

## **ORDINANCE 6**

### **PERMITS TO SELL ALCOHOLIC BEVERAGES**

**THIS ORDINANCE WILL PROVIDE THE PROCEDURE FOR BUSINESSES IN LOG CABIN, TEXAS CITY LIMITS TO OBTAIN A PERMIT TO SELL ALCOHOLIC BEVERAGES, ACCORDING TO TEXAS ALCOHOL BEVERAGE CODE (TABC) TITLE 3 CHAPTERS 11 and 25.**

#### **SECTION I: ALCOHOLIC BEVERAGE CODE AUTHORIZES CITIES TO REQUIRE A PERMIT**

The governing body of a city or town may levy and collect a fee for each permit issued for premises located within the city or town. The fee may not exceed one-half of the statutory fee for each permit issued for premises located within the city or town. The authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy taxes levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

#### **SECTION II: CITY SECRETARY DUTIES**

Texas Alcoholic Beverage Code certifies the City Secretary to issue alcoholic beverage licenses and permits for the city. The following are the responsibilities of the City Secretary, and they are 2-fold (TABC Chapter 11.37):

- A.) The City Secretary shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by the city's charter or ordinance.
  - a. Section 11.37 states that a city secretary will merely certify whether an ordinance or charter prohibits the sale of alcohol beverages in the area where alcoholic beverages will potentially be sold. Under this section, certification is properly withheld only if an ordinance or charter prohibits the sale of alcoholic beverages in a manner allowed by the TABC. A city's charter or ordinances must be in conformance with the Code. The certification provision does not grant any additional authority to a city. This certification only applies at the time of original permit application. There is no certification role in the annual renewal process.
- B.) The City Secretary will also be responsible for keeping a copy of the most current fee chart provided by the TABC.

#### **SECTION III: PERMIT FEE**

TABC Chapter 11.38 and 61.35 are essentially identical and address the local fees authorized for permits and licenses, respectively:

- A.) Section 11.38 of the Texas Alcohol Tax Code states that the governing body of a city or town may levy and collect a fee for each permit issued for premises located within the city or town. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the permit issued. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.
- B.) The commission or administrator may cancel or suspend a permit if it finds that the permittee has not paid a fee levied under this section within 180 days after the date the fee was levied. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.
- C.) Nothing in the code shall be construed as a grant to any political subdivision of the authority to regulate licensees except by collecting the fees authorized in the section and exercising those powers granted to political subdivisions by other provisions of the code.
- D.) The one-year and two-year fee for businesses that have a state alcohol beverage permit or license shall be an amount equal to one-half the state fee for each permit or license issued for selling, brewing, distilling, manufacturing or distribution of alcoholic beverages.
- E.) Revenues and surcharges from fees collected by the commission under this section shall be deposited in the general revenue fund. (TACB Chapter 5.50)
- F.) The alcohol license is valid for two years from the date of issuance. Permittee can elect a one-year term ONLY if the total cost for your alcohol license exceeds **\$100.00**. If the total is \$100.00 or less, the permittee will be required to pay for a two-year license term.

#### **SECTION IV: REGULATIONS OF LIQUOR, BEER, MIXED BEVERAGES, AND WINE**

The following are the regulations and responsibilities of the city:

- A.) No person may sell, or offer for sale, mixed beverages at any time not permitted by this section.
- B.) This City Ordinance will follow and conform to Texas Alcoholic Beverage Code. See TABC for guidance on sell/serve hours, fees, location restrictions, etc.
- C.) The City of Log Cabin will have no extended hours for mixed beverage sale or service.
  - a. In a city with less than 800,000/500,000 census (according to Bureau of the Census/Decennial Census of the U.S.) the extended hours prescribed are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverage late hours permit:


- i. In the unincorporated areas of the county if the extended hours are adopted by an order of the commissioner's court; and
- ii. In an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.
- iii. A violation of a city ordinance or order of a commissioner's court adopted pursuant to TABC Alcohol Codes. The extended hours are created by the city council and a city ordinance.

D.) In accordance with HB 1518, effective September 1<sup>st</sup>, 2021, wine and beer can be sold beginning at 10 a.m. on Sundays.

#### **SECTION V: ORDERS FOR PROHIBITION OR CONSUMPTION**

A city council can petition the Texas Alcoholic Beverage Commission for an order to prohibit possession of an open container or the public consumption of alcoholic beverages in the central business district of the city.

PASSED AND APPROVED ON JULY 15<sup>TH</sup>, 2021 BY THE LOG CABIN CITY COUNCIL.



Mayor Jennifer Williams



City Secretary Leara Thorp