

AN ORDINANCE TO AMEND DEFINITION OF BEER AND MALT BEVERAGES IN SECTION 6-2; TO AMEND SECTION 6-149 AS TO REGULATIONS FOR SERVER PERMITS; TO AMEND SECTION 66 AS TO LICENSES; AND TO AMEND CHAPTER AS TO BREWPUBS

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF CANTON as follows:

1. The definition of “Beer and Malt Beverages” is deleted in its entirety and the following is substituted therefor:

Sec. 6-2. - Definitions.

“Beer and malt beverage” means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product or any combination of such products in water, containing not more than fourteen percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

2. Section 6-149(1) is deleted in its entirety and the following is substituted therefor:

Sec. 6-149. - Employees; permit.

(1) No alcohol serving permit shall be issued to any alcohol server who:

- (i) within two years prior to the filing of the application for such permit has a conviction for any felony; or*
- (ii) within two years prior to the filing of the application for such permit has two or more convictions for any misdemeanor federal, state or local law relating to the use or sale of drugs or alcoholic beverages; or*

For purposes of this subsection, a plea of nolo contendere, no contest, or sentences under First Offender Act shall constitute a conviction.

3. Section 6-66 is deleted in its entirety and the following is substituted therefor:

Sec. 6-66. - Required; constitutes a privilege.

(a) It shall be unlawful for any person to store, deliver, sell or offer to sell, or manufacture any alcoholic beverage, within the corporate city limits, without having the appropriate license issued upon the terms and conditions provided in this article.

(b) The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code, and if other provisions of this Code conflict with this chapter then this chapter shall control.

(c) All licenses shall be a mere grant or privilege to carry on the business during the term of the license subject to all terms and conditions imposed by city ordinances and state law.

(d) All licenses issued under this article shall have printed on the front these words:

This license is a mere privilege subject to be revoked and annulled and is subject to any future ordinances which may be enacted.

(e) Licenses which may be issued under this chapter include:

- (i) Manufacturing of Malt Beverages, Wine, or Distilled Spirits, including the right to sell for consumption on the premises and the right to sell packages for consumption off the premises, as permitted by state law.*
- (ii) Wholesale of Malt Beverages, Wine or Distilled Spirits*
- (iii) Retail package sales of Malt Beverages, Wine or Distilled Spirits*
- (iv) Retail consumption on the premises of Malt Beverages, Wine or Distilled Spirits*
- (v) Brewpub, including the right to sell for consumption on the premises and the right to sell packages for consumption off the premises, as permitted by state law.*
- (vi) Sunday Sales Permit*
- (vii) Ancillary Tasting of Wine and Malt Beverages for manufacturing or retail package.*

4. Chapter 6, Article II, Division 7 is deleted in its entirety and the following is substituted therefor:

DIVISION 7. - BREW PUBS

Sec. 6-271. - Definitions.

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

- a. Barrel means 53 gallons*
- b. Brew pub means an eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises or for retail package sales.*

Sec. 6-272. - Regulations.

Brewpubs shall operate according to the following regulations:

(1) No individual shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the council pursuant to the same procedures as are set forth in this article and each brew pub license holder shall comply with all other applicable state and local license requirements; and

(2) A brew pub license authorizes the holder of such license to:

a. Manufacture on the licensed premises not more than 10,000 barrels of beer in a calendar year solely for retail on the premises and solely in draft form; and

b. Operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter; Provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only and provided, further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

c. Sell up to a maximum of 5,000 barrels annually to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale;

Sec. 6-273. - Other licenses available.

Possession of a brew pub license shall not prevent the holder of such license from obtaining any other license available under this article for the same premises.

Sec. 6-274. - Payment of fees and taxes.

A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this article as manufacturers, retailers and, where applicable, wholesalers.

5. If any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

6. This Ordinance shall become effective on the date the Mayor signs the ordinance indicating approval, ten days after the adoption of the ordinance if the Mayor has not signed nor vetoed, or immediately upon an affirmative vote of the City Council after the Mayor's veto, whichever shall first occur.

Attest:

City Manager

Gene Hobgood, MAYOR

Date:

Approved as to form:

Robert M. Dyer, City Attorney

ORDINANCE NO. _____

First Reading _____

Adopted by Council _____

Approved by Mayor _____

Veto by Mayor _____

Second Vote by Council _____

Effective Date _____

City Clerk