE UNIFIED DEVELOPMENT CODE TO CONFORM SEPARATION REQUIREMENTS FOR BUSINESSES PERMITTED TO SELL ALCOHOL TO ARKANSAS LAW

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u> No </u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u> No </u>	Item Cost
Budget Adjustment Attached? <u> No </u>	Budget Adjustment
	Remaining Budget \$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # **6053** _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF Novemebr 5th, 2020

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Mary McGetrick, Long Range Planner

DATE: October 6, 2020

SUBJECT: Amend exsiting code in order to bring it in line with current State law in regard to the issuance of alcohol permits within 300 feet of a religious insutition.

RECOMMENDATION:

Staff recommends approval of an amendment to the existing City Code to conform to state law.

BACKGROUND:

Staff received a request regarding alcohol permitting. A restaurant would like to locate within 300 feet of a church and the owner plans to apply for a permit to sell alcohol. The City Code as it is currently written would not allow the City to issue any alcohol permit at the proposed location.

DISCUSSION:

During a difficult period for local restaurants and bars it is more important than ever that the City offer whatever resources and support which can be provided for new establishments to be permitted. However current City of Fayetteville code requires a separation of 300 feet between restaurants, cafes and private clubs and schools and churches. In organic, traditional city growth many different types of uses have existed adjacent and near to one another allowing for thriving and varied downtowns. In order to retain this type of organic growth to occur staff would like to bring city code in line with current state law. Currently City Code is not in line with state law in regard to the proximity of both retail liquor stores and other types of alcohol permits like restaurants, cafes, and private clubs in relation to churches, schools, and hospitals.

Current state law requires that the operation of retail liquor stores be amended to change the separation requirement for retail liquor stores from churches and schools from 600 feet to 1,000 feet. Additionally state law does not require any separation between churches and schools and restaurants, cafes and private clubs that serve alcohol while city code does requires 300 feet of separation. City Code should be changed to reflect state law by amending § 111.04(E) which contains a separation requirement for liquor stores of 600 feet to require 1,000 feet of separation. Similarly, § 164.18(B)(1) has the same 600-foot requirement, which should be updated to reflect state law. Additionally §111.04(F) should be amended to remove the 300 foot separation requirement to reflect current state law that provides no separation requirement.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Ordinance
- City Atty memo



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**

CC: **Susan Norton**, Chief of Staff
Garner Stoll, Development Services Director

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **July 7, 2020**

RE: **Alcohol permits near churches and schools**

I received an email a few weeks ago from Jonathan Curth about an alcohol permitting issue. A restaurant is looking to locate within 300 feet of a church and the owner plans to apply for a permit to sell alcohol. Unfortunately, the City Code as it is currently written would not allow the City to issue any alcohol permit at the proposed location.

§ 111.04(F) of the City Code provides as follows:

No other permits shall be granted to any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, except wine, for any business situated within 300 feet of any church or school building. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.

I believe this means that we could not issue an alcohol permit to a restaurant that is located within 300 feet of a church or school even though this is not required by state law.

We have other code provisions that are not consistent with state law. § 111.04(E) contains a separation requirement for liquor stores of 600 feet, although state law was recently amended to require 1,000 feet of separation. Similarly, § 164.18(B)(1) has the same 600-foot requirement, which should be updated to match the state law.

I have prepared an ordinance, a copy of which is attached to this memo that will amend all three of those subsections so our code will be consistent with state law with respect to the issuance of alcohol permits.