



Wylie City Council

AGENDA REPORT

Department: City Secretary
Prepared By: City Secretary

Account Code: _____

Subject

Consider, and act upon, Ordinance No. 2022-49 amending Wylie's Code of Ordinances, Ordinance No. 2021-17, as amended, Chapter 10 (Alcoholic Beverages) to add Section 10-22 to authorize extended hours for the sale or delivery of alcoholic beverages in accordance with Chapter 105 of the Texas Alcoholic Beverage Code.

Recommendation

Motion to approve Item as presented.

Discussion

Staff has received various inquiries over the years regarding extended alcohol sales hours at restaurants and other businesses such as gas stations. (In cities and counties that have “extended hours,” certain types of alcoholic beverages can be sold, delivered and/or consumed between the hours of midnight and 2 a.m. under rules enforced by the Texas Alcoholic Beverage Code.) In past conversations with TABC they have opined that to allow extended sale hours in Wylie, the City Council must adopt an ordinance. With the 2020 federal census being complete, Dallas and Collin Counties exceed the 800,000 population mark as stated in subsection (c) below, which would then allow extended sale hours under state law without an ordinance. With Wylie being located in two counties that fall under that criteria and one county that does not, TABC declined to offer guidance on whether extended hour sales would be allowed in the portions of Wylie located in Dallas and Collin Counties, but not Rockwall County, without an ordinance passed by Council. Attached is an ordinance for Council review and consideration. Approval of this ordinance would allow extended hours for sale, delivery and/or consumption within the City limits, subject to TABC rules and regulations.

Chapter 105, Sections 105.03, 105.05, and 105.06 of the Texas Alcoholic Beverage Code state:

HOURS OF SALE: MIXED BEVERAGES.

- (a) No person may sell or offer for sale mixed beverages at any time not permitted by this section.
- (b) A mixed beverage permittee may sell and offer for sale mixed beverages between 7 a.m. and midnight on any day except Sunday. On Sunday he may sell mixed beverages between midnight and 1:00 a.m. and between 10 a.m. and midnight, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer.
- (c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a mixed beverage permit who holds a retailer late hours certificate may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverage permit who holds a retailer late hours certificate:
 - (1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioner’s court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioner's court adopted pursuant to Subsection (d) of this section is a violation of this code.

HOURS OF SALE: MALT BEVERAGES.

(a) A person may sell, offer for sale, or deliver malt beverages only at a time permitted by this section.

(b) A person may sell, offer for sale, or deliver malt beverages between 7 a.m. and midnight on any day except Sunday. On Sunday a person may sell malt beverages between midnight and 1:00 a.m. and between noon and midnight, except that:

(1) permittees or licensees authorized to sell for on-premise consumption may sell malt beverages between 10:00 a.m. and noon if the malt beverages are served to a customer during the service of food to the customer; and

(2) holders of a retail dealer's on-premise license or a retail dealer's off-premise license may also sell malt beverages for off-premise consumption between 10:00 a.m. and noon.

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a retail dealer's on-premise license who holds a retailer late hours certificate may also sell, offer for sale, and deliver malt beverages between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) or any part of the extended hours prescribed in Subsection (c) are effective for the sale, offer to sell, and delivery of malt beverages by a holder of a retail dealer's on-premise license who holds a retailer late hours certificate:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioner's court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioner's court adopted pursuant to Subsection (d) is a violation of this code.

HOURS OF CONSUMPTION.

(a) In this section:

(1) "Extended hours area" means an area subject to the extended hours of sale provided in Section 105.03 or 105.05 of this code.

(2) "Standard hours area" means an area which is not an extended hours area.

(a-1) For the purposes of this section, a licensed or permitted premises is a public place.

(b) Except as provided by Subsection (f), in a standard hour's area, a person commits an offense if the person consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 1:15 a.m. and 12 noon or on any other day between 12:15 a.m. and 7 a.m.

(c) Except as provided by Subsection (f), in an extended hours area, a person commits an offense if the person consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 2:15 a.m. and 12 noon and on any other day between 2:15 a.m. and 7 a.m.

(d) Proof that an alcoholic beverage was possessed with intent to consume in violation of this section requires evidence that the person consumed an alcoholic beverage on that day in violation of this section.

(e) An offense under this section is a Class C misdemeanor.

(f) A person who is a registered guest of a hotel may consume or possess alcoholic beverages in the hotel bar, as defined by Section 105.091, at any time.