



Legislation Details (With Text)

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Title: An ordinance relating to closing hours and the presence of underage persons at retail alcohol beverage establishments.

Sponsors: THE CHAIR

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Date	Ver.	Action By	Action	Result	Tally
9/1/2016	0	COMMON COUNCIL	ASSIGNED TO		
11/29/2016	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	3:0
12/13/2016	0	COMMON COUNCIL	PASSED	Pass	15:0
12/20/2016	0	MAYOR	SIGNED		
1/4/2017	0	CITY CLERK	PUBLISHED		

160641
ORIGINAL

THE CHAIR

An ordinance relating to closing hours and the presence of underage persons at retail alcohol beverage establishments.

81-23-0 am
81-23-1 am
81-26-0 am
81-26-1 am
81-30.5-0 am
81-30.5-1 am
90-1-5 am
90-1-13 am
90-1-21 am
90-3-5-0 am
90-3-5-a am
90-3-5-b am
90-3-5-d am
90-3-5-e am
90-3-6.5-0 am
90-3-6.5-a am
90-3-6.5-b am
90-3-6.5-d am

90-3-6.5-e am
90-4-1 am
90-4-2-0 am
90-4-2-a am
90-4-2-c-0 am
90-4-2-d am
90-4-4-a am
90-4-5 am
90-4-7.8-b am
90-4-7.9-b am
90-4-9-0 am
90-4-9-a am
90-4-9-b-0 am
90-4-9-c am
90-4-9-d am
90-4-10-a am
90-4.7 am
90-5-1-c-1-c am
90-5-1.5 am
90-5-6 am
90-5-7 am
90-5-8-a-2-0 am
90-5-8-b-0 am
90-5-8-c-1-b am
90-5-9-b am
90-6-2-a-0 am
90-7-1-b am
90-11-1-b am
90-14-1 am
90-14-2-a am
90-14-2-b am
90-15-1 am
90-15-3-0 am
90-15-3-a-2 am
90-18-2 am
90-19-1-b am
90-19-1-c am
90-19.5-0 am
90-23-1 am
90-24 am
90-26-1 am
90-26-3 am
90-31-1 am

Currently, the code lists several types of establishments and facilities that may remain open during prohibited hours of operation provided they do not sell intoxicating liquor or fermented malt beverages during the prohibited hours. To make the code consistent with current state statutes, this ordinance adds the following establishments and facilities to the list: movie theaters and indoor golf and baseball facilities.

In addition, the code currently lists the types of establishments and facilities licensed for retail sale of alcohol beverages which underage persons may enter, and be present upon the premises of, without the accompaniment of parents or guardians. To make the code consistent with current state statutes, this ordinance adds the following establishments and facilities to the list: billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length; indoor golf simulator facilities; indoor golf and baseball facilities on premises for which the only alcohol beverage license issued is a Class "B" fermented malt beverage license; service stations; vessels; outdoor volleyball courts that are contiguous to a licensed premises.

Finally, this ordinance makes numerous corrections to the code to ensure that, consistent with state statutes, alcohol beverage retailers that sell intoxicating liquor or wine are identified as "Class A," "Class B" or "Class C," while those that sell fermented malt beverages are identified as Class "A" or Class "B".

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 81-23-0 and 1 of the code is amended to read:

81-23. ~~[[Class "A"]] >>"Class A"<< Retailer's Intoxicating Liquor License.~~ 1. The fee for each ~~[[Class "A"]] >>"Class A"<< retailer's intoxicating liquor license shall be \$500.~~

Part 2. Section 81-26-0 and 1 of the code is amended to read:

81-26. ~~[[Class "B" Retailer's Intoxicating Liquor License]] >>"Class B" Tavern License<< .~~ 1. The fee for each ~~[[Class "B" retailer's intoxicating liquor]] >>"Class B" tavern<< license shall be \$500.~~

Part 3. Section 90-1-5, 13 and 21 of the code is amended to read:

90-1. Definitions.

5. ~~[[CLASS "B"]] >>"CLASS B"<< TAVERN LICENSE~~ shall mean the document combining the ~~[[Class "B"]] >>"Class B"<< retailer's intoxicating liquor license, and the Class "B" fermented malt beverage retailer's license, to embody formal permission from the city to sell or offer for sale intoxicating liquors and fermented malt beverages.~~

13. IMMEDIATE FAMILY. In this chapter the term "immediate family" of the Class "B" >>or "Class B" << licensee shall include only the spouse, son, daughter, father, mother, mother-in-law, father-in-law, son-in-law or daughter-in-law of the Class "B" >>or "Class B" << licensee having the same abode and domicile.

21. OPERATOR shall mean any person who shall draw or remove any ~~[[fermented malt beverage]] >>alcohol beverage as defined in ch. 125, Wis. Stats., << for sale or ~~[[Consumption]] >>consumption << from any barrel, keg, cask, bottle or other container in which ~~[[fermented malt]] >>alcohol<< beverages shall be stored or kept on premises requiring a ~~[[Class "B"]] license >>under this chapter << , for sale or service to a consumer for consumption in or upon the premises where sold; or one who shall sell or serve intoxicating liquor to customers upon premises operated under a ~~[[retail Class "A" or Class "B"]] >>"Class A" retailer's<< intoxicating liquor license >>, "Class B" tavern license<< or retail ~~[[Class "C"]] >>"Class C"<< wine license; or who shall sell bottled intoxicating liquors or bottled and canned fermented malt beverages on a premises requiring a ~~[[Class "A"]] >>"Class A"<< retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.~~~~~~~~~~~~~~

Part 4. Section 90-3-5-0, a, b, d and e of the code is amended to read:

90-3. License Required.

- 5. WINE SAMPLING ON ~~[[CLASS "A"]]~~ >>"CLASS A"<< PREMISES.** a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of wine taste samples of not more than 3 fluid ounces each, free of charge, by a ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee to customers and visitors for consumption on the premises.
- b. Number of Samples Limited. No ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee may provide more than 2 taste samples per day to any one person.
- d. Underage Persons. No ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee may provide taste samples under this subsection to any underage person.
- e. Wine to Come from Wholesaler. No ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee may provide as taste samples under this subsection wine that the licensee did not purchase from a wholesaler.

Part 5. Section 90-3-6.5-0, a, b, d and e of the code is amended to read:

- 6.5. INTOXICATING LIQUOR SAMPLING ON ~~[[CLASS "A"]]~~ >>"CLASS A"<< PREMISES.** a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of intoxicating liquor taste samples, not including wine, that are not in original packages or containers and are of not more than 0.5 fluid ounces each, free of charge, by a ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor licensee to customers and visitors for consumption on the premises.
- b. Number of Samples Limited. No ~~[[Class "A"]]~~ >>"Class A"<< intoxicating liquor retailer may provide more than one intoxicating liquor taste sample per day to any one person.
- d. Underage Persons. No ~~[[Class "A"]]~~ >>"Class A"<< intoxicating liquor retailer may provide taste samples under this subsection to any underage person.
- e. Intoxicating Liquor to Come from Wholesaler. No ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee may provide as taste samples under this subsection intoxicating liquor that the licensee did not purchase from a wholesaler.

Part 6. Section 90-4-1 of the code is amended to read:

90-4. Classification of Licenses.

- 1. ~~[[CLASS "A"]]~~ >>"CLASS A"<< RETAILER'S INTOXICATING LIQUOR LICENSE.** A ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor licensee shall sell or offer for sale intoxicating liquor in original packages or containers only which is to be consumed off the licensed premises.

Part 7. Section 90-4-2-0 and a of the code is amended to read:

- 2. ~~[[CLASS "B" RETAILER'S INTOXICATING LIQUOR LICENSE]]]~~ >>"CLASS B" TAVERN LICENSE**

<< . a. On-premises Sale. A ~~[[Class "B" retailer's intoxicating liquor]]~~ >>"Class B" tavern<< licensee shall sell or offer for sale intoxicating liquors to be consumed by the glass only on the licensed premises.

Part 8. Section 90-4-2-c-0 and d of the code is amended to read:

c. License Restrictions. In order to preserve the distinction between businesses conducted under ~~[[Class "A"]]~~ >>"Class A"<< retail intoxicating liquor license, and those conducted under the ~~[[Class "B"]]~~ >>"Class B"<< tavern license, the following regulations shall govern the conduct of businesses operated in the city of Milwaukee under the ~~[[Class "B"]]~~ >>"Class B"<< tavern license:

d. Prerequisite. Pursuant to s. 125.51 (3)(f), Wis. Stats., no ~~[[Class B retailer's intoxicating liquor]]~~ >>"Class B" tavern<< license shall be granted ~~[[to any person who does not hold a Class "B" retailer's license to sell fermented malt beverages]]~~ >>for the sale of intoxicating liquor only<< .

Part 9. Section 90-4-5 of the code is amended to read:

5. CLASS "A" FERMENTED MALT BEVERAGE RETAILER LICENSE (PACKAGE STORE). A Class "A" fermented malt beverage retailer licensee shall sell at retail fermented malt beverages only for consumption away from the licensed premises and in the original packages, containers, or bottles in quantities of no more than 4 1/2 gallons. The limitation of quantities of no more than 4 1/2 gallons does not apply to a Class "A" fermented malt beverage retail licensee if the licensee also holds a ~~[[Class "A"]]~~ >>"Class A" retailer's intoxicating<< liquor license for the same premises. The licensee shall not be authorized to sell nonintoxicating liquors containing less than 1/2 of 1% of alcohol by volume. No holder of said license shall sell fermented malt beverages between 9:00 p.m. and 8:00 a.m.

Part 10. Section 90-4-7.9-b of the code is amended to read:

7.9. PERMANENT EXTENSION OF PREMISES.

b. Eligibility. Any person holding a valid Class "A" fermented malt beverage, ~~[[Class "A"]]~~ >>"Class A" retailer's<< intoxicating liquor, ~~[[Class "B"]]~~ >>"Class B"<< tavern, Class "B" fermented malt beverage, or ~~[[Class "C"]]~~ >>"Class C"<< wine license may apply for permanent extension of the licensed premises. The area which the licensee wishes to include in a permanent extension of the licensed premises shall be owned by or under the control of the licensee.

Part 11. Section 90-4-10-a of the code is amended to read:

10. CLASS "D" OPERATOR'S LICENSE.

a. Authority. A Class "D" operator's license shall authorize the operator to draw or remove from any barrel, keg, cask, bottle, or any other container, fermented malt beverages and to serve them in any place operated under a Class "B" fermented malt beverage retailer's license; to sell or serve intoxicating liquors in any place operated under a ~~[[Class "B" intoxicating liquor retailer's]]~~ >>"Class B" tavern<< license; or to sell or serve wine in any place operated under a Class "C" wine retailer's license; or to sell intoxicating liquor or fermented malt beverages in any place operated under a ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

Part 12. Section 90-4.7 of the code is amended to read:

90-4.7. Restriction on Granting of Class "A" Fermented Malt Beverage and ~~[[Class "A"]]~~ >> "Class A"<< Retailer's Intoxicating >>Liquor<< Licenses. No ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor license or Class "A" fermented malt beverage retailer license may be granted to an applicant applying for a premises currently licensed as a filling station.

Part 13. Section 90-5-6 and 7 of the code is amended to read:

90-5. Licensing.

6. FINGERPRINTING. All applicants for a ~~[[Class "A" or a Class "B"]]~~ >>"Class A"<< retailer's intoxicating liquor license, >>a "Class B" tavern license,<< a Class "B" manager's license, a Class "A" fermented malt beverage retailer's license, a ~~[[Class "C"]]~~ >>"Class C"<< wine retailer license, a Class "D" operator's license or a Class "D" provisional operator's license shall be fingerprinted as provided in s. 85-21-1.

7. INVESTIGATION. a. All applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the licensing committee of the common council. For an application for a ~~[[Class "A" or Class "B"]]~~ >>"Class A" or "Class B"<< license for the sale of intoxicating liquor, the report of the commissioner of neighborhood services shall include a statement as to whether the main entrance of the premises is less than 300 feet from the main entrance of any church, school, day care center or hospital.

b. The chief of police shall investigate each applicant as provided in s. 85-21-2. The chief of police shall also provide copies of any licensed premise synopsis reports relating to licensed premises previously located at the premises proposed for licensing as a Class "A," >>"Class A,"<< Class "B" >>, "Class B"<< or ~~[[Class "C"]]~~ >>"Class C"<< retail establishment during the 5-year period prior to the date of application.

Part 14. Section 90-5-8-a-2-0 of the code is amended to read:

8. COMMITTEE ACTION.

a. Notice.

a-2. Applications for all new Class "A," >>"Class A,"<< Class "B" >>, "Class B"<< and ~~[[Class "C"]]~~ >>"Class C"<< retail licenses and Class "B" manager's licenses shall, except as provided in subd. 3, be referred to the licensing committee for its recommendation as to whether or not each license should be issued. Applications shall be referred without delay upon certification by the city clerk that the application is complete. Upon referral, the application shall be scheduled and heard by the licensing committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

Part 15. Section 90-5-8-b-0 of the code is amended to read:

b. Hearing. Upon certification by the city clerk as provided in par. a-2, all new applications for Class

"A," >>"Class A,"<< Class "B" >>, "Class B"<< and ~~[[Class "C"]]~~ >>"Class C"<< retail licenses shall be timely scheduled for hearing by the licensing committee on a date prior to the expiration of 3 full periods of time between regularly scheduled meetings of the common council. Licensing committee hearings on all new applications under this section shall be conducted in the following manner:

Part 16. Section 90-5-8-c-1-b of the code is amended to read:

c. Recommendations.

c-1-b. The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the floor plan and plan of operation submitted pursuant to sub. 1-c and shall include information provided by the chief of police pursuant to sub. 7 of calls for service, complaints or criminal activity occurring on the premises that may be formally documented in a regular police department record such as a PA 33, summary or equivalent record that is proposed for licensing as a Class "A" >>, "Class A," "Class B"<< or Class "B" retail establishment or a ~~[[Class "C"]]~~ >>"Class C"<< retail establishment or incidents associated with the premises during the 5-year period prior to the date of application.

Part 17. Section 90-5-9-b of the code is amended to read:

9. DISQUALIFICATION.

b. Whenever a new application for a ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor license, a ~~[[Class "B" retailer's intoxicating liquor license, a Class "B" retailer's service bar license]]~~ >>"Class B" tavern license<<, a Class "B" manager's license, a Class "A" fermented malt beverage retailer license, a Class "B" fermented malt beverage retailer license, a ~~[[Class "C"]]~~ >>"Class C"<< wine retailer license, a Class "D" operator's license, a tavern amusement, dancing and music license, or a center for the visual and performing arts license, is withdrawn after commencement of the hearing of the licensing committee procedures for withdrawal provided in s. 85-13-3 shall apply.

Part 18. Section 90-6-2-a-0 of the code is amended

90-6. Qualifications for Licenses.

2. RESIDENCY REQUIREMENTS.

a. By License Class. ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor license; ~~[[Class "B" retailer's intoxicating liquor and service bar licenses]]~~ >>"Class B" tavern license<< retailer's intoxicating liquor and service bar licenses; Class "A" fermented malt beverage retailer's license; Class "B" fermented malt beverage retailer's license; ~~[[Class "C"]]~~ >>"Class C"<< wine retailer's license:

Part 19. Section 90-7-1-b of the code is amended to read:

90-7. Restrictions on Corporations.

1. RESPONSIBLE PERSON.

b. Certain Retail Premises. Under a >>"Class B,"<< Class "B" or ~~[[Class "C"]]~~ >>"Class C"<< retailer's license, there shall be upon the licensed premises at all times, the licensee, or the agent of the corporation or limited liability company, or a Class "D" operator, or a person holding a Class "B" manager's license.

Part 20. Section 90-11-1-b of the code is amended to read:

90-11. Renewal of License.

1. PROCEDURE FOR RENEWAL.

b. Objection. Upon the filing of an application for renewal of a Class "A" >>"Class A,"<< Class "B" >>,"Class B"<< or ~~[[Class "C"]]~~ >>"Class C"<< retail establishment, the city clerk shall provide the applicant with a form, prescribed by the city clerk and approved by the licensing committee, to be completed by the applicant and conspicuously posted at the expense of the applicant on the outside of the licensed premises providing notice to members of the public that an application has been made and that objections to the application may be made in accordance with the procedures in s. 85-3-3. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if police reports of incidents and activities on or related to the licensed premises not previously considered by the licensing committee establish cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

Part 21. Section 90-14-1 of the code is amended to read:

90-14. Restrictions as to Location of Premises.

1. 300 FEET RESTRICTION. No ~~[[Class "A" or Class "B"]]~~ >>"Class A" or "Class B"<< license for the sale of intoxicating liquor may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any church, school, day care center or hospital, except that this prohibition may be waived by a majority vote of the common council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, day care center or hospital to the main entrance of the premises covered by the license.

Part 22. Section 90-14-2-a and b of the code is amended to read:

2. EXCEPTIONS.

a. Premises covered by a ~~[[Class "A" or Class "B"]]~~ >>"Class A" or "Class B"<< license on June 30, 1947.

b. Premises covered by a ~~[[Class "A" or Class "B"]]~~ >>"Class A" or "Class B"<< license prior to the occupation of real property within 300 feet thereof by a school, day care center, hospital or church building.

Part 23. Section 90-15-1 of the code is amended to read:

90-15. Hours of Operation.

1. ~~[[CLASS "A"]]] >>"CLASS A"<< RETAILER'S INTOXICATING LIQUOR LICENSE. No premises for which a ~~[[Class "A"]]] >>"Class A"<< retailer's intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.~~~~

Part 24. Section 90-15-3-0 and a-2 of the code is amended to read:

3. CLASS "B" FERMENTED MALT BEVERAGE AND ~~[[INTOXICATING LIQUOR RETAILER LICENSES OF CLASS "B" SERVICE BAR LICENSE]] >>"CLASS B" TAVERN LICENSES<< .~~

a. Closing Hours - Prohibited Hours.

a-2. Hotels and restaurants the principal business of which is the furnishing of food ~~[[, drinks or]] >> and<< lodging to patrons, bowling centers, >>movie theaters,<< painting studios, >>indoor golf and baseball facilities,<< indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor or fermented malt beverages during the prohibited hours under subd. 1.~~

Part 25. Section 90-18-2 of the code is amended to read:

90-18. Sale to an Underaged Person Prohibited.

2. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS; PROHIBITIONS; PENALTY. Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly possesses or who consumes any alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis Stats. This subsection does not apply to an underage person processing alcohol beverage in the course of employment during his or her working hours if he or she is employed by a brewer, a fermented malt beverage wholesaler, a permittee other than a Class "B" fermented malt beverage or >>"Class B"<< intoxicating liquor permittee, a facility for the production of alcohol fuel, a retail licensee under conditions specified in s. 90-19- 1-i or for the delivery of unopened containers to the home or vehicle of a customer, or a campus, if the underage person is at least 18 years of age, and is under the immediate supervision of a person who has attained the legal drinking age.

Part 26. Section 90-19-1-b and c of the code is amended to read:

90-19. Presence of Underage Persons in Places of Sale; Penalty.

1. RESTRICTIONS.

b. An underage person who enters or is on a Class "A" >>or "Class A"<< premises for the purpose of purchasing items other than alcohol beverages. Any underage person so entering the premises may not remain on the premises after the purchase.

c. Hotels, drug stores, grocery stores, bowling ~~[[alleys]] >>centers<< , movie theaters, painting studios, >>billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, indoor golf~~

and baseball facilities on premises for which the only alcohol beverage license issued is a Class "B" fermented malt beverage license, service stations, vessels,<< cars operated by any railroad, regularly established athletic fields, >>outdoor volleyball courts that are contiguous to a licensed premises,<< stadiums, public facilities as defined in s. 125.51(5)(b)1.d., Wis. Stats., which are owned by a county or municipality, or centers for the visual or performing arts.

Part 27. Section 90-19.5-0 of the code is amended to read:

90-19.5. Presence of Underage Persons During Times When No Alcohol Beverages Are Sold.

Underage persons may enter or remain on a Class "B" or ~~[[Class "B"]]~~ >>"Class B"<< licensed premises pursuant to s. 90-19-1-k under the following conditions:

Part 28. Section 90-23-1 of the code is amended to read:

90-23. Solicitation Prohibited.

1. PROHIBITION. Any employe, manager, bartender, entertainer or licensee of a Class "B" fermented malt beverage or ~~[[Class "B" retail intoxicating liquor]]~~ >>"Class B" tavern<< licensed establishment shall not solicit, appeal to, ask or invite any unacquainted person of either sex to purchase for, procure for or give to such person or to a third person or party a drink of intoxicating liquor, fermented malt beverage, nonintoxicating liquor or soda water beverage in any Class "B" fermented malt beverage or ~~[[Class "B" intoxicating liquor]]~~ >>"Class B" tavern<< licensed premises.

Part 29. Section 90-24 of the code is amended to read:

90-24. Sanitary Requirements. 1. ~~[[Class "B" retail intoxicating liquor]]~~ >>"Class B" tavern<< licenses are subject to rules on sanitation. The rules and regulations made by the state department of ~~[[health and social services]]~~ >>agriculture, trace and consumer protection<< and ~~[[the ordinances and]]~~ rules and regulations of the city of Milwaukee governing sanitation in restaurants shall apply to all ~~[[Class "B" retailer's intoxicating liquor]]~~ >>"Class B" tavern<< licensed premises. No ~~[[Class "B" retailer's intoxicating liquor]]~~ >>"Class B" tavern<< license shall be issued unless the premises to be licensed conforms to such rules and regulations.

2. As stated in s. 17-13 of the charter, in order to promote and secure the general health and welfare of the city whenever the commissioner of health finds unsanitary or other conditions in the operation of a food or drink service establishment, including any Class "B" fermented malt beverage or ~~[[intoxicating liquor]]~~ >>"Class B" tavern<< licensed premises, which in the commissioner's judgment constitutes a substantial hazard to the public health, the commissioner may without warning, notice or hearing issue a written notice to the operator of the establishment citing such condition, specifying the time period within which such action shall be taken. If deemed necessary for the health of the public, the order shall state that all food and drink service operations, including the service of all intoxicating liquor or fermented malt beverages, are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply therewith, but upon written request to the commissioner of health shall be provided a hearing as stated in ~~[[s. 68-25]]~~ >>s. 68-67<< for suspension or revocation of a food dealer's license.

Part 30. Section 90-26-1 and 3 of the code is amended to read:

90-26. Restrictions on Unlicensed Persons Functioning as Class "D" Operators.

1. ~~[[CLASS "A"]]~~ >>"CLASS A"<< INTOXICATING LIQUOR RETAILER'S LICENSE. No person other than the licensee in any place operated under a ~~[[Class "A"]]~~ >>"Class A"<< retailer's intoxicating liquor license shall sell or serve any intoxicating liquor unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be at the time of said sale or service upon said premises.

3. >>"CLASS B,"<< CLASS "B" OR ~~[[CLASS "C"]]~~ >>"CLASS C"<< RETAILER'S LICENSE. No person other than the licensee shall draw, remove or serve fermented malt beverages or intoxicating liquor in any place operated under a >>"Class B,"<< Class "B" or ~~[[Class "C"]]~~ >>"Class C"<< retailer's license to a customer for consumption on or off the premises where sold, unless he or she shall possess a Class "D" operator's license or a Class "B" manager's license, or unless he or she shall be under the immediate supervision of the licensee, or a person holding an operator's or manager's license who shall be at the time of such service upon said premises.

Part 31. Section 90-31-1 of the code is amended to read:

90-31. Refilling Bottles or Substitution of Brands Prohibited.

1. RETAILER MAY NOT BOTTLE OR REFILL. a. Prohibited. No ~~[[Class "A" or "B" liquor or fermented malt beverage retailer licensee]]~~ >>person licensed under this chapter<< may bottle any intoxicating liquor or fermented malt beverage or refill any bottle or add to the contents of any bottle or container from any other bottle or container.

b. Exception. A >>"Class B" tavern or<< Class "B" retail licensee authorized to sell fermented malt beverages may dispense and sell fermented malt beverages in refillable bottles or containers labeled and identified as provided in s. 90-29 and not exceeding one gallon capacity.

Part 32. Wherever the term "Class 'C'" appears in the following sections of the code, the term "Class C" is substituted: 81-30.5-0, 81-30.5-1, 90-4-4-a, 90-4-7.8-b, 90-4-9-0, 90-4-9-a, 90-4-9-b-0, 90-4-9-c, 90-4-9-d, 90-4-10-a, 90-5-1-c-1-c and 90-5-1.5.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

City Clerk

LRB163293-1

Jeff Osterman

08/30/2016