

ORDINANCE NO. 2021-04-12A

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LADONIA, TEXAS, REGULATING AND PROVIDING PROVISIONS RELATING TO BRING-YOUR-OWN-BOTTLE (BYOB) ACTIVITIES IN THE CITY OF LADONIA

WHEREAS, Texas Alcoholic Beverage Commission (TABC) regulations do not prohibit customers from bringing in their own Beer and Wine to restaurants; and

WHEREAS, the TABC allows municipalities the right to enact ordinances regulating such conduct; and

WHEREAS, the City of Ladonia City Code does not provide adequate tools for handling or governing BYOB activities; and

WHEREAS, the City Council desires to provide a new process for directing, regulating, maintaining and providing provisions for BYOBs; and

WHEREAS, the City Council finds it to be desirable and in the best interest of the public to provide definition for "BYOB Operation" and to include it as a permitted use in certain zoning districts in the City of Ladonia; and

WHEREAS, the City Council also finds it necessary to provide for specific provisions, rules, regulations, and guidelines to properly govern BYOBs to all for the continued quality of life for all residents; and

WHEREAS, proposed Ordinance 2021-04-12B has been developed to address the above stated needs; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ladonia, Texas that:

(1) The foregoing recitals are incorporated herein as if set forth in full and constitute findings of the City Council.

(2) BYOB Establishments, if not properly regulated/operated, present grave health, safety and welfare concerns for the City of Ladonia. Improperly regulated/operated BYOB establishments have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. Improperly regulated/operated BYOB establishments are a financial burden to the City by the repeated calls for service to the properties. This Ordinance is enacted to direct, regulate and provide provisions relating to bring-your-own-bottle (BYOB) activities. This remedy is not an exclusive

remedy available under any state or local laws, and may be used in conjunction with such other laws.

(3) For purposes of this Ordinance, the following words or phrases shall have the meaning prescribed below:

"Alcoholic Beverages" - the term means alcohol, or any beverage containing more than one-half of one percent alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

"Liquor" - means any alcoholic beverage containing alcohol in excess of four percent by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

"Distilled spirits" means alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them, and includes spirit coolers that may have an alcoholic content as low as four percent alcohol by volume and that contain plain, sparkling, or carbonated water and may also contain one or more natural or artificial blending or flavoring ingredients.

"BYO" and/or "BYOB" - the term is meant to stand for "bring your own bottle," "bring your own beer," "bring your own beverage," "bring your own bag," or "bring your own booze." The practice of an individual bringing any alcoholic beverage to an establishment or property from another location for the purpose of consumption by either themselves or others.

"BYOB Business Operation Permit" - a permit issued by the City of Ladonia authorizing a business to operate as a BYOB within the City in accordance with the regulations set forth herein.

"BYOB Establishment" - any business facility, such as a dance hall, club, restaurant, meeting room or association, not licensed by the TABC, wherein patrons 21 years of age and older may consume alcoholic beverages, which said patrons or others have carried onto the premises. Such may or may not require payment of any entry fee, cover charge, or membership fee, or associated with the purchase of non-alcoholic beverages or food.

"BYOB Facility" - any properly licensed BYOB within the City of Ladonia.

"BYOB Special Event Permit" - a permit issued by the City of Ladonia authorizing a non-profit, charitable organization, religious entity, or other community organization to hold a BYOB special event within the City in accordance with the regulations set forth herein.

"City" - shall mean the City of Ladonia or its agents such as Police, Fire, Code and or any other duly appointed official working for the City of Ladonia.

"Control" - means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property;

"Drug-Related Activity" - means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by State law.

"Patron" - an individual who is a customer, client, paying guest, or the like.

"Person" - means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them;

"Person Responsible for the Property" or "Person Responsible" - means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this ordinance, an occupant in control of the property or structure which is subject to this ordinance, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this ordinance and/or any person who has control over the property to include a manager or employee.

"Premises and Property" - may be used by this Ordinance interchangeably and means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property and or any structure either permanently affixed or temporarily placed to include vehicles, trailers and the like;

"Residential District" - for the purposes of this ordinance Residential District shall mean any area of the City of Ladonia that is zoned any type of residential in accordance with the Ladonia Zoning Ordinance.

(4) Authorization of BYOB Operations via BYOB Operations Permit

BYOB Operations, as herein defined, shall be permitted in the City of Ladonia subject to the following conditions:

A. Any person or business who/which desires to operate as a BYOB facility must apply to the City of Ladonia for a BYOB Business Operation Permit pursuant to policies promulgated and fees established by the City of Ladonia Council from time-to-time.

B. The BYOB Business Operation Permit shall be prominently displayed at or near the main entrance to the business in which the BYOB Operation is to occur. Lamination or Framing is acceptable but at no time shall the permit be displayed in a fashion that it is not readily and completely visible by any member of the public or any City official who arrives at the facility and is at or near the entrance.

C. Any and all BYOB facilities and any and all perspective BYOB facilities shall obtain and keep in force broad-form general liability insurance coverage.

D. Proof of this insurance shall be filed with the City of Ladonia City Secretary at the time of the application for a BYOB Business Operation Permit.

E. Should the BYOB facilities insurance carrier change throughout the year, it shall be the responsibility of BYOB facilities person who is responsible for the property to provide an updated copy to the City Secretary within seventy-two (72) hours of the change.

F. A BYOB Operation must be in compliance with all applicable federal, state and municipal laws and codes.

G. Any business that desires to be a BYOB Operation and any person responsible for the property shall be in good standing with all monies owed to the City of Ladonia.

H. Any business that desires to be a BYOB Operation and any person responsible for the property shall not have been deemed a nuisance property or the person responsible for the property deemed a nuisance as defined by Ladonia City Ordinance within the past two (2) years; and

I. All BYOB Operations must post the BYOB Business Operation Permit at or near the main entrance of any facility in which or property on which a BYOB Operation is taking place, fully visible to patrons from outside the facility.

(5) Authorization of BYOB Operations via BYOB Special Event Permit –

A. A permit issued by the City of Ladonia authorizing a non-profit, charitable organization, religious entity, or other community organization to hold a BYOB special event within the City shall be granted to eligible organizations.

B. Any and all BYOB Special Event Permit requests shall obtain and keep in force broad-form general liability insurance coverage, naming the City of Ladonia as an additional insured covering the time of the event.

C. Proof of this insurance shall be filed with the City of Ladonia City Secretary at the time of the application for a BYOB Special Event Permit.

D. A BYOB Special Event Permit shall be valid for up to forty-eight (48) hours running consecutively (2 day event), during which time, alcoholic beverage consumption shall be restricted to the hours allowed by this Ordinance.

E. A BYOB Special Event Applicant shall be authorized to host up to one special event per month.

F. Each and every special event where BYOB is to take place shall require a separate permit and application process.

G. Any person non-profit, charitable organization, religious entity, or other community organization who/which desires to obtain a BYOB Special Event must apply to the City of Ladonia for a BYOB Special Event Permit pursuant to policies promulgated and fees established by the City of Ladonia Council from time-to-time, and administered by the City Secretary.

H. Any person non-profit, charitable organization, religious entity, or other community organization who/which desires to obtain a BYOB special Event shall apply and successfully obtain a City of Ladonia BYOB Special Event Permit prior to such operation taking place.

I. All BYOB Special Events and any Person responsible for the property of a BYOB Special Event and any BYOB Special Event facilitator shall be in good standing with all monies owed to the City of Ladonia.

J. All BYOB Special Events and any Person responsible for the property of a BYOB Special Event shall not have been deemed a nuisance property or the Person responsible for the property a nuisance was declared upon as defined by Ladonia City Ordinance within the past two (2) years.

N. All BYOB Special Events must post the BYOB Special Events Permit at or near the main entrance of any facility in which or property on which a BYOB Special Events is taking place, fully visible to patrons from outside the facility. Should the Special Events be in an open air environment, the BYOB Special Events Permit shall be placed in a window of a building and or a window of a vehicle owned by the BYOB Special Event facilitator and on location. The BYOB Special Event Permit must at all times be readily visible and readable to the public or any City official who arrives at the facility and is at or near the entrance.

(6) Performance Standards

A. No alcohol may be consumed in the permitted premises between the hours of 11 P.M. and 11 A.M.

B. Entertainers are prohibited from coming into physical contact with any patron while performing. Entertainers in the interior of a BYOB establishment's building shall not be visible from outside that building.

C. Gambling of any type, lotteries, and gambling devices are prohibited on the premises.

D. Alcoholic beverages may not be consumed by persons under twenty-one (21) years old.

E. No alcoholic beverages may be served to any adult in a booth or table where a minor is seated, unless the minor is accompanied by a parent or legal guardian, and is properly supervised.

F. The consumption of alcoholic beverages on the premises by visibly intoxicated persons shall be prohibited.

G. Business owners and employees shall not be visibly intoxicated on the premises.

H. Alcoholic beverages shall not be offered as a prize for any activity conducted on the premises.

(7) Term

BYOB Business Operations Permits shall be effective for a period of one (1) year, and, regardless of date of issue, shall end on December 31st of the issuing year.

(8) Fees

BYOB Business Operation Permit - The cost of a BYOB Business Operation Permit shall be twenty-five (\$25.00) dollars per year. This fee shall be paid in full at the time of application. The fee is not prorated.

BYOB Special Event Permit - The cost of a BYOB Special Operations Permit shall be twenty-five (\$25.00) dollars. This permit shall only be good for up to 48 consecutive hours, and shall only be granted to qualifying applicants in accordance with this Ordinance.

Fees must be paid in full and in advance of the application being reviewed and the Permit being issued.

Should a BYOB Business Operations Permit be denied, the fee, minus an administrative fee of twenty-five (\$25.00) dollars, will be returned to the applicant.

(9) Violations and Penalties

Any person or entity who violates any provision of this Ordinance, upon conviction in a summary proceeding, shall be sentenced to pay a fine of not less than one hundred (\$100) dollars nor more than six hundred (\$600) dollars, plus costs of prosecution per violation, and, in default of payment of the same, to undergo imprisonment for not more than thirty (30) days. This shall include the individual operator, manager, owner or patron as appropriate.

Multiple offenses occurring on the same day shall constitute separate violations with regard to prosecution and/or administrative proceedings. The fact that multiple violations occurred at or on the same day shall not allow for said violations to be combined and counted as one single offense.

Enforcement shall be by the Ladonia Police Department or Fannin County Sheriff Department.

(10) Revocation

In the event the BYOB Operation fails to fully and completely comply with the provisions hereof or is convicted of any unlawful activities as defined in this article during the term of the BYOB Permit so issued, the Police Department shall have the authority to revoke the BYOB Permit for a period of six (6) months.

Permit and revocation decisions shall be made by the Chief of Police or his/her designee. Any person aggrieved by such a decision may appeal to a court of competent jurisdiction. The City shall, upon filing such appeal, consent to any request by a permit applicant or a person whose permit has been revoked expedited review to such appeal. The City shall certify any records to the court within twenty (20) days of any request by the court to do so.

(11) Summary Closure

Nothing in this Ordinance prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public welfare and safety.

(12) Severability

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any remaining sections, clauses or sentences of the same.

All other applicable sections of the Code of the City of Ladonia governing alcoholic beverages and/or nuisance properties shall in all other respects be and remain in full force and effect.

If any portion of this Ordinance, or its application to any person or circumstances, is held invalid, the validity of the ordinance as a whole, or any other portion thereof, or the application of the provisions to other persons or circumstances is not affected.

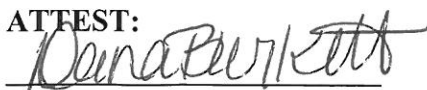
If any one or more sections, subsection, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

Finally, that any Ordinance or Resolution or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.


(13) The City Secretary of the City of Ladonia is hereby directed to have published as authorized by Section 52.011 Local Government Code in the official newspaper of the City the caption and effective date of this ordinance.

PASSED AND APPROVED, this 12th day of April, 2021.

ATTEST:



Dana Burkett, City Secretary


Jan Cooper, Mayor