

## **BILL NO. 23-202**

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AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, ARTICLE I. IN GENERAL AND ARTICLE III. LICENSES, DIVISION 2. TYPES OF LICENSES, FEES, OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI TO REVISE THE PROVISIONS RELATING TO THE ADMINISTRATION OF LIQUOR LICENSES BY THE CITY.

WHEREAS, it is the desire of the City of Lee's Summit to have laws designed to ensure the public health and safety as affected by intoxicating liquor; and,

WHEREAS, Chapter 4 of the Code of Ordinances of the City of Lee's Summit regulates the sale and distribution of alcoholic beverages within the City of Lee's Summit; and,

WHEREAS, the Director of Liquor Control has reviewed the existing ordinances and the processes for issuing, renewing and regulating liquor licenses and brings forth recommendations designed to improve service for applicants and bring efficiencies to administration; and,

WHEREAS, the City of Lee's Summit desires to amend Section 4-1 of the Code of Ordinances to revise the definition of "Amusement place"; and,

WHEREAS, the City of Lee's Summit desires to amend Section 4-12 of the Code of Ordinances to allow persons sixteen or seventeen years of age to be employed on premises licensed as an amusement place; and,

WHEREAS, the City of Lee's Summit desires to amend Section 4-17 of the Code of Ordinances to allow minors to enter premises licensed as an amusement place under Section 4-151; and,

WHEREAS, the City of Lee's Summit desires to amend Section 4-128 and Section 4-134 to provide a certification of sales requirement for restaurants selling alcohol within the City; and,

WHEREAS, the City of Lee's Summit desires to amend Section 4-143 to allow a temporary, seven (7) day caterers license to sell intoxicating liquor to caterers and others holding licenses to sell liquor within Missouri; and,

WHEREAS, the City of Lee's Summit desires to amend the Code of Ordinances to create a Section 4-151 to enact a new license type to sell intoxicating liquor for amusement places.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 4, Alcoholic Beverages. Article I, In General, Section 4-1 Definitions of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

### **Sec. 4-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Abandonment of premises* shall mean when a person who has been legally licensed by the City and State to conduct a business under this chapter and State regulations and then voluntarily ceases to operate such business for a period of thirty (30) days or more.

*Adjacent property* shall mean property immediately adjoining or separated only by an intervening street, alley, highway, or other public thoroughfare.

*Alcoholic beverages* shall mean intoxicating liquor.

*Amusement place* shall mean any establishment where games of skill such as billiards, volleyball, golf, bowling or soccer are usually played, and which has at least fifty (50) percent of the gross sales from the business consisting of goods, merchandise or commodities other than the sale of alcoholic beverages.

*Block* shall mean that portion of land abutting upon a City street which lies between any two (2) intersecting streets.

*Church* shall mean any building or structure regularly and primarily used as a place of worship by any organized religious society, organization or congregation regardless of whether or not such building or structure was originally designed and constructed for such purpose.

*Closed place* shall mean a place where all doors are locked and where no patrons are in the place or about the premises.

*Clubs* shall mean the clubs eligible for a license pursuant to this chapter and shall be regularly incorporated associations, not for profit, under the laws of the State, organized solely for benevolent, charitable or social purposes and having regular dues-paying members.

*Coin-operated amusement device* shall mean pinball machines, marble machines, music-vending machines, pool tables or machines, coin-operated shuffleboards and any other device operated by the insertion of a coin, disc or other insertion piece, whether or not also manipulated by the operator, and which operate for the amusement of the operator, whether or not by registering a score. The term "coin-operated amusement device" shall not include "slot machines," "claw machines," or other machines prohibited by State and Federal law, nor shall it include machines or devices used solely for the vending service of food, confections, or merchandise.

*C.O.L. license* shall mean a license for the consumption of alcoholic beverages in or upon premises that do not possess a regular license for the sale of alcoholic beverages and where food, beverages or entertainment are sold or provided for compensation, as provided in RSMo 311.480.

*Controlled substance* shall mean a substance listed and defined in RSMo 195.010(5), and Schedules I through V.

*Director of Liquor Control* shall mean that person authorized by the City to enforce the provisions of this chapter.

*Dwelling* shall mean any place that is used regularly or irregularly as a place of repose, sleep, rest or any place containing a bed, cot, divan, couch, or any other article of furniture on which an adult person may recline; provided, however, that the term "dwelling" shall not include any premises used as a hotel, motel, or hotel room.

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*Front* shall mean that street upon which the principal entrance of an alcoholic beverage establishment is located.

*Hotel* shall mean hotels, apartment hotels, motels, inns, lodges or similar places providing principally transient residential accommodations and having at least forty (40) rooms for overnight accommodations.

*Intoxicated condition*, as used in this chapter, a person is in an "intoxicated condition" when they are under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

*Intoxicating liquor* shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one (.5) percent of alcohol by volume.

*Licensee* shall mean the holder of any license issued under the provisions of this chapter.

*Malt liquor* shall mean any beverage brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer. Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine (49) percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six (6) percent by volume, no more than one and one-half (1.5) percent of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

*Managing officer* shall mean the person who is in active management and control.

*Original package* shall mean any package containing one (1) or more standard bottles, pouches, or cans of malt liquor, fifty (50) milliliters (1.7 ounces) or more of intoxicating liquor, and one hundred (100) milliliters (3.4 ounce) or more of wine. A standard bottle is any bottle, pouch, or can containing twelve (12) ounces or less of malt liquor.

*Premises* shall mean the place where intoxicating liquor is sold and it may be one (1) room, a building comprising several rooms, or a building with adjacent or surrounding land such as a lot or garden.

*Resort* shall mean:

- A. Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty (60) percent of the gross income of which is derived from the sale of prepared meals or food;
- B. A restaurant provided with special space and accommodations where in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000.00) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales; or

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- C. A seasonal resort restaurant which is open for business eight (8) or fewer consecutive months in any calendar year and where fifty (50) percent of all gross sales of such restaurant shall be sales of prepared meals.

*School* shall mean any building which is regularly used as a public, private or parochial school, elementary school, high school, college, university, professional school, business or secretarial school, receiving some support from public, religious or charitable funds.

*Substantial quantities of food* shall mean that at least fifty (50) percent of the gross income of an establishment has been derived from prepared meals or food during the three (3) most recent preceding calendar months.

*Wholesalers or distributors* shall mean those persons selling alcoholic beverages to duly licensed retailers for resale.

*Wine* shall mean a vinous liquor produced by fermentation of juices of grapes, berries, or other fruits, or a preparation of certain vegetables by fermentation, and containing alcohol not in excess of twenty-two (22) percent by volume.

(Code 1988, § 4-1; Ord. No. 7149, § 1, 3-1-2012; Ord. No. 7247, § 1, 10-4-2012; Ord. No. 8936, § 1, 8-18-2020)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

State law reference(s)—Similar provisions, RSMo 311.325, 312.407.

SECTION 2. That Chapter 4, Alcoholic Beverages. Article I, In General, Section 4-12 of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

**Sec. 4-12. Same—Employment of certain minors; consent; permit; fee.**

- A. Persons sixteen (16) and seventeen (17) years of age may enter or be employed on by-the-drink or C.O.L. licensed premises so long as such persons do not sell or assist in the sale, dispensing, consumption or delivery of alcoholic beverages. Persons sixteen (16) and seventeen (17) years of age may only be employed on premises where substantial amounts of food are sold or on premises licensed under Section 4-151.
- B. Any person sixteen (16) and seventeen (17) years of age so employed shall first furnish the proprietors of such licensed premises a written consent signed by a parent or legal guardian. It shall be unlawful for any retail establishment licensed to sell alcoholic beverages to have in its employ any person sixteen (16) and seventeen (17) years of age without having obtained such written parental consent. Such written consent shall be retained by the establishment as long as the employee is sixteen (16) or seventeen (17) years of age.

SECTION 3. That Chapter 4, Alcoholic Beverages. Article I, In General, Section 4-17 of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

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### Sec. 4-17. Same—Sale-by-the-drink licenses.

- A. *Inducement to drink prohibited.* It shall be unlawful for any person having a license for the sale of alcoholic beverages at retail by the drink for consumption on the premises, or any employee, agent or servant of such licensee, to give away any alcoholic beverage either in drinks or otherwise, either with or without food, or to charge any less price for such drinks when served with food than when served without food. It shall be likewise unlawful for any person holding such a license or any employee, agent or servant of such person, to give
- B. away any food with any drink sold, or to offer any food free as an inducement to customers to purchase alcoholic beverages or to operate or maintain what is commonly called a "free lunch counter," or any other promotional scheme as an inducement to drink.
- B. *Prohibited acts on sales-by-drink premises.* It shall be unlawful for any person holding a sales-by-drink license, or any agent, servant or employee of such licensee, to allow alcoholic beverages to be brought into or upon the licensed premises by patrons or customers.
  - 1. No such licensee or any employee, agent or servant of such licensee shall knowingly sell, give away or serve upon the premises described in the license, any glass, ice water, soda water, phosphates or any other kind of liquid to be used for the purpose of mixing alcoholic beverage drinks and commonly referred to as "setups," nor shall any such licensee or any employee, agent or servant of such licensee permit any person, while in or upon the premises covered by such license, to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer, malt, phosphates or any other kind of liquid or other liquid; provided, however, that nothing contained in this subsection shall be construed to prohibit any of the above acts in any private guest room or private dining room of any duly licensed hotel, motel or private club.
  - 2. No licensee, or employee, agent or servant of any licensee shall knowingly allow any person, while in or upon the premises covered by such license, to drink or consume out of a bottle any alcoholic beverage containing in excess of five (5) percent alcoholic content by volume.
- C. *Alcoholic beverages brought on premises.* It shall be unlawful for any person to take alcoholic beverages into or upon any premises covered by a sales-by-drink license for the purpose of consuming such alcoholic beverages in any form on such premises.
- D. *Minor entering premises prohibited.* It shall be unlawful for any licensee holding a sale-by-drink license or a C.O.L. license or for any employee, agent or servant of such licensee to either directly or indirectly suffer or allow a person under the age of twenty-one (21) years to enter the premises or to linger or loiter in or about such premises, provided, however, that a person sixteen (16) through twenty (20) years of age may be on such premises if accompanied by a parent or legal guardian. This subsection shall not apply to premises where substantial quantities of food are served, on premises licensed as an amusement place under Section 4-151 of this Code or on premises with C.O.L. licenses during such time that there are no alcoholic beverages on the premises or being consumed thereon and provided that nothing contained in this section shall be construed as preventing the entrance of any person permitted by Section 4-12 of this Code.

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SECTION 4. That Chapter 4, Alcoholic Beverages. Article III, Licenses, Division 2 Types of Licenses, Section 4-128 of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

**Sec. 4-128. C3—Restaurant retail selling of malt liquor by the drink and also in the original package; includes Sunday sales.**

- A. *Name.* A license for the privilege of the retail selling, by restaurant within the City where substantial quantities of food are served, of malt liquor by the drink for consumption on the premises where sold and also in the original package shall be known as a "C3" license. Notwithstanding the provisions of Section 4-2 of this chapter, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 6:00 a.m. on Sundays and 1:30 a.m. on Mondays.
- B. *Fee.* A license under the terms of this section shall be issued to all qualified applicants who have fully complied with the provisions of this chapter, upon payment of an annual license fee of seventy-five dollars (\$75.00) to the City Finance Director.
- C. *Certification.* Each proprietor of a restaurant licensed under the terms of this section shall, no later than May 15 of each year, file with the Director of Liquor Control, on a form provided, a verified statement showing the amount of gross sales, the amount of gross sales of malt liquor and the amount of gross sales of prepared meals and food made on such premises, for the time period immediately following the date of the issuance of such license to May 15 of each year. In any case wherein a license is granted under the terms of this section, the Director of Liquor Control shall consider revocation or non-renewal of such license upon the failure of the licensed premises, for a prior of one year after issuance or renewal of such license, to maintain an average of fifty (50) percent or more of its total gross income in sales of prepared meals and food. Any license issued under the terms of this section shall be so designated on the license itself.
- D. *Restriction on number of licenses available.* There shall be no limit of the number of licenses available under the terms of this chapter.

SECTION 5. That Chapter 4, Alcoholic Beverages. Article III, Licenses, Division 2 Types of Licenses, Section 4-134 of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

**Sec. 4-134. G3—Restaurant retail selling of intoxicating liquor of all kinds by the drink and also in the original package.**

- A. *Name.* A license for the privilege of the retail selling, by a restaurant within the City where substantial quantities of food are served, of all kinds of intoxicating liquor by the drink for consumption on the premises where sold and also in the original package, within the City, shall be known as a "G3" license.

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- B. *Fee.* A license under the terms of this section shall be issued to all qualified applicants who have fully complied with the provisions of this chapter, upon payment of an annual license fee of four hundred fifty dollars (\$450.00) to the City.
- C. *Certification.* Each proprietor of a restaurant licensed under the terms of this section shall, no later than May 15 of each year, file with the Director of Liquor Control, on a form provided, a verified statement showing the amount of gross sales, the amount of gross sales of malt liquor and the amount of gross sales of prepared meals and food made on such premises, for the time period immediately following the date of the issuance of such license to May 15 of each year. In any case wherein a license is granted under the terms of this section, the Director of Liquor Control shall consider revocation or non-renewal of such license upon the failure of the licensed premises, for a prior of one year after issuance or renewal of such license, to maintain an average of fifty (50) percent or more of its total gross income in sales of prepared meals and food. Any license issued under the terms of this section shall be so designated on the license itself.
- D. *Restriction on number of licenses available.* There shall be no limit on the number of licenses available under the terms of this section.

SECTION 6. That Chapter 4, Alcoholic Beverages. Article III, Licenses, Division 2 Types of Licenses, Section 4-143 of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

**Sec. 4-143. M—Caterers seven (7) day temporary location for retail selling of intoxicating liquor by the drink.**

- A. *Name.* A temporary license for the privilege of the retail selling, by a caterer or other person within the City, of intoxicating liquor by the drink for consumption on the premises where sold of a temporary function shall be known as an "M" license.
- B. *Qualifications.* A temporary license under the terms of this section may be issued to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of Chapter 311 of the Missouri Revised Statutes, for the purpose of furnishing provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a festival as defined in Chapter 316 of the Missouri Revised Statutes. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight (168) consecutive hours. Such temporary license shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which time alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverage for on-premises consumption.
- C. *Fee.* A license under the terms of this section shall be issued to all qualified applicants who comply fully with the provisions of this chapter, upon payment of a license fee, to the City of fifteen dollars (\$15.00) for each calendar day or fraction thereof for which the license is issued.
- D. *Applicable provisions.* All provisions of this chapter shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants,

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employees, or stock are in such temporary location. This temporary license shall allow the sale of intoxicating liquor in the original package.

- E. *Restriction on number of licenses available.* There shall be no limit on the number of licenses available under the terms of this section.

(Ord. No. 7247, § 4, 10-4-2012)

State law reference(s)—Similar State license, RSMo 311.485.

SECTION 7. That Chapter 4, Alcoholic Beverages. Article III, Licenses, Division 2 Types of Licenses, Section 4-151 of the Code of Ordinances for the City of Lee's Summit shall be amended to add the following:

**Sec. 4-151. T—Amusement place, Retail selling of intoxicating liquor by the drink and also in the original package**

- A. *Name.* A license for the privilege of the retail selling, by an amusement place within the City, of intoxicating liquor by the drink for consumption on the premises where sold and also in the original package shall be known as a "T" license.
- B. *Fee.* A license under the terms of this section shall be issued to all qualified applicants who have fully complied with the provisions of this chapter, and upon payment of an annual license fee of four hundred fifty dollars (\$450.00) to the City.
- C. *Certification.* Each proprietor of an amusement place licensed under the terms of this section shall, no later than May 15 of each year, file with the Director of Liquor control, on a form provided, a verified statement showing the amount of gross sales, the amount of gross sales of intoxicating liquor and the amount of gross sales of goods, merchandise or commodities other than intoxicating liquor for the time period immediately following the date of the issuance of such license to May 15 of each year. In any case wherein a license is granted under the terms of this section, the Director of Liquor Control shall consider revocation or non-renewal of such license upon the failure of the licensed premises, for a prior of one year after issuance or renewal of such license, to maintain an average of fifty (50) percent or more of its total gross income in sales of prepared meals and food. Any license issued under the terms of this section shall be so designated on the license itself.
- D. *Restriction on number of licenses available.* There shall be a limit on the number of licenses available under the terms of this section of one license per one thousand five hundred (1,500) population.

SECTION 8. That it is the intention of the City Council, and is it hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

SECTION 9. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.



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SECTION 10. That should any section, sentence or clause of this ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 11. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Mayor *William A. Baird*

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Mayor *William A. Baird*

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*