

BILL NO. 20-155

AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, SEC. 4-1 DEFINITIONS AND SEC. 4-15 REGULATIONS PERTAINING TO RETAIL AND C.O.L. LICENSEES – GENERALLY OF THE CODE OF ORDINANCES OF THE CITY OF LEE’S SUMMIT, MISSOURI.

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 State of Missouri, in Chapter 311 of the Revised Statutes of Missouri and Title 11, Division 70 of the Code of State Regulations, also provides for statewide regulations on the sale and distribution of alcoholic beverages; and,

WHEREAS, the State of Missouri has revised the Liquor Control Law in 11 CSR 70-2.010 to change certain provisions regarding liquor sales that includes the definitions of “malt liquor”, “original package”, “premises”, and “wine”; and,

WHEREAS, the City of Lee’s Summit currently prohibits licensees from the serving or delivering of any alcoholic beverage to any person in or about any motor vehicle; and,

WHEREAS, the City of Lee’s Summit desires to amend Chapter 4 Alcoholic Beverages to be in accordance with the revisions in the Liquor Control Law in the state of Missouri for the efficient administration and regulation of alcoholic beverages within the city by updating the definition section and removing a prohibition from serving or delivering an alcoholic beverage to any person in a vehicle.

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:

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.

BILL NO. 20-155

Alcoholic beverages shall mean intoxicating liquor.

Amusement place shall mean any establishment whose business building contains a square footage of at least ten thousand (10,000) square feet, and where games of skill commonly known as bowling or soccer are usually played, and which has annual gross receipts of at least two hundred thousand dollars (\$200,000.00) of which no more than fifty (50) percent may be derived from 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

BILL NO. 20-155

any premises used as a hotel, motel, or hotel room.

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 percent (.5%) 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 percent (49%) of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent (6%) by volume, no more than one and one-half percent (1.5%) 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;

BILL NO. 20-155

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

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 percent (22%) by volume.

SECTION 2. That Chapter 4, Alcoholic Beverages. Article I, In General. Section 4-15 Regulations pertaining to retail and C.O.L. licensees – Generally of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 4-15. - Regulations pertaining to retail and C.O.L. licensees—Generally.

- A. *Orders off licensed premises prohibited; exception.* No orders for the sale of alcoholic beverages at retail shall be taken at any place not licensed under this chapter for the sale of alcoholic beverages at retail, even though such orders are filled and delivery thereon made at a place duly licensed hereunder. Nothing in this subsection shall be construed as to prevent any hotel or motel operator or private club from serving any alcoholic beverages to any guest, including registered guests, in or occupying any room of such hotel, motel or private club, if such alcoholic beverage so served shall be kept in or served from a licensed location, place or premises in such hotel, motel or private club.
- B. *Employment of disqualified persons prohibited.* No person having a license for the sale of alcoholic beverages at retail shall employ on or about the licensed premises any person who has been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of a violation of the provisions of any law applicable to the manufacture

BILL NO. 20-155

or sale of alcoholic beverages; nor shall any licensee employ on or about the licensed premises any person who has had a license revoked under RSMo ch. 311 or 312.

- C. *Indecency, obscenity prohibited.* No person having a license for the sale of alcoholic beverages at retail, or employee, agent or servant of such licensee shall allow any person to appear or perform on the licensed premises in a condition that is prohibited conduct as defined in Chapter 3, Adult Businesses, of this Code.
- D. *Peace disturbances prohibited.* It shall be unlawful for any person having a license for the sale of alcoholic beverages at retail to allow in or upon the licensed premises of such licensee any conduct that constitutes a peace disturbance pursuant to Section 17-112 or 17-113 of this Code.
- E. *Storing off licensed premises prohibited; exception.* No person having a license for the sale of alcoholic beverages at retail shall store any alcoholic beverage off or outside of the licensed premises of such licensee without first obtaining the written consent of the Director of Liquor Control; provided, however, that a licensee may store alcoholic beverages in a bonded warehouse or central warehouse if such licensee has first notified the Director of Liquor Control in writing of the licensee's intention to do so.
- F. *Nonlisted telephone.* If a nonlisted or silent telephone or pay telephone is installed by any person having a license for the sale of alcoholic beverages at retail on his licensed premises, this fact shall be stated to the Director of Liquor Control within ten (10) days after installation, and the number of such telephones so used in the licensee's business shall be provided for the Director of Liquor Control, and shall remain a part of the licensee's record. Failure to report the installation of such a telephone may be grounds for the suspension or revocation of the license.
- G. *Premises must be kept clean and sanitary.* It shall be unlawful for any person having a license for the sale of alcoholic beverages at retail to fail to keep the premises covered by such license, clean and sanitary.
- H. *Lighting requirements.* It shall be unlawful for any person having a license for the sale of alcoholic beverages at retail to use illuminated brand signs exclusively for illuminating purposes. Sufficient light must be maintained at all times to ensure clear visibility into the interior and within the interior of the premises.

SECTION 3. That it is the intention of the City Council and it is 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 4. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. 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.

BILL NO. 20-155

SECTION 6. 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 _____, 2020.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2020.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

Chief Counsel of Public Safety *Beth Murano*