

Antonio Araujo
Mayor

Leticia Miranda
Alderson Place 1

David Cantu
Alderson Place 2



Miguel Najera Jr.
Alderson Place 3

Maria Covernali
Alderson Place 4

George Almanzar
Alderson Place 5

ORDINANCE NO. 1815.28

LIQUOR LICENSEE REGISTRATION ORDINANCE

AN ORDINANCE OF THE CITY OF SAN ELIZARIO ADOPTING A LIQUOR LICENSEE REGISTRATION REQUIREMENT, REGULATING THE REGISTRATION, LICENSING OR PERMITTING OF LIQUOR LICENSEES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, ADOPTION, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE; DECLARING A VIOLATION OF THE ORDINANCE AS A MISDEMEANOR OFFENSE WITH A MAXIMUM PENALTY OF \$500 FOR EACH OFFENSE.

RECITALS

WHEREAS, the City of San Elizario (“City”) has enacted ordinances regulating the registration, licensing or permitting of most businesses in the City for the purpose of protecting citizens from illegitimate and unscrupulous business practices; and

WHEREAS, these ordinances contemplated further regulation of businesses by recognizing that a separate licensing or permitting requirement and collection of fees should be implemented for liquor licensees in the City, and the City now desires to implement this requirement; and

WHEREAS, Section 61.36 of the Texas Alcoholic Beverages Code authorizes the City to levy and collect certain local fees from liquor licensees; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to adopt an ordinance to regulate business registrations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of San Elizario, Texas:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

ORDINANCE II. ADOPTION AND ENACTMENT

The City Council hereby adopts and enacts the Ordinance “Liquor Licensee Registration Ordinance” attached hereto as “Attachment A” and incorporated fully herein this Ordinance for all intents and purposes.

ORDINANCE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not construed to affect any other valid portion of this Ordinance.

ORDINANCE IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

PASSED AND APPROVED this, the 10 day of July, 2018, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

(signatures appear on the following page)

CITY OF SAN ELIZARIO, TEXAS

for Felicia Miranda
Antonio Araujo, Mayor

*Mayor
Pro Temp
7-10-18*

ATTEST:

Nancy Montes
Nancy Montes, City Clerk

Attachment A

LIQUOR LICENSEE REGISTRATION ORDINANCE

Section 1. Definitions

A. General:

In this Ordinance, unless otherwise stated, a word or term used herein shall have a meaning consistent with the Texas Alcoholic Beverage Code. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

B. Specific:

City: City of San Elizario.

Business Days: The days that City Hall is open for the general conduct of business.

Liquor Licensee: A person who or an entity that has obtained a license or permit from the Texas Alcoholic Beverage Commission for the sale or manufacture of alcoholic beverages.

Registration Official: Building official or other designee of the Mayor.

Section 2. City License or Permit Required; Posting

A. No person or entity may manufacture, distill, brew, sell, import, export, transport, distribute, possess, possess for the purpose of sale, warehouse, store, bottle, rectify, blend, treat, fortify, mix, or process alcoholic beverages or possess equipment or material designed for or capable of use for manufacturing alcoholic beverages without first obtaining the license(s) or permit(s) from the City that corresponds to their state license or permit and paying the required fee as set forth in Exhibit 1 of this Ordinance.

B. Any person or entity that holds a license or permit from the Texas Alcoholic Beverage Commission for the sale or manufacture of alcoholic beverages on the effective date of this Ordinance shall obtain the City license or permit required by this Ordinance and pay the required fee as set forth in Exhibit 1 of this Ordinance within 45 calendar days of the effective date of this Ordinance. Applicants may request to prorate the period for their City license or permit, as provided in Section 5 A of this Ordinance, to allow for the expiration to be on the same date as the applicant's state license or permit.

C. A license or permit issued under this Ordinance shall be posted or displayed in a prominent location on the premises.

Section 3. Application Process and Appeal

A. Applicants shall submit to the City an application for a license or permit under this Ordinance on a form provided by the City. The applicant for a license or permit under this

Ordinance shall additionally exhibit, to the Registration Official, a copy of the permit or license duly issued by the state to the applicant at the time of application for the City license or permit.

B. Upon completion of the processing of the application, the Registration Official shall approve the application within ten (10) business days unless the Registration Official finds:

1. the applicant has made or caused to be made false statements or misrepresentations on the application;
2. the applicant has submitted an incomplete application;
3. the business is not in compliance with the requirements of any City zoning ordinance;
4. the building where the business is located does not have a current certificate of occupancy issued by the City; or
6. any related registration matter.

C. Upon receiving notice of approval of an application, the applicant shall pay the required fee and upon receipt of payment, the Registration Official shall issue the license or permit.

D. An Applicant may appeal the denial of an application by filing with the City Clerk a formal notice of appeal for review by the City Council. Upon a hearing, the City Council shall issue a decision on the application.

Section 4. Fees

There shall be charged and collected by the City the applicable fee as listed in Exhibit 1 from every licensee or permittee issued any license or permit by the state or its authorized agents, and from which licensee or permittee the City is given the power by the Texas Alcoholic Beverage Code to collect a fee. The City license or permit shall correspond to the same class of license or permit issued such licensee or permittee by the state. A separate license or permit shall be obtained and a separate fee paid for each outlet of liquor in the City.

Section 5. Expiration of Permit; Refunds

A. A license or permit issued under this Ordinance expires on the anniversary of the date it is issued unless otherwise stated on the permit. If the City issues a permit with an expiration date of less than one year after the date the permit is issued, the City shall prorate the license or permit fee on a monthly basis so that the license or permit holder pays only that portion of the license or permit fee that is allocable to the number of months during which the license or permit is valid.

B. The Registration Official shall report to the Texas Alcoholic Beverage Commission all licenses or permits expired for two months or more.

C. The provisions of the Texas Alcoholic Beverage Code Chapter 11 and Chapter 61 relating to renewal, assignment and transfer of a license or permit, and relating to refund of license and permit fees, shall apply to licenses, permits and fees of the City under this Ordinance. Provided however, if the business continues operations not involving the sale of alcohol after the termination of its state-issued license or permit, the business shall then be required to

immediately register the business pursuant to the business registration requirements of the Business Registration Ordinance of the City, Ordinance No. 1515.28, as amended or superseded.

Section 6. Penalty and Enforcement

A. Civil and Criminal Penalties.

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

B. Criminal Prosecution

Violation of any provision of this Ordinance is a misdemeanor offense and punishable, upon conviction, by a fine not to exceed \$500. Each day of the violation is a separate offense.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to seek civil remedies, including but not limited to the following:

1. injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
2. a civil penalty not to exceed \$100.00 a day upon a showing that the defendant was notified of the provisions of the Ordinance and after receiving notice, nonetheless committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
3. other available relief.

Exhibit 1

Classes of licenses and fees for Liquor Licensees.

The permit fee for any class of license or permit not listed below shall be 25% of the State Fee:

| | Class of license or permit | Fee |
|-----|---|--|
| 1. | Brewer's permit, as defined by Chapter 12 of the Texas Alcoholic Beverage Code. | \$ 750.00 |
| 2. | Nonresident brewer's permit, as defined by Chapter 13 of the Texas Alcoholic Beverage Code. | \$ 750.00 |
| 3. | Nonresident seller's permit, as defined by Chapter 37 of the Texas Alcoholic Beverage Code. | \$ 50.00 |
| 4. | Distiller's and rectifier's permit, as defined by Chapter 14 of the Texas Alcoholic Beverage Code. | \$ 750.00 |
| 5. | Winery permit, as defined by Chapter 16 of the Texas Alcoholic Beverage Code. | \$ 37.50 |
| 6. | Wine bottlers permit, as defined by Chapter 18 of the Texas Alcoholic Beverage Code. | \$ 112.50 |
| 7. | Wholesaler's permit, as defined by Chapter 19 of the Texas Alcoholic Beverage Code. | \$ 937.50 |
| 8. | General class B wholesaler's permit, as defined by Chapter 20 of the Texas Alcoholic Beverage Code. | \$ 150.00 |
| 9. | Local class B wholesaler's permit, as defined by Chapter 21 of the Texas Alcoholic Beverage Code. | \$ 37.50 |
| 10. | Package store permit, as defined by Chapter 22 of the Texas Alcoholic Beverage Code. | \$ 250.00 |
| 11. | Local distributor's permit, as defined by Chapter 23 of the Texas Alcoholic Beverage Code. | \$ 50.00 |
| 12. | Wine only package store permit, as defined by Chapter 24 of the Texas Alcoholic Beverage Code. | \$ 37.50 |
| 13. | Wine and beer retailer's permit, as defined by Chapter 25 of the Texas Alcoholic Beverage Code. | \$ 87.50 |
| 14. | Wine and beer retailer's off-premise permit, as defined by Chapter 26 of the Texas Alcoholic Beverage Code. | \$ 30.00 |
| 15. | Mixed beverage permit, as defined by Chapter 28 of the Texas Alcoholic Beverage Code. | No fee for year 1 and 2; Year 3 and up, \$375.00 |
| 16. | Mixed beverage late hours permit, as defined by Chapter 29 of the Texas Alcoholic Beverage Code. | \$ 75.00 |
| 17. | Daily temporary mixed beverage permit, as defined by Chapter 30 of the Texas Alcoholic Beverage Code. | \$ 12.50 |
| 18. | Caterer's permit, as defined by Chapter 31 of the Texas Alcoholic Beverage Code. | \$ 250.00 |
| 19. | Other private club late hours permits, as defined by Chapter 33 of the Texas Alcoholic Beverage Code. | \$ 375.00 |

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|-----|---|---|
| 20. | Beverage cartage permit, as defined by Chapter 44 of the Texas Alcoholic Beverage Code. | \$ 10.00 |
| 21. | Bonded warehouse permit, as defined by Chapter 46 of the Texas Alcoholic Beverage Code. | \$ 75.00 |
| 22. | <p>Manufacturer's license (beer), as defined by Chapter 62 of the Texas Alcoholic Beverage Code. A manufacturer's license holder shall pay the following fees for:</p> <p>(1) The first establishment.</p> <p>(2) The second establishment.</p> <p>(3) The third, fourth and fifth establishments.</p> <p>(4) Each establishment in excess of five.</p> | <p>\$ 377.00</p> <p>\$ 752.00</p> <p>\$2139.50</p> <p>\$4202.00</p> |
| 23. | General distributor's license (beer), as defined by Chapter 64 of the Texas Alcoholic Beverage Code. | \$ 150.00 |
| 24. | Local distributor's license (beer), as defined by Chapter 65 of the Texas Alcoholic Beverage Code. | \$ 37.50 |
| 25. | Branch distributor's license (beer), as defined by Chapter 66 of the Texas Alcoholic Beverage Code. | \$ 37.50 |
| 26. | Importer's license (beer), as defined by Chapter 67 of the Texas Alcoholic Beverage Code. | \$ 10.00 |
| 27. | Importer's carrier's license (beer), as defined by Chapter 68 of the Texas Alcoholic Beverage Code. | \$ 10.00 |
| 28. | Retail dealer's on-premise license (beer), as defined by Chapter 69 of the Texas Alcoholic Beverage Code. | \$ 30.00 |
| 29. | Retail dealer's on-premise late hours license (beer), as defined by Chapter 70 of the Texas Alcoholic Beverage Code. | \$ 125.00 |
| 30. | Retail dealer's off-premise license (beer), as defined by Chapter 71 of the Texas Alcoholic Beverage Code. | \$ 30.00 |
| 31. | Brewpub license, as defined by Chapter 74 of the Texas Alcoholic Beverage Code. | \$ 250.00 |
| 32. | Food and Beverage Certificate, as defined by Chapter 25 of the Texas Alcoholic Beverage Code. | \$ 50.00 |