

County of Hidalgo

City Of Penitas

ORDINANCE 2006-11

AN ORDINANCE AMENDING ORDINANCE 2000-__ REGULATING THE SALE OR CONSUMPTION OR DISTRIBUTION OF ALCOHOLIC BEVERAGES AND REGULATING THE PROXIMITY OF LICENSE ESTABLISHMENTS IN RELATION TO CHURCH AND SCHOOLS AND HOSPITALS AND PROVIDING FOR A SEVERABILITY CLAUSE.

WHEREAS, the City of Penitas is a General Law City operating under the General Laws of the State of Texas;

WHEREAS, under the Texas Constitution cities may regulate where not preempted by state statute the consumption and distribution of alcoholic beverages ;

WHEREAS , the City of Penitas in enactment of this ordinance intends to protect the welfare, health, peace, temperance and safety of the citizens of the City of Penitas;

WHEREAS, AS, the City of Pentias intends to modify its alcohol sales ordinance to allow Wal-Mart and Sam's Club and similar retail establishments and Restaurants to sell alcohol under limited circumstances as prescribed by this ordinance as follows:

THEREFORE Be it Resolved And Ordained by The Board of Aldermen of the City of Penitas, to wit: as follows

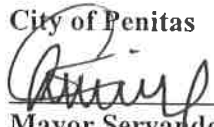
- 1. The Board of Alderman find that all requirements of law have been met in the passing of this ordinance;**
- 2. All terms used in this ordinance shall have the same meaning and effect as contained and defined in the Texas Alcoholic Beverage Code;**
 - a. The term "Dealer" as contemplated in this application of this ordinance, shall not apply to a premises which sells alcoholic beverages pursuant to permit or license issued by the Texas Alcoholic Beverage Commission or its state equivalent, if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuel tax, is from the sale or service of alcoholic beverages.**
- 3. The sale of alcoholic beverages by any dealer within the city is prohibited and the sale of alcoholic beverages by any Dealer shall be unlawful where the place of business of any such dealer in within 300 feet of any church, public school or public hospital. 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 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 in a direct line from the property line of the public school to the property line of the place of business, and in direct line across intersections.**
- 4. a. It shall be lawful for the holder of a mixed beverage late hours permit within the city to sell or offer for sale any alcoholic beverages after midnight (or) to extended hours granted by the Texas Alcoholic Beverage Code Section 105.03;**

- b. It shall be lawful for a restaurant that processes, prepares, and serves food on the premises and is the holder of a beer or wine retailer permit within the city to sell or offer to sell and deliver beer or wine by a holder of a retail dealer's on premise until 12:00 midnight (or) late hours licensed as provided in the Texas Alcoholic Beverage Code Section 105.05;
5. It shall be lawful for any person within the city to consume any alcoholic beverages in the public place or posses any alcoholic beverage in a public place for the purpose of consuming the same as in a public place; provided, the same as within the confines and limits of the premise in which a mixed beverage late hours permit or a retail dealer's on-premise late hours license has been issued by the city during the extended hours referred to in Section 4;
6. The city shall be entitled to collect an occupational tax a fee equal to one half of that required by the state for a late hours mixed beverage permit and a retail dealer's on premise late hours license, and such tax shall be paid annually.
7. Any person desiring to manufacture, distribute or sell beer within the city shall, before doing so, apply to the City Secretary for a license and pay a license fee is specified and shall post the receipt for the license fee in a prominent view in the place of business conducted by such manufacturer, distributor or dealer in beer.
8. There is a levied an annual fee upon each manufacturer, general distributor, local distributor or retail dealer in a beer operating or intended to operate within the city, and such charge shall be one half of the state fee.
9. The periods of all licenses issued under this chapter shall be regulated and determined by the state law, and shall thereby expire on the same day as the state alcoholic beverage license.
10. A. Any person desiring to manufacturer, distribute or sell any alcoholic beverage regulated by the state within the city shall apply to the city secretary for the appropriate license or permit prior to engaging in such activity. The license or permit shall be posted in a conspicuous place in the place where such activity shall be conducted.
10. B. There is hereby levied an annual fee for such licenses and permits shall be in the amount authorized in the Texas Alcoholic Beverage Code.


SEVERABILITY CLAUSE. Shall any phrase, word, sentence, paragraph or portion of this Ordinance be found void or voidable or unconstitutional the remaining portion shall remain in full force and effect.

PASSED on this the 12 Day of July, 2006, at a Regular and Duly Called Meeting of the Board of Aldermen of the City of Penitas at which a quorum was present.

SIGNED on this the 12 Day of July, 2006.

City of Penitas

Mayor Servando Ramirez

ATTEST:


City Secretary