

ORDINANCE NO. ____

OF THE CITY OF MISSION, TEXAS AMENDING THE CODE OF ORDINANCES, APPENDIX A (ZONING), (A) ARTICLE I, SECTION 1.2 (DEFINITIONS) BY ADDING SUBSECTION 13A, 13B, & 13C (BYOB, BYOB ESTABLISHMENT & BYOB PERMIT) AND (B) ARTICLE VIII (USE DISTRICTS AND CONDITIONAL USES), SECTIONS 1.43 (C-3 GENERAL BUSINESS DISTRICT), 1.44 (C-4 HEAVY COMMERCIAL DISTRICT), 1.44A (C-5 ADAPTIVE COMMERCIAL DISTRICT), 1.45 (I-1 LIGHT INDUSTRIAL DISTRICT) AND 1.46 (I-2 HEAVY INDUSTRIAL DISTRICT) TO INCLUDE BYOB ESTABLISHMENTS AS CONDITIONAL USES AND (C) ARTICLE X (CONDITIONAL USE PERMITS), SECTION 1.56 (CONDITIONS OF CONDITIONAL USE), TO INCLUDE BYOB ELIGIBILITY CRITERIA, AND PROVIDING THE FOLLOWING: ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

WHEREAS, the City of Mission, as a home-rule municipality, has the power and authority of local self-government pursuant to Article XI, Section 5 of the Texas Constitution; and

WHEREAS, pursuant to the laws of the State of Texas, including Section 51.001 of the Texas Local Government Code, the Mission City Council has the authority to adopt an ordinance that, among other things, is good for the government, peace, or order of Mission, Texas; and

WHEREAS, the Texas Alcoholic Beverage Code regulates the manufacture, sale, distribution, transportation, and possession of alcoholic beverages by licensed and permitted establishments; and

WHEREAS, the Texas Alcoholic Beverage Commission ONLY regulates and enforces the Texas Alcoholic Beverage Code as it applies to licensed or permitted establishments; and

WHEREAS, venues that allow patrons to bring their own alcoholic beverages on the premises (BYOB Establishments) are not licensed or permitted by the Texas Alcoholic Beverage Commission and therefore have no regulations imposed on them by the Texas Alcoholic Beverage Code; and

WHEREAS, establishments licensed or permitted by the Texas Alcoholic Beverage Commission are regulated in a manner designed to prevent them from becoming a public safety concern to surrounding neighborhoods, community and the general public; and

WHEREAS, without similar regulations for unlicensed and/or unpermitted venues BYOB Establishments can become a public safety and/or nuisance to the surrounding neighborhoods, community, and the general public; and

WHEREAS, the calls for service received by the Mission Police Department to known BYOB Establishments include calls for disturbances, assaults, fights, thefts, assault on a public servant, and attempted taking of a weapon from an officer, among others; and

WHEREAS, the calls for service at known BYOB Establishments in Mission show the types of public safety concerns and nuisance activity that can result from having unregulated venues where alcohol is consumed on-premises at all hours of the late night and into the morning; and

WHEREAS, the Mission City Council finds that it is necessary to preserve the city's public safety to amend the City's Code of Ordinances, as provided herein below, in order to further clarify the standards for these establishments not licensed by the Texas Alcoholic Beverage Commission.

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

Section 1: Enactment: Appendix A of the City of Mission's Code of Ordinance, is hereby amended as follows:

(a) Article I, Section 1.2 (Definitions) is hereby amended by adding subsection 13A (BYOB), 13B (BYOB Establishment), and 13C (BYOB Permit):

13A. BYOB. Bring your own botte, beer, beverage, or booze.

13B. BYOB Establishment. An Establishment that allows patrons to bring alcoholic beverages onto the premises for possession and consumption, excluding a residence, an establishment by a governmental entity, a private club permitted pursuant to V.T.C.A. Alcoholic Beverages Code, Ch. 32 or a fraternal organization or veteran's organization as defined by the Texas Alcoholic Beverage Code.

13C. BYOB Permit. A Permit issued pursuant to this chapter to operate a BYOB establishment.

(b) Article VIII (Use Districts and Conditional Uses), Sections 1.43 (C-3 General Business District), 1.44 (C-4 Heavy Commercial District), 1.44A (C-5 Adaptive Commercial District), 1.45 (I-1 Light Industrial District), and 1.46 (I-2 Heavy Industrial District) are hereby amended to include "BYOB Establishments" as *Conditional uses*.

(c) Article X, Section 1.56 (Conditional Use Permits), to include BYOB Eligibility Criteria:

(12) *Bring your own beverage (BYOB) establishments.*

(A) The applicable requirements for BYOB establishments include but are not limited to:

- a. An applicant for a BYOB permit, or the applicant's designated agent, must reside within the State of Texas and within 100 miles of the territorial limits of the City of Mission. The applicant or designated agent must provide their address and sign the application.
- b. An applicant for a BYOB permit must not have a conviction for a felony.
- c. Each individual who has an ownership interest in, or who will manage or otherwise exercise control over the proposed BYOB establishment must provide their full legal name, address, date of birth, and authorize the city to conduct a criminal background check.
- d. For an applicant that is a legal entity and not an individual, the application must include:
 - (i) Documentation from the Texas Secretary of State that demonstrates the entity is authorized to conduct business in Texas;

- (ii) Designation of an individual permit holder that resides in the State of Texas and within 100 miles of the territorial limits of the City of Mission, and the address of the residence of such individual;
 - (iii) A designated agent, who is a citizen of this state, to represent the entity in matters before the city and its advisory boards and to be responsible for the proper conduct of any activity at the proposed BYOB establishment.
 - e. If the applicant does not own the property upon which the proposed BYOB establishment is located, a notarized letter of consent from the owner must be submitted with the application.
 - f. BYOB establishments must comply with all ordinances of the City of Mission and all laws of the State of Texas.
 - g. BYOB establishments may not exceed three calls for emergency or other police services within any 90-day period that first responders indicate involve weapons, violent crime, drugs or drug paraphernalia, public intoxication, calls categorized by law enforcement personnel as a major disturbance, deadly conduct, a felony offense, or human trafficking related offenses.
 - h. BYOB establishments shall post the BYOB permit in a prominent public location at the BYOB establishment.
 - i. A BYOB permit holder shall ensure that the permit holder or designated agent is continuously on the BYOB establishment's premises during the hours of operation.
 - j. BYOB establishments shall close between 2:00 a.m. and 10:00 a.m. each day and shall not permit a person to consume an alcoholic beverage on the premises between 2:15 a.m. and 10:00 a.m. each day.
 - k. BYOB establishments may not allow a member of the public to remain on its premises, including a parking area, between 2:30 a.m. and 10:00 a.m. each day.
 - l. BYOB establishments must designate the portions of the premises on which the consumption of alcoholic beverages is permitted and said designated area must exclude parking areas. BYOB establishments shall place signs at every exit from the designated area advising patrons that consumption of alcoholic beverages is not permitted beyond the exit. BYOB establishments shall post signs in each parking area located on the same property at the BYOB establishment stating that the outdoor consumption of an alcoholic beverage on the premises, outside of the designated area, is prohibited.
- (B) No form of pollution shall emanate beyond the immediate property line of the permitted use.
- (C) The planning and zoning commission may impose additional reasonable restrictions or conditions for any BYOB permit, to carry out the spirit and intent of this section and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping, and additional improvements such as curbing and sidewalks.

Section 2. Repealer: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

Section 3: Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 4: Codification: The City Secretary is hereby directed to record and publish the attached rule, regulations, and policies in the City's Code of Ordinances.

Section 5: Effective Date: This Ordinance shall be effective immediately upon passage and publication.

Section 6: Proper Notice and Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

CONSIDERED, PASSED, AND APPROVED this _____ day of August, 2023.

Norie Gonzalez-Garza, Mayor

ATTEST:

Anna Carrillo, City Secretary

APPROVED AS TO FORM:

Victor A. Flores, City Attorney