

ORDINANCE 2022-O-121

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, AMENDING CHAPTER V, ALCOHOLIC BEVERAGES, TO SET FORTH REGULATIONS FOR ESTABLISHMENTS THAT ARE NOT LICENSED OR PERMITTED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO SELL OR SERVE ALCOHOLIC BEVERAGES ON THEIR PREMISES FOR CONSUMPTION WHICH ALLOW PATRONS TO BRING ALCOHOLIC BEVERAGES ONTO THEIR PREMISES FOR CONSUMPTION ("BYOB BUSINESSES") AND ADDING AN ANNUAL BYOB VENUE PERMIT FEE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, IT HAS BECOME COMMON PRACTICE FOR AN ESTABLISHMENT NOT LICENSED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO ALLOW ITS PATRONS TO BRING THEIR OWN ALCOHOLIC BEVERAGES ONTO THEIR PREMISES FOR CONSUMPTION; AND

WHEREAS, THE CITY OF LAREDO CURRENTLY HAS NO PROCEDURES FOR LICENSING AND REGULATING SUCH BYOB ESTABLISHMENTS; AND

WHEREAS, THE CITY OF LAREDO NEEDS TO ESTABLISH PROCEDURES FOR LICENSING AND REGULATING BYOB BUSINESS ESTABLISHMENTS IN ORDER TO PROMOTE THE HEALTH AND WELFARE OF ITS CITIZENS AND TO INSURE COMPLIANCE WITH STATE STATUTES AND REGULATIONS.

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

**Section 1.** The City of Laredo Code of Ordinances Chapter 5, Alcoholic Beverages, is hereby amended as follows:

Section 5-10. Definitions.

(A) It is a common practice for an establishment not licensed or permitted by the Texas Alcoholic Beverage Commission to allow its patrons to bring their own alcoholic beverages onto the premises for consumption. This practice is often referred to as "BYOB", an acronym for "bring your own bottle".

(B) As used in this chapter, the following definitions shall apply:

(1)ALCOHOLIC BEVERAGE has the meaning assigned by the Texas Alcoholic Beverage Code.

(2)BYOB VENUE means an establishment to which this chapter applies, as prescribed by Section 5-11 (Applicability).

(3)DEPARTMENT means the Building Development Services Department.

(4)DIRECTOR means the director of the Building Development Services Department.

(5)PREMISES means the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

(6)Person means a natural person or any business entity legally licensed to operate in the State of Texas.

#### 5-11. Applicability.

(A) Except as provided in Subsection (B), this chapter applies to an establishment that:

(1)is not licensed or permitted by the Texas Alcoholic Beverage Commission, and allows patrons to bring alcoholic beverages onto the premises for possession and consumption, or

(2) dispenses alcoholic beverages free of charge to anyone after 10:00 o'clock p.m.

(B) This chapter does not apply to:

(1) A residence;

(2) An establishment operated by a governmental entity;

(3) A private club, as defined by the Texas Alcoholic Beverage Code;

(4) A fraternal or veteran's organization, as defined by the Texas Alcoholic Beverage Code;

(5) A college and university use;

(6) A restaurant; or

(7 )A theatre use.

#### 5-12. Permit Required.

(A) A person shall obtain a permit issued by the department before the person may allow patrons to bring their own alcohol or operate as a BYOB venue.

(B) A person must obtain a separate permit for each BYOB venue location.

#### 5-13. Qualifications.

(A) A person may not apply for or hold a permit under this chapter unless the person is at least 21 years of age.

(B) A person may not hold a permit under this chapter or manage a BYOB venue if the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the misdemeanor conviction makes the person unfit to hold a permit or manage a BYOB venue.

#### 5-14. Permit Application.

(A) A person who seeks a permit to operate a BYOB venue must submit a written application with the director or designee. A separate application must be filed for each BYOB venue. The application must be on a form provided by the City and the following information is required in the application:

- (1) The names, addresses, and birth dates of all persons who have an ownership interest in, or who will manage, the proposed BYOB venue;
- (2) Authorization for the City to conduct a criminal background check on each person described in Paragraph (1);
- (3) The name of the BYOB venue and its physical address;
- (4) A registration certificate for the establishment from the Secretary of State, if registration is required by law;
- (5) Proof that the applicant has all other permits and approvals required to operate the establishment, including appropriate zoning;
- (6) A security plan that meets or exceeds the minimum standards determined by the Laredo Police Chief, or his designee;
- (7) Scale drawings of the site, including:
  - (a) All site improvements;
  - (b) The floor plan of each building;
  - (c) A designation of the areas where the consumption of alcohol is to be allowed;
- (8) Proof that the applicant has a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis; and
- (9) Other information reasonably required by the director.

(B) An applicant shall pay a nonrefundable permit fee of \$150.00.

(C) Any failure to provide the documents required by this section shall be grounds for denial of the application to which it applies.

(D) A BYOB permit is void if the applicant obtains the BYOB permit by providing false or misleading information on the application.

#### 5-15. Permit Approval or Denial.

(A) The director shall approve a permit application if the director determines that the applicant and the proposed BYOB venue meet the requirements of this chapter.

(B) The director shall deny a permit application if the director determines that:

- (1) The applicant is under the age of 21 years;
- (2) The BYOB venue as proposed would not comply with this chapter; or
- (3) The applicant had a permit required by this chapter revoked within the preceding 12-month period.

(C) The director may deny a permit application if the director determines that:

- (1) The applicant provided incorrect or incomplete information on the application; or
- (2) The person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the conviction makes the person unfit to hold a permit.

(D) The director shall give written notice of a denial of an application to the applicant by certified mail, return receipt requested.

(E) An applicant may appeal to the city manager, or their designee, a denial of a permit application in accordance with Section 5-21 (Appeal).

5-16. Permit Not Transferrable.

A permit issued under this chapter is not transferable to another person.

5-17. Permit Not a Right.

A permit issued under this chapter is a grant of a privilege and is not a property right.

5-18. Permit Expiration; Renewal.

(A) A permit issued under this chapter expires one year after the date it is issued.

(B) A permit holder shall file an application for permit renewal not sooner than the 90th day and not later than the 45th day before the permit expires. An application that is not filed within the described time period is a new application.

5-19. Permit Suspension.

(A) The director may suspend a permit issued under this chapter without prior notice or hearing if the director determines that:

(1) the permit holder, the manager, or an employee of the BYOB venue has violated a requirement of this chapter;

(2) the BYOB venue does not comply with this chapter;

(3) the permit holder does not qualify for a permit under this chapter;

(4) the permit holder has refused to allowed inspection of the premises as required by Section 5-27 infra; or

(5) the permit holder has violated the occupancy load authorized by its certificate of occupancy.

(B) If the director suspends a permit:

(1) the director shall give written notice by certified mail, return receipt requested to the permit holder that:

(a) the permit is immediately suspended on receipt of the notice; and

(b) the permit holder may file a written request for a hearing not later than the 10th day after the date of receipt of notice of suspension as specified in E infra; and

(2) the permit holder shall immediately close the BYOB venue.

(3) Any BYOB permit which has been suspended under this chapter shall be surrendered upon demand to the Director. At the end of the period of suspension, in the absence of further violations, the surrendered BYOB permit shall be returned to the BYOB permit holder and shall be valid under the provisions of this code. If the period of suspension extends beyond the normal expiration of the BYOB permit, the BYOB permit holder shall pay all BYOB permit fees without proration in order to receive a valid BYOB permit.

(C) Suspension of a permit is effective on receipt of notice.

(D) A permit holder may file a written request for a hearing on a permit suspension with the City Manager or his designee. The request must be filed not later than the 10th day after the date of receipt of notice of suspension.

(E) If a permit holder timely files a hearing request:

(1) the City Manager or his designee shall hold a hearing on the permit suspension not later than the 10th day after the date the hearing request is filed. At such hearing, the BYOB permit holder may present information to the City Manager or his designee addressing the director's suspension of a BYOB permit and reasons, if any, that the BYOB permit holder believes the suspension is not warranted.

(F) If a hearing request is not timely filed, a suspension continues in effect.

(G) The City Manager or his designee shall give written notice by certified mail, return receipt requested to the permit holder of a suspension that is continued in effect after a hearing under Subsection (E) or as prescribed by Subsection (F).

(H) The City Manager or his designee may reinstate a permit if the reason for suspension no longer exists.

#### 5-20. Permit Revocation.

(A) The director may revoke a permit issued under this chapter if the director determines that:

- (1) the permit holder, the manager, or an employee of the BYOB venue has engaged in serious or repeated violations of this chapter;
- (2) the BYOB venue does not comply with this chapter;
- (3) the permit holder does not qualify for a permit under this chapter; or
- (4) The permit holder had the BYOB permit suspended twice within the preceding 12-month period

(B) Before revoking a permit, the director shall provide the permit holder with written notice by certified mail, return receipt requested of the pending permit revocation. The written notice shall include:

- (1) the reason the permit is subject to revocation;
- (2) the date on which the permit is scheduled to be revoked; and
- (3) a statement that the permit will be revoked on the scheduled date unless the permit holder files a written request for a hearing with the City Manager, as specified in section D infra, not later than the 10th day after the date the revocation notice is received.

(C) A permit revocation becomes effective on expiration of the time period prescribed by the notice if the permit holder does not file a written request for hearing with the City Manager or his designee not later than the 10th day after the notice of the pending revocation is received.

(D) If a permit holder timely files a hearing request:

- (1) the City Manager or his designee shall hold a hearing on the permit revocation not later than the 10th day after the date the hearing request is filed.

(E) The City Manager or his designee shall give written notice by certified mail, return receipt requested to the permit holder of the City Manager's decision regarding the permit or a revocation that becomes effective under Subsection (C).

5-21. Appeal.

(A) An applicant or a permit holder may appeal the director's decision on a permit application denial, a permit suspension, or a permit revocation to the City Manager by filing a notice of appeal with the City Manager or his designee on a form provided by the director not later than the 10th day after the applicant receives the notice required by Section 5-15(E) (Permit Approval or Denial), Section 5-19(G) (Permit Suspension), or Section 5-20(E) (Permit Revocation), as applicable.

(B) The city manager or a designee shall, not later than the 10th day after the date the notice of appeal is filed, hear the appeal, and may affirm, reverse, or modify a permit application denial, permit suspension, or permit revocation.

(C) The city manager or a designee shall give written notice of a decision on an appeal to the appellant by certified mail, return receipt requested.

(D) If the city manager or a designee sustains the action of the director, the applicant may appeal to the city council by filing a written appeal with the City Secretary setting forth specific grounds for the appeal within ten (10) days of receiving written notice of the city manager's decision. The City Council shall within thirty (30) days grant a hearing to consider the action. The City Council has the authority to sustain, reverse, or modify the action appealed. The decision of the City Council is final.

5-22. Public Place.

A BYOB venue is a public place.

5-23. Permit Posting Required.

A BYOB permit holder shall post the BYOB permit required by this chapter in a prominent public location at the BYOB venue where it can be easily seen by all entering the venue.

5-24. Manager Required on Premises.

A BYOB permit holder shall ensure a qualified manager is continuously on the BYOB venue premises during the hours of operation. A permit holder may serve as the manager.

5-25. Security Plan Implementation.

(A) A person may not operate a BYOB venue without a security plan approved by the Chief of police or his designee.

(B) A permit holder and a BYOB venue manager shall provide security for the BYOB venue in accordance with the security plan.

5-26. Minimum Age for Admittance.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 18 years on the premises.

(B) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 21 years to consume alcohol on the premises.

5-27. Doors to Remain Unlocked.

During the hours of operation, a person may not lock or obstruct:

- (1) An exterior entrance or exit door that is designated or available for use by patrons; or
- (2) An interior door that provides access to a portion of the premises that is designated or available for use by patrons.

5-28. Consent to Inspection; Immediate Access Required.

(A) By accepting a permit under this chapter, the permit holder consents that the director, the director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel may enter the premises during the hours of operation to conduct an investigation or inspect the premises to determine compliance with this chapter, or any other applicable law.

(B) A permit holder, a manager, and an employee of a BYOB venue shall provide the director, the director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel with immediate access to all portions of the premises.

5-29. Hours of Operation.

(A) A permit holder, a manager, or an employee of a BYOB venue shall close a BYOB venue between 2:00 a.m. and 7:00 a.m. each day except Sunday, and between 2:00 a.m. and noon on Sunday. A patron who is on the premises at 2:00 a.m. may remain until not later than 2:15 a.m.

(B) A person may not consume an alcoholic beverage on the premises of a BYOB venue between 2:15 a.m. and 7:00 a.m. each day except Sunday, or between 2:15 a.m. and noon on Sunday.

(C) A permit holder, a manager, or an employee of a BYOB venue may not allow a member of the public on its premises, including a parking area, between 2:30 a.m. and 7:00 a.m. each day except Sunday, or between 2:30 a.m. and noon on Sunday. This prohibition does not apply to a person who is providing a product or service directly to the BYOB venue.

5-30. Alcoholic Beverage Consumption Areas.

(A) A permit holder shall designate, subject to the approval of the director, the portions of the premises on which the consumption of alcoholic beverages is permitted. A designated area:

- (1) Must be located and designed to minimize adverse effects on adjacent property;
- (2) May include the interior of a building or a deck, patio, or garden; and
- (3) Must exclude parking areas.

(B) A person may not consume, and a permit holder, a manager, or an employee of a BYOB venue may not allow the consumption of, an alcoholic beverage outside of a designated area.

5-31. Parking Area Restrictions.

(A) A permit holder, a manager, or an employee of a BYOB venue may not allow persons to congregate in a parking area.

(B) A permit holder, a manager, or an employee of a BYOB venue may not allow a person to consume an alcoholic beverage in a parking area.

(C) A permit holder shall post signs in each parking area stating that the consumption of an alcoholic beverage is prohibited.

5-32. Sale of Alcoholic Beverages Prohibited.

A person may not sell an alcoholic beverage at a BYOB venue.

5-33. Restriction on Consumption and Purchase of Alcohol by a Permit Holder and Employees.

A permit holder, manager, or employee of a BYOB venue may not:

- (1) Consume an alcoholic beverage while on duty;
- (2) Purchase or otherwise acquire an alcoholic beverage for a patron; or
- (3) Give an alcoholic beverage to a patron.

5-34. Insurance Requirement.

A BYOB permit holder, a manager, or owner shall maintain a commercial general liability insurance policy providing a minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on the occurrence basis. Prior to opening for business, the BYOB permit holder, manager, or owner shall deliver a certificate of insurance and copies of all endorsements for additional insured to the Director.

5-35. Compliance with Other Laws.

A BYOB permit holder, a manager, and an employee of a BYOB venue shall comply with the Texas Alcoholic Beverage Code and all applicable criminal, zoning, health, and safety laws and ordinances relating to the operation of a BYOB venue.

5-36. Crime Prevention and Reporting.

The permit holder, the manager, and the employees of a BYOB venue shall:

- (1) Take reasonable measures to prevent criminal activity on the premises;
- (2) Immediately report to law enforcement personnel all suspected criminal activity on the premises or the surrounding areas that they observe or of which they otherwise become aware; and
- (3) Must have at least one level III security officer on the premises during all hours of operation.

5-37. Civil Remedies.

(A) The city council has determined that this chapter is necessary to protect health, life, and property and to preserve the good government, order, and security of the City and its inhabitants.

(B) A person who violates this chapter is subject to all penalties pursuant to Chapter 54 of the Texas Local Government Code for each day or part of a day the violation occurs.

(C) Proof of a culpable mental state is not required to prove an offense under this chapter.

(D) Each day that a violation occurs or continues is a separate offense.

(E) The City may file suit to enforce this chapter or collect a civil penalty.



(F) The City may seek to enjoin violations of this chapter.

**Section 2.** This Ordinance shall be cumulative of all provisions of this ordinances of the City of Laredo, 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.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such 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 unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 4.** The City Secretary of the City of Laredo is hereby directed to publish the proposed Ordinance as required by Section 2.09 of the Charter of the City of Laredo.

**Section 5.** After passage by City Council, this Ordinance shall become effective upon publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS 1<sup>st</sup>  
DAY OF August, 2022.

  
PETE SAENZ, JR  
MAYOR

ATTEST:

  
JOSE A VALDEZ, JR  
CITY SECRETARY

APPROVED AS TO FORM:

  
JUAN B. CABALLERO  
ASSISTANT CITY ATTORNEY



**City Council-Regular**

**Meeting Date:** 08/01/2022

**Staff Source:** John Hickle, Building Development Service Director

---

**SUBJECT**

**2022-O-121** Ordinance of the City of Laredo, Texas, amending Chapter V, Alcoholic Beverages, to set forth regulations for establishments that are not licensed or permitted by the Texas Alcoholic Beverage Commission (TABC) to sell or serve alcoholic beverages on their premises for consumption which allow patrons to bring alcoholic beverages onto their premises for consumption ("BYOB businesses") and adding an annual BYOB venue permit fee; providing that this ordinance shall be cumulative; providing for a savings clause; providing for a severability clause; providing for a penalty; providing for publication; and declaring an effective date.

**PREVIOUS COUNCIL ACTION**

n/a

**BACKGROUND**

It has become common practice for an establishment not licensed by the Texas Alcoholic Beverage Commission to allow its patrons to bring their own alcoholic beverages onto their premises for consumption.

The City of Laredo currently has no procedures for licensing and regulating such BYOB establishments.

The City of Laredo needs to establish procedures for licensing and regulating BYOB business establishments in order to promote the health and welfare of its citizens and to insure compliance with state statutes and regulations.

**COMMITTEE RECOMMENDATION**

n/a

**STAFF RECOMMENDATION**

Staff recommends approval.

---

**Fiscal Impact**

**Fiscal Year:**

**Budgeted Y/N?:**

**Source of Funds:**

**Account #:**

**Change Order: Exceeds 25% Y/N:**

**FINANCIAL IMPACT:**

Funds will be deposited into General Fund 101-0000-312-2028.

---

**Attachments**

2022-O-121

---

