

ARTICLE 4.03 ALCOHOLIC BEVERAGES¹

DIVISION 1. GENERALLY

Sec. 4.03.001 Penalty

Each violation of this article shall be punishable by a fine in accordance with section 1.01.009 of this Code. Each day shall constitute a separate offense.

(1972 Code, sec. 13.302; 2008 Code, sec. 4.03.001; Ordinance adopting 2017 Code)

Secs. 4.03.002—4.03.030 Reserved

DIVISION 2. LICENSE AND PERMIT FEES²

Sec. 4.03.031 Definitions

Except as otherwise provided in this section, all words, and phrases in this article, which are defined in the Texas Alcoholic Beverage Code, shall, for the purposes of this article, have the definition ascribed to them in such Act.

Code means the Texas Alcoholic Beverage Code as same may be amended, revised or re-codified in the future.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.032 Code adopted

The Texas Alcoholic Beverage Code is hereby adopted and made part of this article by reference for all purposes as though fully set out herein.

(Ord. No. 2022-54 , § II, 12-6-2022)

¹State law reference(s)—Regulation of alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code, § 109.31 et seq.

²Ord. No. 2022-54 , § II, adopted December 6, 2022, amended in its entirety the former Division 2, §§ 4.03.031—4.03.036, and enacted a new Division 2 as set out herein. The former Division 2 pertained to similar subject matter and derived from 1972 Code, secs. 13.101—13.104, 13.201, 13.301; 2008 Code, secs. 4.03.031—4.03.036.

State law reference(s)—Local fee authorized on alcoholic beverage permits, V.T.C.A., Alcoholic Beverage Code, § 11.38; local fee authorized on alcoholic beverage licenses, V.T.C.A., Alcoholic Beverage Code, § 61.36.

Sec. 4.03.033 Hours for sale and consumption

The "Standard Hours Area" provisions as established by Chapter 105 of the Texas Alcoholic Beverage Code are hereby adopted for the City of Leon Valley.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.034 Late hours permit

- (a) *Adoption of extended hours by city.* All establishments in the city limits and in compliance with the conditions of the city late hours permit will have their application for extended hours approved by the city secretary. The late hours permit holder may thereafter legally offer alcohol for sale between midnight and 2:00 a.m. on any day, as prescribed by Texas Alcoholic Beverage Code §§ 105.03 and 105.05.
- (b) *Application for late hours permits.* Establishments seeking extended sale of alcohol hours must file an application for a permit with the Texas Alcoholic Beverage Commission and with the office of the city secretary. Applications for late hour permits must be approved by the city secretary before an establishment can observe extended hours in the city. An establishment seeking a permit from the city must pay a fee of one-half of the fee charged by the state for a mixed beverage late hours permit, except when said fee is waived according to the provisions of the Texas Alcoholic Beverage Code.
- (1) An application for a permit must include but may not be limited to the following provisions: name, title, address, and telephone number of the authorized representative of the applicant.
- (2) The application must include a sworn affidavit demonstrating that:
- a. At least 51 percent of the establishment's gross daily receipts will be non-alcohol; and
 - b. The establishment will continue offering for sale food or its other non-alcohol commodities or services for the duration of the extended alcohol service hours.
- (3) The city secretary shall make a determination on an application for a permit on or before the 30th day after the date the application was filed.
- (c) *Appeals process.* An applicant or permittee whose application is denied, or permit is revoked by the city secretary under the provisions of this article may appeal the city secretary's decision to city council.
- (d) *City late hours permit.* The city secretary may not grant a permit unless the applicant has complied with the requirements of the application. Continued operation of late hours is conditioned on compliance with the statements in the affidavit for the entirety of the permit period.
- (1) The permit must show that the establishment may:
- a. Legally offer alcohol for sale between midnight and 2:00 a.m. any day, as prescribed by Texas Alcoholic Beverage Code, §§ 105.03 and 105.05.
 - b. Conditioned on:
 1. At least 51 percent of the establishment's gross daily receipts being non-alcohol; and
 2. The establishment continuing to offer the sale food or its other non-alcohol commodities or services for the duration of the extended alcohol service hours; and
 - c. The time frame for which the permit is valid.
- (2) Compliance procedure. The permit holder shall fully cooperate with city officials, the Texas Alcoholic Beverage Commission, and local law enforcement in their efforts deemed reasonably necessary to

ensure compliance with the conditions of the permit. Compliance may be assessed by, but is not limited to, the following mechanisms: random audits, checking receipts upon yearly application, and reporting by citizens.

- (3) Expiration. The permit will expire - two years from the date on which it is granted. The establishment must apply for the permit every two years to maintain extended hours. The establishment's compliance with the conditions of the permit will be formally re-evaluated with each yearly application.
- (4) Permit revocation. If a permit holder fails to comply with this article or applicable state law, a permit issued under this article may be revoked for a period of six months.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.035 City fees levy

- (a) *Levy against permit.* The city does hereby levy a city alcoholic beverage fee equal to one-half of the state fee, as provided by Section 11.38, of the Texas Alcoholic Beverage Code and other relevant provisions of said code, against each permit issued. Notwithstanding the forgoing, the following shall be exempted from the levy:
 - (1) Agent's, industrial, carrier's, private carrier's, private club registration, local cartage, storage, and temporary wine and beer retailer's permits.
 - (2) Wine and beer retailer's permit issued for a dining, buffet, or club car; and
 - (3) A mixed beverage permit during the three-year period following the issuance of the permit.
- (b) *Levy against licenses.* The city does hereby levy a city alcoholic beverage fee equal to one-half of the state fee, as provided by Section 61.36, of the Texas Alcoholic Beverage Code and other relevant provisions of said Code, against every permittee who is domiciled within the corporate limits of the city and who holds a permit from the state alcoholic beverage commission for the purchase, transportation, importation, sale or manufacture of alcoholic beverages or other permits in regard thereto; except a temporary or agent's beer license, issued for premises located within the county.
 - (1) A licensee who sells an alcoholic beverage without first having paid a fee levied under this section commits a Class "C" misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.036 Beverage fee due date; fees for portion of year; separate fee for each outlet

- (a) All fees levied by this article shall be due and payable in advance for two year from the date of the issuance of the permit or license issued by the state alcoholic beverage commission, unless such fee is collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of such permit to midnight of the last day of August succeeding and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee which shall be due.
- (b) A separate fee shall be paid for each sales location in this city.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.037 Refund of fees

No refund of the fee shall be made for any reason, except when the permittee is prevented from continuing in business by reason of the result of a local option election, or a rejection of an application for a permit by the state alcoholic beverage commission or its administrator.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.038 Display of city alcoholic beverage fee receipt

The City of Leon Valley Alcoholic Beverage Fee Receipt shall be displayed in a conspicuous place at all times on the licensed premises. Failure to so display said receipt shall constitute of Class "C" misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00.

(Ord. No. 2022-54 , § II, 12-6-2022)

Sec. 4.03.039 Cancellation or denial of license or permit

- (a) The commission or administrator may cancel or deny a license for the retail sale of alcoholic beverages, including a license held by the holder of a food and beverage certificate, if it finds that the license holder or applicant has not paid delinquent ad valorem taxes due on that licensed premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection, a license holder or applicant is presumed delinquent if the payment of taxes due from the license holder or applicant:
 - (1) Is placed on a delinquent tax roll prepared under Section 33.03, Tax Code.
 - (2) Has received a notice of delinquency under Section 33.04, Tax Code; and
 - (3) Has not made a payment required under Section 42.08, Tax Code.
- (b) The city may cancel or deny an application or permit issued by the city if the permit holder or applicant has not paid delinquent ad valorem taxes due on the permitted premises or due from a business operated on the premises to any taxing authority in the county of the premises. Failure to renew on time with the city, may also result in permit cancellation.

(Ord. No. 2022-54 , § II, 12-6-2022)