

January 12, 2021

**Public Hearing – Zoning  
Ordinance Amendment:  
Applicant:**

Amendment to Zoning Ordinance Subsection  
6d.02.01 (ZA20-0008)  
City of Frisco

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**DESCRIPTION:**

A request to amend Zoning Ordinance Section 3d.02.01, Conditional Development Standards concerning the removal of alcoholic beverage sales distance/separation regulations. AS

**REMARKS:**

City Council called a public hearing on October 6, 2020 to amend the Zoning Ordinance alcoholic beverage sales distance/separation regulations. Zoning Ordinance Subsection 3d.02.01 (Conditional Standards) contains the distance or separation requirements for alcohol uses found within the Zoning Ordinance Use Chart. City Council has inquired about removing the alcohol distance/separation requirements associated with land uses that allow alcoholic beverage sales in the Zoning Ordinance. Currently, all uses that allow the sale of alcoholic beverages have minimum distance or separation requirements that prohibit new uses within certain proximities of churches, private and public schools, public hospitals, day-care centers, and child-care facilities. The minimum distance and how it is measured depends upon the use (see overview of distance requirements attached). The City's authority to impose such regulations is derived from the Texas Alcoholic Beverage Code (TABC), which provides municipalities the option of adopting by ordinance these separation requirements. The purpose of this item is to consider the possible repealing of all ordinances that impose these separation requirements.

Staff coordinated with the Police Department to review statistics and reports concerning alcohol beverage sales and proximity to churches, private and public schools, public hospitals, daycare centers and child-care facilities. The Police Department has identified no known issues. This includes locations where City Council has approved a variance. The variance provision, as authorized by TABC, authorizes City Council to reduce or waive distance/separation requirements from an alcohol beverage sales establishment to churches, private and public schools, public hospitals, daycare centers and child-care facilities. There are also situations where churches, private and public schools, public hospitals, daycare centers and child-care facilities have developed within the distance/separation requirements after an alcohol beverage sales establishment is permitted; the distance/separation requirements apply only to the alcohol beverage sales establishment at the time they are permitted by TABC. The Police Department found no

known issues in these cases, as well. The Police Department did identify one potential concern involving high schools, which could be viewed differently than elementary/middle schools due to the student age group. Although no statistics or reports have been found, there is concern with alcohol beverage sales establishment's proximity to high schools and student's ability to inappropriately access these establishments; this concern was echoed by Prosper ISD.

Staff sent the proposed amendments to the following community members:

- HOA contacts/residents;
- Frisco ISD – opposed to the request (see correspondence in packet);
- Prosper ISD – opposed to the request (see correspondence in packet);
- Private schools – received one letter of opposition from a preschool;
- Chamber;
- Churches; and
- Child-care facilities.

All correspondence has been attached to the packet. Staff received the following concerns/inquiries (with a [Staff response](#) to each):

1. These amendments would allow liquor stores;
  - [This is not the case; these proposed amendments have nothing to do with the provision of liquor stores.](#)
2. The reason the for these changes; and
  - [These changes are the result of City Council's directive to Staff. As discussed above, in recent years, City Council has approved three variances to reduce/eliminate distance/separation requirements.](#)
3. These amendments would allow alcoholic beverage sales establishments to operate next to churches, private and public schools, public hospitals, daycare centers and child-care facilities.
  - [While the distance/separation requirements would be eliminated with these amendments, thus allowing alcoholic beverage sales establishments to operate near churches, private and public schools, public hospitals, daycare centers and child-care facilities; the particular alcoholic beverage sales uses \(reference the uses in the attached chart\) would still require the proper zoning district based on the land use chart. For example, if a property adjacent to a public school is zoned residential, a convenience store selling alcohol could \*\*not\*\* operate adjacent to the school, as the zoning does not permit the use; and](#)
  - [Uses that require a Specific Use Permit \(SUP\) would still be required to obtain a SUP.](#)

**RECOMMENDATION:**

Staff recommends the Zoning Ordinance amendments as shown on the following pages (deletions are ~~red strikethrough~~):