

ORDINANCE NO. 1103

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 11 BUSINESS REGULATIONS, BY AMENDING ARTICLE II ALCOHOLIC BEVERAGES, SECTION 11-45 RELATING TO HOURS OF OPERATION; PROVIDING A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND OPEN MEETINGS CLAUSE; PROVIDING AN EFFECTIVE DATE AND RELATED MATTERS.

WHEREAS, numerous business located within the City of Kyle sell or offer for sale alcoholic beverages;

WHEREAS, the City of Kyle desires to clearly identify the hours during which these businesses can sell or offer for sale alcoholic beverages;

WHEREAS, the clarification of regulations for sale of alcoholic beverages is necessary to for the health, safety, and welfare of Kyle residents, business, and visitors and is authorized by the City Charter and Sections 105.03 and 105.05, Texas Alcoholic Beverage Code.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

Section 2. Amendment of Hours of Sale for Alcoholic Beverages. Sections 11-45 and 11-52 of the City of Kyle Code of Ordinances are hereby amended to read as follows:

Sec. 11-45. - Hours of operation.

An on-site permittee or licensee operating within the city limits may sell, allow to consume or to be served alcoholic beverages on the licensed premises during the hours as permitted by the TABC in compliance with the permittee's or licensee's permit; provided that on-site permittee's or licensees may only sell alcoholic beverages during the extended hours authorized in Section 11-52. An off-site permittee or licensee operating within the city limits may sell alcoholic beverages during hours as permitted by TABC in compliance with the permittee's or licensee's permit.

However, should the premises be located in a zoning district which limits the hours of operation for businesses within the district, the zoning regulations shall control the hours of operation.

Sec. 11-52. - Late hours sale or offer for sale of mixed beverages.

(a) A permittee that has been issued a mixed beverage permit and a late-hours mixed beverage permit by the Texas Alcoholic Beverage Commission (TABC) may sell or offer

for sale mixed beverages on the permittee's premises between the hours of 12:00 midnight and 2:00 a.m. on Saturday, and Sunday, if otherwise in compliance with this division.

(b) A permittee must show written proof satisfactory to the chief of police that the permittee has been issued a mixed beverage permit and a late-hours mixed beverage permit from the TABC before the permittee may sell or offer for sale mixed beverages on the permittee's premises between the hours of 12:00 midnight and 2:00 a.m. on the days set forth in Section 11-52(a).

(c) If any written proof provided by the permittee is not satisfactory to the chief of police, the permittee may appeal the chief's decision to the city council. Upon appeal, the city council shall decide if said proof meets the requirements of subsection (a) of this section and the Code. If the city council so determines, the permittee may proceed with the sale or offer for sale of mixed beverages on the permittee's premises between the hours of 12:00 midnight and 2:00 a.m. on the days set forth in Section 11-52(a). If the city council determines that said proof does not meet the requirements of said subsection or the Code, the city council may request of the TABC to cancel or suspend the permittee's late-hours permit or to seek any other remedies available at law to the TABC.

Section 3. Savings Clause. All rights and remedies of the City of Kyle are expressly saved as to any and all violations of the provisions of any ordinances affecting alcoholic beverage sales during specified hours 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. Severability. It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity 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 of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date. This ordinance shall take effect immediately upon its approval and passage and publication as required by law.

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

PASSED AND APPROVED on this the 21st day of July, 2020.

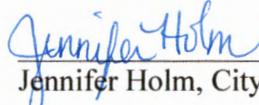
FINALLY PASSED AND APPROVED on this the 21st day of July, 2020.

The City of Kyle, Texas



Travis Mitchell, Mayor

ATTEST:



Jennifer Holm, City Secretary