

**ORDINANCE NO. O-2023-43**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING AND UPDATING TYLER CITY CODE CHAPTER 19, "UTILITIES", ARTICLE IV., "LAKE TYLER AND LAKE TYLER EAST", DIVISION 1, "GENERALLY", BY ADOPTING CERTAIN ALCOHOLIC BEVERAGE REGULATIONS FOR ALCOHOLIC BEVERAGES ON PUBLIC PARKING LOTS AND PUBLIC PARKING AREAS, PUBLIC BOAT RAMPS, AND ADJACENT PROPERTIES, LOCATED ON CITY-OWNED LANDS AT LAKE TYLER AND LAKE TYLER EAST; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, it is the intent of the City Council to protect the public health, safety, and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to selfgovernment; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City of Tyler may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience, and welfare of the inhabitants of the City, and all nuisances and causes thereof; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, or when not prescribed by the Charter, in such manner as shall be provided by ordinances or resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Alcoholic Beverage Code Section 1.06 provides that unless other specifically provided by the terms of the Alcoholic Beverage Code, the manufacture, sale, distribution, transportation and possession of alcoholic beverages shall be governed by the provisions of the Alcoholic Beverage Code; and

WHEREAS, Texas Local Government Code Section 341.903 provides that a home rule municipality may police areas owned by and located outside of the municipality, such as parks and grounds, lakes and land contiguous to and used in connection with a lake, and speedways and boulevards; and

WHEREAS, the City of Tyler is the owner and operator of waters and certain properties at Lake Tyler and Lake Tyler East; and

WHEREAS, the Tyler City Council has adopted regulations governing Lake Tyler and Lake Tyler East in City Code Chapter 19; and

WHEREAS, it is important to amend and update certain Lake regulations in City Code Chapter 19 to include alcoholic beverage regulations for specific areas at Lake Tyler and Lake Tyler East; and

WHEREAS, it is necessary to include Exceptions to the specific alcohol regulations being adopted for City-owned property at Lake Tyler and Lake Tyler East;

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

PART 1: That Tyler City Code Chapter 19, "Utilities", Article VI., "Lake Tyler and Lake Tyler East, Division 1., "Generally", is hereby amended by adding a new Section 19-150 to read as follows:

Sec. 19-150. Alcoholic beverages prohibited; exceptions.

a. It is unlawful for any person to possess alcoholic beverages in the following specific locations of the Lake as defined in Section 19-130:

1. City-designated public parking lots and parking areas for motor vehicles.
2. City-designated public boat ramps.
3. City-owned land within 15 feet of 1. or 2 above.

For purposes of this section, the term alcoholic beverages is used as defined in the Texas Alcoholic Beverage Code. (Ord. No. 0-2023-43; 06/14/23)

b. The prohibitions in subsection a. of this Section do not apply to:

1. Persons engaged in the process of carrying or transporting alcoholic beverages from a motor vehicle to an adjacent City-designated picnic area, recreation area or camping area, or vice versa.

2. Persons engaged in the process of carrying or transporting alcoholic beverages from a motor vehicle to a boat at a public boat ramp, or vice versa.

3. Someone on City property who has obtained appropriate City permission or authority from a special event permit, contract, lease, leasehold, or other type of City approval. This shall include structures and/or land used for residential purposes under a City-approved leasehold, and invitees thereon.

4. Privately owned residences and/or privately owned real property including invitees thereon.

5. Privately owned commercial businesses, including premises properly licensed by the State of Texas, including invitees thereon.

6. Alcoholic beverages contained entirely within motor vehicles, including open containers within motor vehicles, on public highways as regulated by State law.

7. Alcoholic beverages, including open containers, contained entirely within vehicles for hire, including buses, taxicabs, and limousines.

8. Alcoholic beverages, including open containers, contained entirely within the living quarters of motorized house coaches or motorized house trailers, including self-contained campers, motor homes and recreational vehicles.

9. Uses properly prescribed for and used for medical purposes.

10. A City or other government official or employee acting within the scope of official duties.

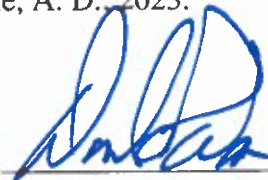
11. An organized event conducted by the City or other governmental authority. (Ord. No. 0-2023-43;06/14/23)

Secs. 19-151 – 19-159. Reserved

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be June 16, 2023.

PASSED AND APPROVED this 14<sup>th</sup> day of June, A. D., 2023.




DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

  
CASSANDRA BRAGER, CITY CLERK



  
DEBORAH G. PULLUM,  
CITY ATTORNEY