

FREQUENTLY ASKED QUESTIONS REGARDING THE REGULATION OF THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE CITY OF DESOTO

What is the current wet status for the City of DeSoto, Texas?

DeSoto is wet for (1) the legal sale for off-premise consumption of beer and wine by retailers and (2) legal sale for on- premise consumption with a food and beverage certificate. In order for a restaurant to sell mixed beverages for consumption on premise, they must hold a Mixed Beverage Restaurant Permit with an FB permit.

May the City restrict the location of retail establishments that sell alcohol for off-premise consumption?

No, Section 109.57 of the Texas Alcoholic Beverage Code states as follows:

(a) Except as is expressly authorized by this code, a regulation, charter, or ordinance promulgated by a governmental entity of this state may not impose stricter standards on premises or businesses required to have a license or permit under this code than are imposed on similar premises or businesses that are not required to have such a license or permit.

(b) It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code.

(c) Neither this section nor Section 1.06 of this code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulation" means any charter provision, rule, regulation, or other enactment governing the location and use of buildings, other structures, and land.

Why can certain cities control the location of beer and wine retail stores?

If a city had valid zoning regulations restricting the location of alcohol beverage stores prior to June 11, 1987, which was when the Texas Alcoholic Beverage Code was adopted, those cities may still enforce those zoning ordinances. DeSoto does not have the ability to place restrictions on the location of beer and wine retail stores that are stricter than those contained in State law.

May the City restrict the distance of beer and wine retailers from Churches and schools?

Yes, the City has adopted the State distance requirements. These can be found in Chapter 4 “Business regulations” Article 4.1600 titled Alcoholic Beverages.

What is the distance a beer and wine retailer must be located from a church or public hospital?

From a church or public hospital, the retail establishment must be 300 feet from front door to front door, along the property line and in a direct line across intersections.

What is the distance a beer and wine retailer must be located from a private or public school?

From a private or public school, the retail establishment must be 300 feet in a direct line from the property line to the public or private school to the property line of the place of business, and in a direct line across intersections.

Are beer and wine retailers required to be a certain distance from a day care or child care facility in the City of DeSoto?

No, the distance requirement for day care or child care facility only applies to a permit of license holder under the Texas Alcoholic Beverage Code Chapter 25, 28, 32, 69, Or 74, who does not have a food and beverage certificate. These chapters do not apply to a beer and wine retailer dealer that sells for off-premise consumption. The City is prohibited under Section 109.57 of the Texas Alcoholic Beverage Code from adopting stricter standards. Therefore, the City cannot legally regulate the distance a beer and wine retailer is from a day care or child care facility.

If a beer and wine retail establishment is lawfully in business, and a church locates within 300 feet of the retail establishment, will the retail establishment being able to continue operating and will their permit be renewed?

Yes, the beer and wine retail establishment can continue to operate and will be eligible to have their permit renewed. Only if the retail establishment ceases operations and loses their permit, will the permit then not be renewed.