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Filed: 5-9-06

Sponsored by: Carlson

First Reading: May 15, 2006

Second Reading: July 10, 2006

COUNCIL BILL NO. 2006 - 125

GENERAL ORDINANCE NO. 5575

AN ORDINANCE

AMENDING Article I, Division I of Chapter 10 of the Springfield City Code, known as Alcoholic Beverages, by repealing two sections and enacting six new sections relating to alcoholic beverages and underage patrons in establishments.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

Section 1 - That Article I, Division I of Chapter 10 of the Springfield City Code, known as Alcoholic Beverages, is hereby amended by repealing Sections 10-1 and 10-4 thereof, and enacting six new sections pertaining to beer and alcoholic beverages and underage patrons in establishments, which sections shall read as follows:

NOTE: Language in **bold** is to be added.

Chapter 10 ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 10-1.A Definitions Relating to this Chapter.

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:

Intoxicating liquor means and includes 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 by volume, except for nonintoxicating beer as defined in RSMo 312.010. All beverages having an alcoholic content of less than one-half of one percent

by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by RSMo 196.365B196.445.

Nonintoxicating beer means any beer manufactured from pure hops or pure extract of hops and pure barley malt or other wholesome grains or cereals and wholesome yeast and pure water and free from all harmful substances, preservatives and adulterants and having an alcoholic content of more than one-half of one percent by volume and not exceeding 3.2 percent by weight.

Sec. 10-1.B Definitions Relating to Article I.

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

Minors shall mean those persons under the age of 21 years.

Private Club shall mean a corporation, whether operated for profit or not, recognized by the Missouri Secretary of State as being in good standing with regular duties assigned to members and which has regular dues collected from members.

Restaurant shall mean an establishment where (1) a permanent kitchen facility where at least commercial grade stove, sink, and refrigeration equipment, are located, (2) food is served to the general public during the hours of 7:00 am until 9:00 pm, and (3) the establishment is open for the purpose of serving food to the general public at least four hours during such time period, and a staff of at least two employees are dedicated to the preparation, serving and clean up of food items for sale to the general public.

Sec. 10-3.A. Presence of minors on premises.

1. Minors. No person owning or operating an establishment licensed for the sale of any beer, alcohol or intoxicating liquor at retail whose gross receipts for the sale of such beverages is sixty percent (60%) or more of all gross receipts for business

conducted in said establishment shall permit any minor to enter, remain, loiter in or frequent such establishment, unless (1) no beer or intoxicating liquor of any kind is available for sale or consumption to persons on the premises during times when minors are allowed on the premises, or (2) such person establishes that he is operating a restaurant as defined in this Article, or (3) such person hosts a private party for a designated special event such as, but not limited to, a wedding or graduation reception, in which the attendees of such event use a portion of the establishment not open to the general public and a parent or guardian of each minor under the age of 18 is present, or (4) such person has obtained an Underage Patron Permit to allow admittance to customers over the age of 18. The issuance of an Under Age Patron Permit under Section 10.7.1 shall not be a defense to allowing or permitting minors under the age of 18 to enter, remain, loiter in or frequent any establishment subject to this Section. Any violation of this subsection shall result in the same penalties as those set out in Section 10-7.1B of this Article for the violation of an Underage Patron Permit.

2. Premise where liquor is consumed. No person owning or operating an establishment where beer or intoxicating liquor of any kind is consumed by persons not operating or owning such establishment, and such beer or intoxicating liquor was not purchased within such establishment, shall permit a minor to enter, remain, loiter in or frequent such establishment unless the exceptions to enforcement of Subsections 10.3.A.1 are met.

3. For purposes of this Section, the amount of sales for any beer or intoxicating liquor at retail shall be subject to audit by the City of Springfield Finance Department and shall be verified on an annual basis by a notarized statement prepared by a certified public accountant, public accountant, auditor, comptroller, or similarly licensed accountant that receipts from the sale of any beer and intoxicating liquor did not exceed sixty percent of the entire gross receipts from the conduct of business within the

establishment. The establishment shall maintain, at a minimum and at all times on the premises or at a place easily accessible to the Director of Finance, copies of the following records in order to substantiate the sales figures reported in such statement: pre-numbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food, beer, intoxicating liquor and other items if available for sale at the establishment. Additional records may be required by the Director of Finance as deemed necessary to verify the contents of the notarized statement required herein.

4. This section shall not apply to any establishment, entity or person exempt from liquor licensing requirements by the State of Missouri.

Sec. 10-4. Possession by persons under 21 years of age.

The possession, actual or constructive, of any beer, wine or intoxicating liquor by any person under the age of 21 years is prohibited. A violation of this section shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00).

Sec. 10-4.1 Possession of identification by persons under 21 years of age.

The possession of any device or tool or other means indicating that the person in possession is 21 years of age or older when he is not, including identification used for purposes of Sec. 10-7.1.2.a is prohibited. A violation of this section shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00).

Sec. 10-7.1 Underage Patron Permit.

A. No person, other than a private club, charitable or governmental entity, athletic or sporting facility, or restaurant, possessing a license for the sale of any beer or intoxicating liquor at retail whose gross receipts for the sale of alcoholic beverages is sixty percent (60%) or more of all gross receipts for business conducted in said

establishment shall permit minors over the age of 18 to enter, loiter in, remain or frequent such establishment except as provided for in 10-3.1 without having been issued and having in force and good standing an Underage Patron Permit. An Underage Patron Permit may be issued to such person, and such permit may remain in force and in good standing, upon initial and continuing compliance with the requirements set out in this Section and any other provision of Springfield City Code or state law. Such permit shall be good for no longer than a period of twelve months. The Director of Finance will solicit written recommendations on whether or not to issue or renew an Underage Patron Permit from City departments (including, but not limited to, Police, Health, and Building Development Services), a panel of members of the community, such as the Hospitality Resource Panel, as approved by City Council, and any neighborhood associations recognized by the City as representing neighborhoods adjacent to the establishment's location. An annual fee of Two Hundred and Fifty Dollars (\$250.00) shall be paid at the time of application for the issuance or renewal of the Underage Patron Permit.

B. Penalties. Violations of any provision of this Chapter relating to the sale to, or allowing the consumption by a minor of beer or intoxicating liquor of any kind in an establishment operated by any person holding an Underage Patron Permit, may result in the suspension or revocation of such permit and/or any license to sell beer or intoxicating liquor at retail, and, upon a showing of a violation following a hearing before a hearing examiner appointed by the City Manager or his designee, the following suspensions and penalties shall apply:

First offense for violation of the Underage Patron Permit during any 12-month period a permit is in effect shall result in the suspension of the City license for sale of any kind of beer or intoxicating liquor at retail ten (10) days as directed by the Director of Finance;

Second offense for violation of the Underage Patron Permit during any 12-month period a permit is in effect shall result in the suspension of the City license for the sale of any kind of beer or intoxicating liquor at retail for thirty (30) days as directed by the Director of Finance;

Third offense for violation of the Underage Patron Permit during any 12-month period a permit is in effect shall result in a suspension of the City license for the sale of any kind of beer or intoxicating liquor at retail liquor for one (1) year as directed by the Director of Finance.

No Underage Patron Permit may be issued or renewed to any establishment or person until such time periods of suspension have been completed.

C. Violations; penalty. In addition to any enforcement remedies available to the City, any person found guilty of violating this section shall be penalized in accordance with section 1-7. In addition, any licensee, owner or operator of a licensed establishment in violation of this Article may have their license or licenses for the sale of any beer or intoxicating liquor of any kind at retail revoked or suspended in accordance with the provisions of section 10-40 et seq.

D. Legal action. The imposition of fines or availability of administrative enforcement remedies to the city shall not prevent the city attorney from instituting appropriate action to prevent this Article from being violated, or enforcing same including having a city license to sell any type of beer or intoxicating liquor or an underage patron permit suspended or revoked in accordance with the procedure set forth in section 10-40 et seq. Additionally, the City Attorney may seek the suspension or revocation of any city license held by the owner or operator of any establishment for any activity prohibited under this Article, or seek appropriate remedies to restrain, correct or abate a violation hereof or to stop an illegal act, conduct or other activity prohibited under this section. The city attorney is hereby authorized to take whatever action he

deems appropriate to enforce the provisions of this section against any licensed establishment, including seeking injunctive relief, for violation of this section.

Section 2 – Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 3 - Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4 - This ordinance shall be in full force and effect thirty days from and after passage.

Passed at meeting: July 10 2006

Thomas A. Carlson
Mayor

Attest: Brenda M. Ants, City Clerk

Filed as Ordinance: July 10 2006

Approved as to form: Mary K. Yendes Assistant City Attorney

Approved for Council Action: Bob Lumbley City Manager

Affected Agency Notified:
Emergency Required: No
Budget Adjust. Required:
Board Rec. Required:
Public Hearing:
Sponsor:
Date: 5-8-06

EXPLANATION TO COUNCIL BILL NO. 2006-

ORIGINATING DEPARTMENT: Law

PURPOSE: To adopt an ordinance regulating the access of persons under the age of 21 to establishments serving beer and intoxicating liquor. (Staff and the Hospitality Resource Recommend approval).

BACKGROUND INFORMATION: The city and the Urban Districts Alliance began working on a process to address the impacts of the hospitality industry in the mixed use environment of Center City over two years ago and subsequently requested assistance from the Responsible Hospitality Institute (RHI) staff in this effort. RHI led several discussions with Center City stakeholders representing community, safety, hospitality, and development perspectives. This discussion resulted in developing strategies for dealing with impacts in the urban districts and these strategies were outlined in a report. One of the recommendations was to create the Hospitality Resource Panel (HRP) with representatives from each perspective that participated in the discussion and was present in our community to collaborate in addressing the issues and implementing the strategies identified in the report.

Incidents in downtown last fall highlighted two problems that Council asked staff to address. The incidents involved minors in a nightclub following a night of serving unlimited drink specials. Council requested the Law Department, in consultation with the Panel, to draft ordinances dealing with the identified problems. This proposed council bill addresses minors in bars and nightclubs. An accompanying bill will address drink specials.

Although the focus of the HRP is in Center City, the proposed ordinance will apply city-wide.

STAFF COMMENTS: The 18–25 year old, college age, demographic socialize together and it is important that they have the option of meeting, socializing, and experiencing entertainment together in bars and clubs that will integrate age groups in a safe and controlled environment. However, the HRP wants to take steps to help ensure that minors are not drinking alcohol during these opportunities to socialize. The HRP has also adopted Best Practices that provides guidance to that end which will be voluntarily complied with. The ability of an establishment to comply with these Best Practices will be used by the HRP in making comments to the Director of Finance on issuing Underage Patron Permits as allowed in this ordinance.

The proposed ordinance will begin to accomplish the strategy of allowing socialization between persons 18 years of age and older while restricting the ability of minors to drink beer and alcohol in the following ways:

Access of person under 21 years of age (minors) is limited to establishments that receive less than sixty percent (60%) or more of their entire gross receipts from the sale of beer or alcohol, unless they meet an exception in the ordinance. Minors will not be permitted in such establishments at all unless the establishment is not serving alcohol or beer when the minors are present, (2) a private gathering is taking place within the establishment such as a wedding or graduation reception, or the establishment has an Underage Patron Permit. An Underage Patron Permit will allow an establishment to have persons between the ages of 18 and 21 in their establishments when beer and intoxicating alcohol are being sold. There are some exceptions to the requirement for an Underage Patron Permit. The

ordinance exempts Private clubs, charitable and governmental entities, athletic or sporting facilities. Other businesses will be required to have an Underage Patron Permit to allow persons between the ages of 18 and 21 years in the establishment when beer or alcohol is being sold. Failure to have an Underage Patron Permit in place while allowing minors in will result in a series of increasing suspension periods of the Permit and the liquor license itself. Those penalties are:

- 1st time – 10 day suspension of Underage Patron Permit
- 2nd time – 30 day suspension of City liquor license
- 3rd time – One year suspension of City liquor license

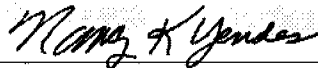
No enforcement would be complete without including the minors in enforcement. Therefore, any minor in possession of beer or alcohol will receive a minimum fine of \$500.00. This same fine will also be imposed for minors possessing and using false identification to try to gain entry into licensed establishments

This ordinance will not go into effect for thirty days to permit establishments to obtain an Underage Patron Permit. Staff and the Hospitality Resource Panel currently in place will evaluate this ordinance's effectiveness over the next three to six months and report back to Council on any recommended changes.

RECOMMENDATION: Staff recommends approval.

Submitted by:

Approved by:


Assistant City Attorney


City Manager

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