

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATALIA, TEXAS (“CITY”), REQUIRING FOR AN ALCOHOLIC BEVERAGE PERMIT; ESTABLISHING PERMIT PROCEDURES AND FEES FOR APPLICATIONS UNDER THE TEXAS ALCHOLIC BEVERAGE CODE; PROVIDING FOR REGULATIONS OF THE SALE OF ALCOHOLIC BEVERAGES; PROVIDING FOR A VARIANCE; PROVIDING A PENALTY; PROVIDING FOR A REPEALER; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Natalia, Texas (“City Council”) regulates for certain licenses and permits for the sale of alcohol within the City’s limits and appropriately filed with the State of Texas Alcoholic Beverage Commission (“TABC”); and

WHEREAS, the City Council hereby finds that creation of rules and procedures for the sale of alcohol within the City of Natalia is in the best interest of the citizens of this City; and

WHEREAS, Texas Alcoholic Beverage Code authorizes municipalities to levy and collect a fee not to exceed one half of the state’s fee for each license, except for temporary or agent’s beer license issued for premises located within the city, as a local fee for permits and licenses for the sale of alcohol; and

WHEREAS, all applications for permits and licenses for the sale of alcohol that are processed by the State of Texas Alcoholic Beverage Commission under the Alcoholic Beverage Code must be submitted to the City Secretary for approval and signature; and

WHEREAS, the City Council has determined that regulations are necessary in order to protect the public’s health, safety and welfare, and believes it will be beneficial to the citizens of the City of Natalia to pass this ordinance.

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

SECTION 1: DEFINITIONS

Alcoholic beverage. Alcohol or any beverage containing more than one half of one percent of alcohol by volume which is capable of use for beverage purposes either alone or when diluted. Types of alcoholic beverages include:

Ale or malt liquor. A malt beverage containing more than four percent of alcohol by weight.

Beer. A malt beverage containing one half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight.

Wine. The product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers.

Wine cooler. An alcoholic beverage consisting of vinous liquor plus plain, sparkling, or carbonated water and which may also contain one or more natural or artificial blending or flavoring ingredients. A wine cooler may have alcohol content as low as one-half of one percent by volume.

Mixed beverage. One or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit.

Alcoholic beverage permit. An official certificate issued by the City Secretary certifying compliance with

this ordinance.

Applicant or Permittee. A person who is filing for a permit or license, or is the holder of a permit or license provided for in this ordinance, or an agent, servant, or employee of that person.

Beer and wine retail sales (no drive through). Businesses that engage in the sale of beer, wine and/or malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17% by volume, for off-premise consumption only, with no drive-through facility.

Beer and wine retail sales (drive through). Businesses that engage in the sale of beer, wine and/or malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17% by volume, for off-premise consumption only, with a drive-through facility including a drive-up window, drive-through building or any other means of conducting sales without requiring customers to exit their vehicles.

Child-care facility. As those terms are defined by Section 42.002 of the Texas Human Resources Code means a certified facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all or part of the 24 hour day whether or not the facility is operated for profit or charges for the services it offers.

Church. Religious building for public worship.

Convenience center. Retail establishment which carries convenience goods, such as groceries, drugs, and some variety items, including grocery stores, markets, supermarkets and variety stores.

Hotel. The premises of an establishment where, in consideration of payment, travelers are furnished food and lodging; have at least ten rooms adequately furnished completely separate rooms with facilities so comfortably disposed that persons usually apply for and receive overnight accommodations in the establishment, either in the course of usual and regular travel or as a residence; or have at least five rooms in the building being used as a hotel of a historic structure.

On-premise consumption. The sale of an alcoholic beverage for the consumption in a business establishment as permitted herein.

Off-premise consumption. The sale of sealed alcoholic beverages by an establishment permitted herein for the sale of consumption off-premise.

Open container. A container that is no longer sealed.

Pre-packaged alcoholic beverage retail sales (no drive through). Businesses that engage in the sale of pre-packaged alcoholic beverages for off-premise consumption, with no drive-through facility.

Pre-packaged alcoholic beverage retail sales (drive through). Businesses that engage in the sale of pre-packaged alcoholic beverages, for off-premise consumption, with a drive-through facility including a drive-up window, drive-through building or any other means of conducting sales without requiring customers to exit their vehicles.

Restaurant. A place where meals are prepared and served to the public for consumption on or off the premises.

School. An organization that provides instruction as a private or public institute for the teaching of children, including college, or university.

State Permit/License. A permit or license issued by the State of Texas Alcoholic Beverage Commission for the purpose of distributing, selling, manufacturing, brewing, or importing alcoholic beverages.

SECTION 2: PERMIT PROCEDURES AND PERMIT FEES ESTABLISHED

- A. With the respect to the sale of alcoholic beverages, it shall be unlawful for any person to make such sales within the City without first obtaining proper approval from the Office of the City Secretary and make payment of the alcohol sales permit fee.
- B. The City Secretary shall review applications and make the determination of approval for the type of alcoholic sales permitted within the city limits and to ensure that the application complies with all city ordinances, regulations and location restrictions before issuance of said permit.
- C. Upon approval, the City Secretary shall collect a permit fee equal to one-half of TABC's fee required by the Alcoholic Beverage Code that may be issued a state permit or state license, or for the renewal of such permit or license for such alcohol sales.
- D. The City Secretary shall keep a record of receipts issued in the City Secretary's Office permit fees collected under the terms of this section; and must obtain copies of applicants current and valid Texas Alcoholic Beverage Commission Permit/License.
- E. All receipts expire at the same time the applicant's state permit or license issued by TABC expires; and shall be renewed in the same manner of first issuance and make the proper payment of permit fee set herein.
- F. Temporary permits or licenses issued by the State for premises located within the city are not applicable to the permit procedure and fees, which are specifically for festivals or civic events.

SECTION 3: REGULATIONS OF THE SALE OF ALCOHOLIC BEVERAGES

- A. Hours of Sale: The City shall follow the hours prescribed under the authority granted to municipalities by the Alcoholic Beverage Code; Chapter 105, Hours of Sale and Consumption. The City hereby also adopts extended hours within the city limits for the sell, consumption, and delivery of alcoholic beverages between the hours of midnight and 2:00 a.m. on Saturday and Sunday.
- B. Sales near Churches, Schools and Child-care Facilities: The city prohibits the sale of alcoholic beverages whose place of business is within:
 - a. 300 feet of a church, public or private school, and child-care facilities; or
 - b. 1,000 feet of a public or private school, if the governing body received a request from the school board or directors.

The measurement of the distance between the place of business where alcoholic beverages are sold shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

- C. Residential areas: The city prohibits the sale of alcoholic beverage whose place of business is zoned strictly residential.

SECTION 4: VARIANCE

The governing board of a city may allow variances to TABC Regulations, Chapter 109.33(a), if the governing body determines that enforcement of the regulation in a particular instance is not in the best

interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

SECTION 5: PENALTY

Any violation of the terms of this Ordinance not in conflict with the Alcohol Beverage Code regulations and penalty commits a Class C misdemeanor offense and is subject to fine not to exceed \$500 for each incidence of violation. A person commits a Class A misdemeanor offense in violation of any terms of this Ordinance in compliance with the chapters of the Alcohol Beverage Code and shall be punishable by a fine not to exceed \$4,000, confinement in jail for a term not to exceed one year, or both. Each violation is considered a separate offense and will be punished separately.

SECTION 6: REPEALER

All Ordinances of the City of Natalia in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, and all other provisions of the Ordinances of the City of Natalia not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7: SEVERABILITY

It is hereby declared to be the intention of the city council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8: EFFECTIVE DATE

This Ordinance shall become effective upon passage and publication as required by law.

PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 2014.

Approved:

Ruberta C. Vera, Mayor

Attested:

Lisa S. Hernandez,
City Administrator/Secretary, TRMC