

INTRODUCED BY: Alderman Andrews

AN ORDINANCE AMENDING CHAPTER 600 “ALCOHOLIC BEVERAGES” OF THE MUNICIPAL CODE

Whereas, Chapter 311 R.S.Mo. was amended and Chapter 312 R.S.Mo. was repealed by the General Assembly by House Bill 132 (2009), thus repealing distinctions in law for non-intoxicating beer, among other changes; and

Whereas, the City desires to reflect the changes relating to state liquor laws contained in House Bill 132 in the City’s licenses and ordinances regulating alcoholic beverages within the City, among other changes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, MISSOURI, as follows:

SECTION 1. Chapter 600 “Alcoholic Beverages,” of the Municipal Code of the City of Warson Woods (the “Code”) is hereby amended by repealing Section 600.010 thereof and adopting a new Section 600.010, to read as follows:

SECTION 600.010: DEFINITIONS

The following terms when used in this Chapter shall have the meanings designated below:

INTOXICATING LIQUOR: Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, (including, but not limited to malt liquor and light wine), 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 (0.5%) of alcohol by volume.

LIGHT WINES: Any liquor containing not in excess of fourteen percent (14%) of alcohol by weight manufactured exclusively from grapes, berries and other fruits and vegetables.

MALT LIQUOR: Any liquor containing alcohol in excess of one-half or one percent (0.5%) by weight and not in excess of five percent (5%) by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grain or cereals and wholesome yeast and pure water.

ORIGINAL PACKAGE: The original unopened container as received by the retailer from his/her supplier, including, but not limited to, any package containing three (3) or more standard bottles of beer.

PERSON: Includes any individual, association, Joint Stock Company, syndicate, copartnership, corporation, receiver, trustee, conservator, or other officer appointed by any State or Federal Court.

PREMISES: The place where intoxicating liquor is sold, and may be one (1) room, a building comprising several rooms or a building with adjacent or surrounding land such as a lot or garden; provided that said premises shall, at the time of application for any license hereunder, be fully described, and the areas for dispensing and sales upon and within said premises shall be accurately located, in such application.

RESTAURANT: Any place of business, the main purpose and activity of which is to serve meals, sandwiches, short orders and other food to be eaten by its customers on the premises and which does not provide or furnish to the public lodging or sleeping rooms.

RESTAURANT BAR: Any establishment having a restaurant or similar facility on the premises, at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises.

SALE BY THE DRINK: The sale of any intoxicating liquor in any quantity less than fifty (50) milliliters, the sale of malt liquor in the original package, and/or the sale of any light wine or any other vinous liquor in any quantity less than two hundred (200) milliliters; in which the liquor is emptied from the container and the contents thereof served as intoxicating liquors sold by the drink are served.

SECTION 2. Chapter 600 “Alcoholic Beverages,” of the Municipal Code of the City of Warson Woods (the “Code”) is hereby amended by repealing Section 600.020 thereof and adopting a new Section 600.020, to read as follows:

SECTION 600.020: LICENSE REQUIRED

A. It shall be unlawful for any person to sell or expose for sale, either at retail or wholesale, any intoxicating liquor, without first having obtained from the City a license therefore, except as otherwise provided herein.

B. Subject to the provisions of this Chapter, the City may issue the following licenses for the sale of intoxicating liquor:

1. *Liquor by the drink.* This license permits the licensee to sell all intoxicating liquor, at retail, either in the original package not for consumption on the premises of the licensee and/or by the drink for consumption on the premises of the licensee.

2. *Malt liquor by the drink.* This license permits the licensee to sell only malt liquor and/or light wines, at retail, either in the original package not for consumption on the premises of the licensee and/or by the drink for consumption on the premises of the licensee.

3. *Retail package liquor.* This license permits the licensee to sell intoxicating liquor, at retail, only in the original package and not for consumption on the premises of the licensee.

4. *Sunday package sales.* Notwithstanding any other provisions of this Chapter, any licensee under Subsections 600.020 (B) (1, 2 or 3) may also obtain a special license permitting such licensee to sell intoxicating liquor between the hours of 9:00 A.M. and Midnight on Sundays, at retail, in the original package not for consumption on the premises of the licensee.

5. *Sunday per drink sales.* Notwithstanding any other provision of this Chapter, any licensee under Subsection 600.020(B)(1) which is a restaurant bar may also obtain a special license permitting such licensee to sell intoxicating liquor, at retail, in the original package not for consumption on the premises of the licensee and/or by the drink for consumption on the premises of the licensee, between the hours of 9:00 A.M. and Midnight on Sundays.

6. *Temporary permit.* This temporary permit allows the holder of the permit to sell intoxicating liquor by the drink and/or in the original package but only for consumption on its premises where sold. This temporary permit may be issued only to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale of such intoxicating liquor at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days in any fiscal year. Notwithstanding any other provisions of this Chapter, if the event for which the permit is issued is held on a Sunday, the permit shall authorize sale of intoxicating liquor on that day beginning at 11:00 A.M.

SECTION 3. Chapter 600 “Alcoholic Beverages,” of the Municipal Code of the City of Warson Woods (the “Code”) is hereby amended by repealing Section 600.021 thereof and adopting a new Section 600.021, to read as follows:

SECTION 600.021: SALE OF LIQUOR BY THE DRINK PROHIBITED -- WHEN

A. Nothing in this Code shall be so construed as to authorize the sale at retail of intoxicating liquor by the drink for consumption on the premises in a place commonly known as a "saloon", "tavern", "lounge" or "bar" or any place where the sole or principal business carried on shall be the sale at retail of intoxicating liquor.

B. No license shall be issued to authorize the sale at retail of intoxicating liquor by the drink for consumption on the premises unless at least fifty percent (50%) of the gross revenues of the licensee, during any licensing period, shall be derived from the sale of prepared food and meals.

C. Notwithstanding Subsections (A) and (B) of this Section, a person properly licensed under Subsection 600.020(B)(1) may engage in the sale of intoxicating liquor at retail in the original package and provide samples of the beverage sold pursuant to the license for consumption on the premises of the licensee if no charge is made for such samples, but the sale of such beverage by the drink on such premises must comply with Subsection (B) of this Section.

SECTION 4. Chapter 600 “Alcoholic Beverages,” of the Municipal Code of the City of Warson Woods (the “Code”) is hereby amended by repealing Section 600.070 thereof and adopting a new Section 600.070, to read as follows:

SECTION 600.070: ANNUAL LICENSE FEES

A. *Liquor By The Drink.* The annual license fee for the license specified in Subsection 600.020(B)(1) shall be, for each separate license, four hundred fifty dollars (\$450.00).

B. *Malt Liquor By The Drink.* The annual license fee for the license specified in Subsection 600.020(B)(2) shall be, for each separate license, fifty-two dollars fifty cents (\$52.50).

C. *Retail Package Liquor.* The annual license fee for the license specified in Subsection 600.020(B)(3) shall be one hundred fifty dollars (\$150.00).

D. *Sunday Package Sales.* There shall be no annual license fee for the license specified in Subsection 600.020(B)(4).

E. *Sunday Per Drink Sales.* There shall be no annual license fee for the license specified in Subsection 600.020(B)(5).

F. *Temporary Permit.* There shall be no fee for the license specified in Subsection 600.020(B)(6).

SECTION 5. Chapter 600 “Alcoholic Beverages,” of the Municipal Code of the City of Warson Woods (the “Code”) is hereby amended by repealing Section 600.120 thereof and adopting a new Section 600.120, to read as follows:

SECTION 600.120: SALE OF LIQUOR -- MINORS

A. *Sale And Dispensing Of Alcoholic Beverages.* No person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of alcoholic beverages, except as provided in Subsections (1), (2) and (3), and no person or his/her agent or employee shall sell, give or supply any alcoholic beverage to any person under the age of twenty-one (21), but this shall not apply to the supplying of said beverages to a person under said age for medicinal purposes only, or by the parent or guardian of such person or to the administering of said beverages to said person by a physician.

1. In any place of business licensed in accordance with Section 311.200, where at least fifty percent (50%) of the gross sales consists of goods, merchandise, or commodities other than intoxicating liquor in the original package, persons at least eighteen (18) years of age may stock, arrange displays, accept payment for and sack for carryout intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years.

2. In any distillery, warehouse, wholesale distributorship or similar place of business which stores or distributes intoxicating liquor, but which does not sell intoxicating liquor at retail, persons at least eighteen (18) years of age may be employed and their duties may include handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.

3. Persons eighteen (18) years of age or older, may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages.

B. *Misrepresentation Or Possession By Minors.* It shall be unlawful for any minor to represent that he/she has attained the age of twenty-one (21) years for the purpose of purchasing, asking for, or in any way receiving any alcoholic beverages, or to purchase or to have in his/her possession such beverages, except in cases provided by law, and any such minor shall be prosecuted in the Municipal Court of the City, except that any such person under the age of seventeen (17) years may be considered a delinquent child and may be dealt with in accordance with the laws of the State of Missouri respecting children of such age, particularly, but not exclusively, Chapter 211, RSMo.

C. *Unlawful To Sell Set-Ups To Minors.* No licensee hereunder, or the employee of such licensee, shall suffer or permit any minor to drink or consume on the premises on which his/her business is conducted any whiskey, brandy, gin, wine, hooch, alcohol or intoxicating liquor in excess of five percent (5%) alcoholic content by weight, however acquired, or to sell, give away, lend, permit the use of, or otherwise dispose of any soda water, ginger ale, water, ice, glass, spoon, container or receptacle to any person with the intent or knowledge that the same will be consumed or used in connection with the drinking or consumption by a minor of any such intoxicating liquor on such premises.

D. *Minor Under Eighteen Not Permitted On Certain Premises.* It shall be unlawful for any minor under the age of eighteen (18) years to be and remain or to loiter in any premises (other than the dining or lodging areas of hotels or restaurants) where intoxicating liquors are sold at retail by the drink for consumption on the premises, unless accompanied by the parent or legal guardian of such minor, and it shall be unlawful for any person licensed to sell intoxicating liquor at retail by the drink for consumption on the premises, or his/her employee, to allow any minor under the age of eighteen (18) years, unless accompanied by the parent or legal guardian of such minor, to be and remain or to loiter on said premises, and each such licensee shall keep at all times conspicuously posted, a printed sign displaying in black letters not less than one (1) inch wide on a white background the words: "Notice - Minors under the age of eighteen (18) years are not allowed here unless accompanied by parent or legal guardian." The maintenance of such sign, however, shall not excuse any licensee from a violation of this provision.

SECTION 6. Chapter 600 "Alcoholic Beverages," of the Municipal Code of the City of Warson Woods (the "Code") is hereby amended by repealing Section 600.190 thereof and adopting a new Section 600.190, to read as follows:

SECTION 600.190: IMMORAL AND UNLAWFUL BUSINESS PROHIBITED

No license for the sale of any alcoholic beverages hereunder shall be granted or renewed, and any license may be suspended or revoked in the manner provided in this Code, whenever it shall be shown that any applicant or licensee maintains or permits in or about any part of his/her premises or any rooms or buildings adjacent to or used in connection with said premises, any immoral or unlawful purpose or business therein.

SECTION 7. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance shall be deemed valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the governing body of the City has enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent. All prior ordinances in conflict herewith shall be and are hereby repealed.

SECTION 8. This Ordinance shall be in full force and effect from and after its passage by the Board and approval by the Mayor.

PASSED AND APPROVED THIS 17th DAY OF November 2009.

E. William Bergfeld, Jr., Mayor

ATTEST:

APPROVED AS TO FORM:

Kathy Mahany, City Clerk

Paul V. Rost, City Attorney