

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 32 - 2021

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April 7, 2021

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**AN ORDINANCE**

Amending Part Seven, General Offenses Code, of the Codified Ordinances of Allentown, Pennsylvania creating Article 717 – B.Y.O.B. Establishment, by creating a new Article entitled “B.Y.O.B. Establishment”.

**Whereas** the City of Allentown wishes to regulate the operation of B.Y.O.B. establishments, as defined herein, in order to protect the rights of residence and business owners to the quiet enjoyment of their property, to protect the health, welfare and safety of the residents and guests of the City of Allentown; and

**Whereas** neither the Pennsylvania Liquor Code or the Pennsylvania Liquor Control Board’s (PLCB) regulations prohibit an individual from bringing his or her own alcohol into any establishment as long as the alcohol is legally procured, whether or not the establishment possesses a license issued by the PLCB; and

**Whereas** the PLCB allows municipalities the right to enact ordinances restricting BYOB establishments; and

**Whereas** the City of Allentown finds it necessary to provide for specific provisions, rules, regulations, and guidelines to properly govern BYOB Establishments to all for the continued quality of life within the City,

**NOW, THEREFORE, BE IT ORDAINED**, Article 717 shall be established as follows:

ARTICLE 717

B.Y.O.B. Establishments

717.01	Purpose.
717.02	Definitions.
717.03	Unlawful activities.
717.04	Establishment requirements.
717.05	Establishment permit.
717.99	Penalty.

CROSS REFERENCES

Article 1303 of the Codified Zoning Ordinance, City of Allentown  
Article 1313 of the Codified Zoning Ordinance, City of Allentown  
Article 1327 of the Codified Zoning Ordinance, City of Allentown

## **717.01 PURPOSE**

To regulate B.Y.O.B. Establishments not licensed by the Pennsylvania Liquor Control Board so as to protect the health, welfare and safety of residents and guests of the City of Allentown.

## **717.02 DEFINITIONS**

**"B.Y.O.B. Establishment"** for purposes of this Ordinance, means a place of assembly or any other use defined in this ordinance, other than a dwelling unit, including but not limited to restaurants, taverns, clubs and social buildings, that is not licensed by the Pennsylvania Liquor Control Board, in which no intoxicating beverages are sold, but where patrons are permitted to bring intoxicating beverages upon the premises for their own use and consumption only. A facility which is rented for a limited period of time, but in no event to exceed six (6) hours in length, nor to exceed one (1) rental in a twenty-four (24) hour period, nor to occur between the hours of 12:00 a.m. midnight and 8:00 a.m. by individuals or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises, shall not be considered a B.Y.O.B. Establishment under the terms hereof. B.Y.O.B. Establishment shall not include a restaurant as defined at Section 1303.01, as amended, of the Codified Ordinances of the City of Allentown.

**"Alcoholic beverages"** means any and all beverages, including malt beverages, which contain alcohol, liquor or such other intoxicating substances as are further defined in the Pennsylvania Liquor Code, 47 P.S. Section 1-101 et seq.

**"Residence"** means a building or structure wholly or partially used for living, sleeping, eating, cooking and sanitation by human occupants.

**"Residence District"** means those classes of residential districts as specified in the Codified Ordinances of the City of Allentown.

## **717.03 UNLAWFUL ACTIVITIES**

In any district in which B.Y.O.B. Establishments are otherwise permitted, it shall be unlawful for any person or persons who own, operate, lease, manage or control a B.Y.O.B. Establishment to:

(a) Remain open and/or to transact business between the hours of 12:00 a.m. midnight and 8:00 a.m., prevailing time, except for January 1<sup>st</sup> of each year when the establishment shall not remain open and/or transact business between hours of 1:00 AM and 8:00 AM. In all cases, the premises must be vacated within fifteen (15) minutes after the required closing time.

(b) Conduct activities to which this Ordinance applies without possessing a valid B.Y.O.B. Establishment permit as specified herein.

(c) The principal structure of a B.Y.O.B. Establishment shall not be located within three hundred (300') feet of the nearest property line of any residential district, church, school, other institution of learning or education, hospital, library, park, and /or playground.

## **717.04 ESTABLISHMENT REQUIREMENTS**

Any and all B.Y.O.B. Establishments, as that term is defined, shall comply with the following requirements:

(a) Obtain and carry general liability coverage in the minimum amount of, \$1,000,000 per occurrence, proof of which shall be filed with the Chief of Police at the time of the application for a B.Y.O.B. Establishment permit;

(b) Should the B.Y.O.B. Establishment's insurance carrier change throughout the year, an updated copy of the proof of coverage must be provided to the Chief of Police within seventy-two (72) hours of the change;

(c) Possess a valid certificate of occupancy issued by the Pennsylvania Department of Labor and Industry and the City of Allentown and prominently display said certificate as required;

(d) Obtain a valid business privilege and mercantile tax license from the City of Allentown and prominently display said license as required;

(e) Obtain a valid City of Allentown business permit and prominently display said permit as required;

(f) Obtain a valid B.Y.O.B. Establishment permit pursuant to this Article and all other permits or licenses required by the Commonwealth of Pennsylvania and City of Allentown, and prominently display said permit or license as required;

(g) Shall not have been deemed a nuisance property or the person responsible for the property deemed a nuisance as defined in the City of Allentown Ordinance; and

(h) Conspicuously post the hours of operation at the business premises such that patrons are sufficiently apprised of same.

#### **717.05 ESTABLISHMENT PERMIT**

(a) Any person or persons desiring to operate or continue to operate a B.Y.O.B. Establishment shall file with the Chief of Police of the City of Allentown an application for a B.Y.O.B. Establishment permit along with a nonrefundable fee of \$25 to cover the City of Allentown's costs in process such application, which application shall include the following information: the name and address of the B.Y.O.B., a statement whether the business premises is leased or owned by the B.Y.O.B. Establishment, the name and address of the lessor of the business premises, if applicable, the nature of the ownership of the B.Y.O.B. Establishment, i.e. corporation, partnership, joint venture, association, the names and addresses of the officers and/or financial interest in the B.Y.O.B. Establishment, and a notarized affidavit signed by the applicant testifying to and verifying that the applicant has obtained all appropriate licenses and/or permits, has paid all applicable taxes and fees for operating a B.Y.O.B. establishment and had paid all municipal claims owed by that applicant to the City of Allentown.

(b) The Chief of Police shall determine whether the B.Y.O.B. Establishment fully and completely complies with the provisions and requirements of this Ordinance within twenty (20) days following the date on which application is received. If the Chief of Police determines that the applicant fully and completely complies with the provisions hereof, the Chief of Police shall issue a B.Y.O.B. Establishment permit; if the Chief of Police determines that the applicant does not fully and completely comply with the provisions hereof, the Chief of Police shall deny the issuance of a B.Y.O.B. Establishment permit and shall furnish written evidence of the same to the applicant together with the reason(s) for denial.

(c) The Establishment shall pay an administrative fee of two hundred and fifty dollars (\$250.00) for a B.Y.O.B. Establishment permit and two hundred and fifty dollars (\$250.00) for each renewal thereof. Said B.Y.O.B. Establishment permit shall be effective for a period of one year following the date of issuance; provided, in the event the B.Y.O.B. Establishment fails to fully and completely comply with the provisions hereof or is convicted of any unlawful activities during the term of the B.Y.O.B. Establishment permit so issued, the City of Allentown shall have the authority to revoke the B.Y.O.B. Establishment permit due to B.Y.O.B. Establishment's lack of compliance.

#### **717.99 PENALTY**

(a) Any person, persons, or entity violating the provisions of this Ordinance shall, upon conviction thereof, be subject to a penalty in amount of Three Hundred Dollars (\$300.00) for each day of such violation, and any and all other remedies available in accordance with the Codified Ordinances of the City of Allentown and the laws of the Commonwealth of Pennsylvania.

(b) The unlawful activities specified herein shall constitute separate and distinct offenses for each and every day in which said activities are conducted.

(c) In addition to any monetary penalties involved, the City of Allentown shall revoke the Establishment Permit required upon conviction of any unlawful activities.

(d) In the event of any of the unlawful activities specified herein are conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation, as well as the person or persons engaged in the unlawful activity.

SECTION TWO: All Ordinances, Resolutions, and/or other Regulations inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION THREE: The provisions of this Ordinance are declared to be severable, and if any sentence, clause, section, term, phrase or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, terms, provisions, or parts of this Ordinance.

SECTION FOUR: This Ordinance shall become effective ten (10) days after the date of adoption