

ORDINANCE NO. 2021-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE'S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, CHAPTER 10 (ALCOHOLIC BEVERAGES), ARTICLE II (POSSESSION AND CONSUMPTION IN PUBLIC PLACES); MODIFYING REGULATIONS ON THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES; PROVIDING A REPEALING CLAUSE, A SEVERABILITY CLAUSE, A PENALTY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Wylie, Texas ("City Council") finds that it is in the best interest of the citizens of City of Wylie, Texas ("City") to amend Chapter 10 (Alcoholic Beverages), Article II (Possession and Consumption in Public Places) of the City's Code of Ordinances, Ordinance No. 2021-17, as amended ("Code of Ordinances"), as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Chapter 10 (Alcoholic Beverages), Article II (Possession and Consumption in Public Places) of the Code of Ordinances. Chapter 10 (Alcoholic Beverages), Article II (Possession and Consumption in Public Places) of the Code of Ordinances is hereby amended to read as follows¹:

"CHAPTER 10 - ALCOHOLIC BEVERAGES

ARTICLE II – POSSESSION AND CONSUMPTION IN PUBLIC PLACES

...

Sec. 10-21. Declared Unlawful Possession and Consumption in Certain Public Places Prohibited

~~It shall be unlawful for any person to possess or consume any open alcoholic beverage, as defined in Texas Alcoholic Beverage Code § 1.04, in any public place within the corporate limits of the City.~~

- (a) A person commits an offense if he possesses or consumes an alcoholic beverage on the premises of a park, recreational area or other public open space or facility or structure owned, leased or operated by the City. A

¹ Deletions are evidenced by ~~strike through~~; additions are underlined.

violation of this section is punishable by a fine not to exceed five hundred dollars (\$500.00) and shall be considered trespassing as defined by state law.

(b) It is a defense to prosecution or enforcement of a violation of Subsection (a) that:

(1) The container of alcoholic beverage possessed by the person had an unbroken seal or other evidence of having never been opened, or

(2) The person was on the premises of a park, recreational area or other public open space or facility or structure for which:

a. A valid license or permit to sell or serve alcoholic beverages was issued by the Texas Alcoholic Beverage Commission and the person was within the area authorized by the Texas Alcoholic Beverage Commission for alcohol sales, service or consumption; or

b. A lease or rental agreement or other written permission had been granted by the City or the City Manager or his designee, allowing the possession and consumption of an alcoholic beverage, subject to conditions or regulations imposed by the City or the City Manager or his designee.

(c) For the purpose of this Section, the term “alcoholic beverage” means and refers to an alcoholic beverage as defined by the Texas Alcoholic Beverage Code.

(d) Nothing in this Section is intended to prohibit or otherwise control the manufacture, sale, distribution, transportation, consumption or possession of alcoholic beverages, except to the extent allowed by state law.

Sec. 10-22. Exceptions Reserved

~~This article shall not apply to persons in their private residences as guests of other persons in such other persons' private residences or to persons within privately owned premises.”~~

SECTION 3: Savings/Repealing. All provisions of the Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said

ordinances shall remain in full force and effect.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 5: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED by the City Council of the City of Wylie, Texas, this 25th day of May 2021.

Matthew Porter, Mayor

**ATTESTED AND
CORRECTLY RECORDED:**

Stephanie Storm, City Secretary

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