

**ORDINANCE NO. O-2023-51**

**AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; APPROVING A SPECIAL USE PERMIT TO OBTAIN A VARIANCE TO ALLOW FOR A TABC LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES WITHIN 300 FEET OF A CHURCH ON LOT 6 OF NCB 8, ONE LOT CONTAINING APPROXIMATELY 0.12 ACRES OF LAND LOCATED AT THE SOUTHEAST INTERSECTION OF SOUTH BOIS D'ARC AVENUE AND WEST ERWIN STREET (220 WEST ERWIN STREET); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, under Texas Alcoholic Beverage Code Section 109.33(a)(1), the governing body of an incorporated city or town may enact regulations prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church, public or private school, or public hospital; and

**WHEREAS**, the City of Tyler has adopted such alcohol distance regulations in City Code Section 10-96; and

**WHEREAS**, Pursuant to Texas Alcoholic Beverage Code Section 109.33(e) and City Code Section 10-96. d., the City Council may waive the distance requirements in Section 10-96; and

**WHEREAS**, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the special use should be made as set forth herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That the following special use is hereby approved as follows:

**I. APPLICATION S23-007**

That the following described property, which is currently zoned "DBAC", Downtown Business, Arts, and Culture District, shall hereafter be used under a Special Use Permit and variance to meet the distance requirements from a church in order to be eligible for a Texas Alcoholic Beverage Commission permit to sell beer and wine for on-premise consumption for an indefinite period of time, to wit:


Lot 6 of NCB 8, one lot containing approximately 0.12 acres of land located at the southeast intersection of South Bois D'Arc Avenue and West Erwin Street (220 West Erwin Street).

**PART 2:** This Special Use Permit shall be limited to the existing building/suites on the property, not including existing footprint expansions and to protected uses on the same property (internal variance) and not a variance to adjacent properties.

**PART 3:** Should any section, subsection, sentence, provision, clause, or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

**PART 4:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be June 30<sup>th</sup>, 2023.

**PASSED AND APPROVED** this the 28<sup>th</sup> day of June, A.D., 2023.

  
DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

  
CASSANDRA BRAGER, CITY CLERK



  
DEBORAH G. PULLUM,  
CITY ATTORNEY