

200-03
New Book

AN ORDINANCE TO REGULATE LIQUOR CONTROL; PROVIDING FOR MEANS OF ENFORCEMENT; PROVIDING PENALTIES FOR VIOLATIONS; REPEAL OR INCONSISTENT ORDINANCES IN CONFLICT.

WHEREAS, it is deemed necessary by the Common Council of the City of Glenville to prohibit the following offenses in order to protect the welfare, property, and safety of the citizens of the City of Glenville; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GLENVILLE, THAT;

SECTION 1 - Definitions

For the purposes of this ordinance, unless the context clearly indicates otherwise, the following definitions shall apply:

- (A) “Alcoholic liquor” includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.
- (B) “Beer” means any beverage obtained by the fermentation of barley, malt, hops or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.
- (C) “Intoxicated” means having one’s faculties impaired by alcohol or other drugs to the point where physical or mental control or both are markedly diminished.
- (D) “Manufacturer” means any person engages in the manufacture of any alcoholic liquor, including, among others, a distiller, rectifier, wine maker, and brewer.
- (E) “Nonintoxicating beer” means any beverage obtained by the fermentation of barley, malt, hops or similar products or substitutes and containing not more alcohol than specified in West Virginia State Code 11-16-2.
- (F) “Person” means an individual, firm, partnership, corporation or voluntary association.
- (G) “Public place” means any place, building or conveyance to which the public has or is permitted to have access, including restaurants, soda fountains, hotel dining room, lobbies, and corridors, and any highway, street, lane, park or place of public resort or amusement.
- (H) “Sale” means any transfer, exchange or barter in any manner or by any means, for

a consideration, and includes all sales made by any principal, proprietor, agent or employee.

- (I) “Selling” includes the solicitation or receipt of orders, possession for sale, and possession with intent to sell.
- (J) “Wine” means any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products, containing sugar.

(WV C 60-1-5)

SECTION 2 - Prohibited Acts

No person shall:

- (A) Manufacture or sell in this City, without a license, any alcoholic liquor except as permitted by the West Virginia State code Chapter 60;
- (B) Aid or abet in the manufacture or sale of alcoholic liquor without a license, except as permitted by West Virginia State Code Chapter 60;
- (C) Sell without a license any alcoholic liquor other than provided by West Virginia State Code Article 60=6;
- (D) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, un-rectified or impure form of ethyl alcohol, or any other foreign or deleterious substance or liquid;
- (E) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has been sold at retail in this State;
- (F) Advertise any alcoholic liquor in this State except in accordance with the rules and regulations of the West Virginia Alcohol Beverage Control Commissioner;
- (G) Distribute, deal in, process or use crowns, stamps or seals required under the authority of West Virginia State Code Chapter 60, except in accordance with the rules and regulations prescribed by the West Virginia Alcohol Beverage Control Commissioner. (WV C 60-6-7)
- (H) Manufacture, sell, give or offer to make a sale or gift of, transport or otherwise possess any alcoholic liquor or nonintoxicating beer except as permitted by West Virginia State Code Chapters 11 and 60.

SECTION 3 - Unlawful sale or possession by licensee

No person licensed under West Virginia State Code Chapter 60 shall:

- (A) Sell alcoholic liquors of a kind other than that which is permissible under West Virginia State Code Chapter 60;
- (B) Sell beer to which wine, spirits or alcohol has been added;
- (C) Sell wine to which other alcoholic spirits have been added other wise than as required in the manufacture thereof under regulations of the West Virginia Alcohol Beverage Control Commission. (WV C 60-6-8)
- (D) Sell alcoholic liquors to a person who is:
 - 1. Less than the legal drinking age as set forth in the WV State Code 60-3-22, as amended;
 - 2. An habitual drunkard;
 - 3. Intoxicated;
 - 4. Addicted to the use of narcotic drugs;
 - 5. Mentally incompetent.
- (E) Keep on the premises covered by his license any alcoholic liquor other than that which is authorized by West Virginia State Code Chapter 60. (WV C 60-6-8).

PENALTIES FOR SECTION 2 AND 3

A person who violates any provision of these sections shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or confined in jail up to thirty days or both such fine and imprisonment. (WV Code 6-6-7)

SECTION 4 - Intoxication or drinking in public places; illegal possession of alcoholic liquor; arrest

No person shall:

- (A) Appear in a public place in an intoxicated condition;
- (B) Drinking alcoholic liquor or nonintoxicating beer or have an open container of alcoholic liquor on nonintoxicating beer in or on any public sidewalk, walkway, entranceway, street, lane or other public place;
- (C) Drink alcoholic liquor in a motor vehicle on any highway, street, alley or in a public garage;
- (D) Tender a drink of alcoholic liquor to another person in a public place;
- (E) Possess alcoholic liquor in the amount in excess of ten gallons, in containers not bearing stamps or seals of the West Virginia Beverage Control Commission,

without having first obtained written authority from the Commissioner therefor:

- (F) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions of West Virginia State Code Chapter 60.
- (G) Purchase or attempt to purchase alcoholic liquor, wine or nonintoxicating beer if such person at the time of the purchase or attempted purchase is under the legal drinking age as set forth in the West Virginia State Code 60-6-9, as amended.

PENALTIES FOR SECTION 4

Any person who violates the subsections (A-D) shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than one hundred dollars, or confined in jail not more than thirty days; or both such fine and imprisoned. Any person who violates the subsection (E-G) shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days and upon second conviction or subsequent offense person shall be guilty of a felony. (60-6-9)

SECTION 5 - Certain Acts prohibited by nonintoxicating beer licensee.

- (A) No person licensed under West Virginia State Code Article 11-16, his servants, agents or employees shall sell, give or dispense, and no individual shall drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer on weekdays between the hours of 2:00 AM and 7:00 AM or between the hours of 2:00 AM and 1:00 PM on any Sunday, except in private clubs licensed under provisions of West Virginia State Code Article 60-7 where the hour shall conform with the hours of sale of alcoholic liquors.
- (B) No licensee, his, its or their servants, agents or employees shall sell, furnish or give any nonintoxicating beer to any person under the legal drinking age as set forth in the West Virginia State Code 11-16-13, as amended; or to any person visibly or noticeably intoxicated, any insane person, or any habitual drunkard.
- (C) On and after October 1, 1983, no licensee, his, its or their servants, agents or employees, shall sell, furnish or give any nonintoxicating beer to any person who is less than twenty-one year's of age unless such person under the age of twenty-one years first displays a valid operator's license, chauffeurs license or non-operator's identification, issued to such person under the provisions of West Virginia State Code 17B-2-8, as amended.
- (D) No distributor shall sell or offer to sell, and no retailer shall purchase or receive any nonintoxicating beer except for cash; and no right of action shall exist to collect any claims prohibit a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for such containers when title is retained by the vendor.

- (E) No brewer or distributor or his, its or their agents, shall transport or deliver nonintoxicating beer to any retail licensee on Sunday.
- (F) No brewer or distributor shall give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail, or offer any prize, premium, give or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers: provided, that a distributor may offer, for sale or rent, tanks of carbonic gas. Nothing herein contained shall prohibit a brewer from sponsoring any amateur athletic event or from providing prizes or awards for participants and winners in any such events: provided, however, that no such event shall be sponsored which permits actual participation by athletes or other persons who are minors.
- (G) No licensee shall transport, sell, deliver or purchase any nonintoxicating beer or product of the brewing industry upon which there appears a label or other informative data which in any manner refers to the alcoholic content of such beer or product of the brewing industry, upon the label of which there appears the word or words "strong", "full strength", "extra strength", "prewar strength", "high test" or other similar expressions bearing upon the alcoholic content of such product of the brewing industry or which refers in any manner to the original alcoholic strength, extract or balling proof from which such beverage was produced; except that such label shall state the alcoholic content thereof.
- (H) No licensee shall permit on his premises any lewd, immoral or improper entertainment, conduct or practice.
- (I) No licensee except the holder of a license to operate a private club issued under the provisions of West Virginia State code Article 60-7 shall possess a federal license, tax receipt or other permit entitling, authorizing or allowing such licensee to sell liquor or alcoholic drinks.
- (J) No licensee shall obstruct the view of the interior of his premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying such premises. The interior of all licensed premises shall be adequately lighted at all times. The provisions of this subsection shall not apply to the premises of a Class B retailer or the premises of a private club licenses under the provisions of West Virginia State Code Article 60-7.
- (K) No licensee shall manufacture, import, sell, trade, barter, possess or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises covered by such license or on premises directly or indirectly used in connection therewith; provided that the prohibitions contained in this subdivision with respect to the selling, possessing or the acquiescence in the sale, possession or

consumption of alcoholic liquors shall not be applicable with respect to the holder of a license to operate a private club issued under the provisions of West Virginia State Code Article 60-7.

- (L) No licensee shall print, paint or place upon the door, window or in any other public place in or about the premises the word "saloon" or a word of similar character or nature, or use the word "saloon" or similar words in any advertisement by the licensee.
- (M) No retail licensee shall sell or dispense nonintoxicating beer purchased or acquired from any source other than a licensed distributor or brewer under the laws of this state.
- (N) No licensee shall permit loud, boisterous or disorderly conduct of any kind upon his premises or permit the use of loud musical instruments if either or any of the same may disturb the peace and quiet of the community wherein the business is located. No licensee shall have in connection with his place of business any loudspeaker located on the outside of the licensed premises that broadcasts or carries music of any kind.
- (O) No person whose license has been revoked shall obtain employment with any retailer within the period of one year from the date of such revocation, and no retailer shall knowingly employ any such person within such time.
- (P) No distributor shall sell, possess for sale, transport or distribute nonintoxicating beer except in the original container.
- (Q) No licensee shall permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state.
- (R) No Class B retailer shall permit the consumption of nonintoxicating beer upon his licensed premises.
- (S) No licensee, his servants, agents or employees and no licensee by or through such servants, agents or employees, shall allow, suffer or permit any person under the age of eighteen years to loiter in or upon any licensed premises. However, the provisions of this subsection shall not apply where such person under the age of eighteen years is in, on or upon such premises in the immediate company of his or her parent or parents; or where and while such person under the age of eighteen years is in, on or upon such premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on such premises. (WV C 11-16-13).

PENALTIES FOR SECTION 5

Any person who violates any provision of this section or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof or who commits any of the acts herein declared unlawful, shall be guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars nor more than five hundred dollars, or imprisoned in the county jail for not more than thirty days, or by both fine and imprisonment in the discretion of the court. (WV C 11-16-13).

SECTION 6 - Search Warrants

If there shall be a complaint on oath or affirmation supported by affidavit setting forth the facts, for such belief that alcoholic liquors are being manufactured, sold, kept, stored or in any manner held, used or concealed in a particular house or other place in violation of law, the Police Judge, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for alcoholic liquors. Such warrants, except as herein otherwise provide, shall be issued, directed and executed in accordance with the laws of the State pertaining to search warrants. (1967 State Code Section 3-17)

It is the intent of the Common Council of the City of Glenville that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the Common Council of the City of Glenville that if any provisions of this ordinance be declared to be invalid, all other provisions therein shall remain valid and in full force and effect and enforceable.

All ordinances or parts of ordinances in conflict herewith, or inconsistent herewith, are hereby repealed to that extent and no further.

This ordinance shall be in effect immediately upon final passage by the Common Council of the City of Glenville.

I, John D. Bennett, Mayor, do hereby certify that the foregoing ordinance was lawfully ordained with the first reading held on April 7, 1986, and the final reading and adoption was held at the regular council session assembled on May 5, 1986, and said ordinance was enacted and adopted by the Common Council of the City of Glenville and said ordinance shall be in force and effect as of May 5, 1986.