

ORDINANCE NO. 1864

AN ORDINANCE AMENDING CHAPTER 6, “ALCOHOLIC BEVERAGES” OF THE CITY OF EULESS, TEXAS CODE OF ORDINANCES, BY AMENDING, SECTION 6.2 “STATE LICENSE OR PERMIT REQUIRED; DURATION.”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Euless is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Euless has a substantial interest in protecting the health, safety, welfare, convenience and enjoyment of the general public from injury which may be caused by the unregulated sale and distribution of alcoholic beverages; and

WHEREAS, in 2007, Senate Bill 1217 of the 80th Texas State Legislature amended Sections 11.09 and 61.03 of the Texas Alcoholic Beverage Code to allow the Texas Alcoholic Beverage Commission to issue a license or permit for a period of two years; and

WHEREAS, the Texas Alcoholic Beverage Commission has adopted Rule 33.25 outlining the implementation of issuing an alcoholic beverage license(s) or permit(s) pertinent to Chapter 6, “Alcoholic Beverages” of the City of Euless Code of Ordinances to begin on September 1, 2009; and

WHEREAS, the City Council of the City of Euless has a substantial interest in issuing alcoholic beverage license(s) and permit(s) in the same or similar time frame as alcoholic beverage license(s) and permit(s) issued by the Texas Alcoholic Beverage Commission in the interest of consistency and coordination between state and local regulation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS, THAT:

SECTION 1

Chapter 6, “Alcoholic Beverages” Section 6.2, “State License or Permit Required; Duration.” to hereinafter be amended in its entirety to read as follows:

Sec. 6.2. State license or permit required; duration.

Before any license or permit shall be issued by the City, the applicant shall furnish appropriate evidence to show that such applicant has been issued a license or permit to engage in such business by the tax collector of the county on a form prescribed by the comptroller of the state. All permits or licenses issued under this chapter shall terminate contemporaneously with the expiration of the state license or permit of such applicant.

SECTION 2

This ordinance shall be cumulative of all provisions of ordinances of the City of Euless, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3

All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation and control of the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4

SAVING CLAUSE. The Code of Ordinances, City of Euless, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 5

PENALTY FOR VIOLATION. Any person, firm, or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1, "General Provisions," Section 1-12, "General Penalty," Euless Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

SECTION 6

SEVERABILITY CLAUSE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the

remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND APPROVED ON FIRST READING AND FINAL READING at a regular meeting of the Euless City Council on the 13th day of October 2009, by a vote of _____ ayes, _____ nays and _____ abstentions.

APPROVED:

Mary Lib Saleh, Mayor

ATTEST:

Susan Crim, TRMC, City Secretary

APPROVED AS TO FORM:

Bob McFarland, City Attorney