

AN ORDINANCE OF THE CITY OF LEON VALLEY, TX, CITY COUNCIL AUTHORIZING THE AMENDING OF THE LEON VALLEY CODE OF ORDINANCE, CHAPTER 4 BUSINESS REGULATIONS, BY ADDING ARTICLE 4.13 HOURS OF OPERATION, SECTIONS 4.13.001–4.13.007; LIMITING BUSINESS HOURS OF OPERATION AND REQUIRING A SPECIFIC USE PERMIT FOR AFTER HOURS OPERATION; PROVIDING REPEAL; SEVERABILITY; SAVINGS; AN EFFECTIVE DATE; AND NOTICE OF OPEN MEETING CLAUSES AND PROVIDING FOR A PENALTY.

WHEREAS, Chapter 211 of the Local Government Code grants the City authority to regulate land use, structures, business and related activities for the purpose of promoting the public health, safety, morals, or general welfare of the municipality;

WHEREAS, Chapter 51 of the Local Government Code grants the City the authority to adopt an ordinance or rule that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and is necessary or proper for carrying out a power granted by law to the municipality;

WHEREAS, The City of Leon Valley City Council wishes to add Article 4.13 Hours of Operation. The City of Leon Valley City Council believes that it is in the best interest of the citizens of Leon Valley that establishments should not be allowed to operate past 2:00 a.m., without a Specific Use Permit from the City; and

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

SECTION 1. All the above premises are hereby found to be the true and correct legislative and factual findings of the City of Leon Valley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION 2. Chapter 4 Business Regulations, Article 4.13 Hours of Operation, Sections 4.13.001- 4.13.007 shall read as follows:

Article 4.13 Hours of Operation

Sec. 4.13.001 – Definitions

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this article.

Business. Any business that has been issued a certification of occupancy by the City of Leon Valley.

Director. The Director of Planning and Zoning hereby designated to enforce and administer this article.

Sec. 4.13.002 - Hours

No business shall be kept open to the public for the establishment's designed purpose, between the hours of 2:00 a.m. and 5:00 a.m.

Sec. 4.13.003- Exemptions

An establishment may apply for a Specific Use Permit from the Planning and Zoning Department authorizing an establishment to operate past 2 a.m.

Sec. 4.13.004- Specific Use Permit (SUP)

- (a) The Director must take all approved SUP applications to the Planning and Zoning Committee for a recommendation and then to the City Council for final approval.
- (b) If approved by the City Council, the business may operate per the approval of the SUP.

Sec. 4.13.005- Revocation

- (a) A SUP permit issued in conjunction with this Article does not become a vested right and is not considered a continuous specific use permit.
- (b) A SUP permit issued in conjunction with this Article may be suspended or revoked for good cause by the City Council after notice and opportunity for a public hearing is given.

Sec. 4.13.006- Effective Date

- (a) This article is hereby effective as of August 1, 2023. Any business with a certificate of occupancy issued prior to August 1, 2023, is not subject to this article.
- (b) A business may not transfer to another person and/or business a SUP pursuant to hours of operation. Any change in ownership of an establishment, including, but not limited to, the sale of the establishment or any ownership interest therein, shall require the purchaser or transferee to submit a new SUP application to the Planning and Zoning Department.

Sec. 4.13.007 - Inspection and maintenance of records

- (a) An applicant or licensee shall permit representatives of the police department, health department, fire department and building inspections division to inspect the premises for the purpose of insuring compliance with the law at any time the

establishment is occupied or open for business.

- (b) A person who operates an establishment or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.

SECTION 3. REPEALER CLAUSE. Except Ordinances in place for specific types of establishments listed in Chapter 4 the provisions of the Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent by any other ordinance.

SECTION 4. SEVERABILITY CLAUSE. If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

SECTION 5. SAVINGS CLAUSE. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective on and after its passage, approval and the meeting of all publication requirements as provided by law.

SECTION 7. NOTICE OF MEETING CLAUSE. 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, Chapter 551 of the Texas Government Code.

SECTION 8. PENALTY. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined as provided in Chapter 1. General Provisions, Article 1.01 Code of Ordinances, Section 1.01.009 General penalty for violations of code: continuing violations of the City of Leon Valley Code, and/or applicable state law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Leon Valley
this the 1st day of August, 2023.

APPROVED

CHRIS RILEY
MAYOR

Attest:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

Approved as to Form:

NICOLE WARREN
City Attorney