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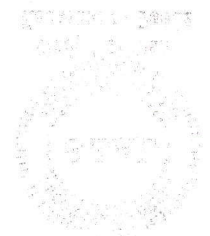
Cindy Hoffman
Recorder of Deeds

THE CITY OF WESTPHALIA, MISSOURI

ORDINANCE NO. 21-3

AN ORDINANCE OF THE CITY OF WESTPHALIA, MISSOURI REQUIRING LIQUOR LICENSES AND PROVIDING LIQUOR SALES REGULATIONS

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THE CITY OF WESTPHALIA, MISSOURI**

ORDINANCE NO. 21-3

**AN ORDINANCE OF THE CITY OF WESTPHALIA, MISSOURI, REQUIRING
LIQUOR LICENSES AND PROVIDING LIQUOR SALES REGULATIONS THEREOF.**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WESTPHALIA, MISSOURI, AS FOLLOWS:

WHEREAS, the City issued Ordinance Number 87-2 on December 29, 1986 concerning liquor licenses; and

WHEREAS, the City issued Ordinance Number 88-1 on February 5, 1988 concerning a special election to determine whether intoxicating liquor may be sold by the drink; and

WHEREAS, the City issued Ordinance Number 89-1 on December 27, 1989 concerning the regulation, control and sale of intoxicating liquor licenses and non-intoxicating beer; and

WHEREAS, the City issued Ordinance Number 93-1 on June 30, 1993 adding to Ordinance 89-1 Section 4 concerning the sale alcoholic beverages within the City of Westphalia on Sundays; and

WHEREAS, the Board of Aldermen hereby rescinds Ordinance Number 87-2, Ordinance Number 88-1, Ordinance Number 89-1, and Ordinance 93-1; and

WHEREAS, the Board of Aldermen hereby implements Ordinance 21-3 of the City of Westphalia, Missouri, Requiring Liquor Licenses and Providing Liquor Sales Regulations as follows:

Section 1 Purpose

Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this ordinance establish regulations of the sale and distribution of alcoholic beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important policy goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors, and retailers.

Section 2 Definitions

When used in this ordinance, the following words shall have the following meanings:

Closed Place - A place where all doors are locked and where no patrons are in the place or about the premises.

Intoxicating Liquor – Alcohol for beverage purposes, including 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 (0.5%) by volume. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this ordinance.

Light Wines – An intoxicating liquor consisting of wine containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries, and other fruits and vegetables.

Malt Liquor – An intoxicating liquor containing alcohol not in excess of five percent (5%) by weight manufactured from pure hops or pure extract of hops, or pure barley malt, or wholesome grains or cereals, and wholesome yeast, and pure water.

Original Package – Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottled or other containers of intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor. “Original package” shall also be construed and held to refer to any package containing three (3) or more standard bottled of beer.

Person – An individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any State or Federal court.

Restaurant/Bar – Any establishment having a restaurant or similar facility on the premises with 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.

Sale By The Drink – The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed “sale by the drink” and may be made only by a holder of a retail liquor dealer’s license and, when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

Temporary License – Permits sale by the drink of intoxicating liquor for consumption on premises where sold to include certain organizations.

Section 3 Liquor License Required – Classes of Liquor Licenses

- A. No person shall sell or offer for sale intoxicating liquor in the City of Westphalia without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories of liquor sales in which the license desires to engage as set forth herein. For the purposes of this ordinance, a person shall include an individual, corporation, partnership, limited liability company, limited partnership, association or any other similar type of entity.
- B. *General Liquor Licenses*. Any person possessing the qualifications and meeting the requirements of this ordinance may apply for the following liquor licenses to sell intoxicating liquor:
1. *Package Liquor* – Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold.
 - i. *Package Liquor Sales, Limitations* – No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed on the premises where sold, except to a person engaged in, and to be used in connection with, the operation of a grocery store, a general merchandise store, or a gas station convenience store. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in the ordinance or law.
 2. *Restaurant/Bar* – Sales of all kinds of intoxicating liquors sold for consumption while the customer is on the premises where sold, including package liquor sales.
 3. *Liquor By The Drink* – Sales of all kinds of intoxicating liquors at retail by the drink for consumption while the customer is on the premises where sold, including package liquor sales.
 4. *Temporary License for sale by drink* – Any person who possesses the qualifications, meets the requirements and complies with the provisions of the license regulations of this ordinance below may apply for a temporary license to sell intoxicating liquor for consumption on premises where sold.

i. *Temporary License For Sale By Drink – Certain Organizations*

- a) With prior approval of the Westphalia City Council, the City Clerk may issue a temporary license for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale at a picnic, bazaar, fair, or similar gathering. The temporary license 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 by any such club or organization.
- b) If the event will be held on a Sunday, the temporary license shall authorize the sale of intoxicating liquor on the day beginning at 11:00 A.M.
- c) At the same time that an applicant applies for a temporary license under the provisions of this ordinance, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
- d) No provision of law or rule or regulation of the City of Westphalia shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the temporary license holder at such picnic, bazaar, fair, or similar gathering.

C. *Sunday Sales* – Any person who is licensed under the provisions of this ordinance or who otherwise possesses the qualifications and meet the requirements of this ordinance may sell intoxicating liquor on Sundays between the hours of 9:00 A.M. and Midnight.

Section 4 License Regulations

A. *Operating Hours, Days*

1. No person having a license issued pursuant to this ordinance nor any employee of such person shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and Saturdays and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.
2. When January first (1st), March seventeenth (17th), July fourth (4th), or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship games of the National Football League (commonly known as “Super Bowl Sunday”) and the Major League Baseball (commonly known as “World Series”) are played, any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her liquor license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this ordinance to the contrary.

B. *General Liquor License Regulations*

1. Each liquor license issued shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this ordinance shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
3. No license issued under this ordinance shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this ordinance, may make application and the City Clerk, with prior Westphalia City Council approval, may transfer such license to permit the operation of the business of the deceased for the remainder of the period

for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the City Clerk, with prior Westphalia City Council approval, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

4. In the event any license desires to change the location of his/her place of business in the City of Westphalia, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Westphalia City Council. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this ordinance.

C. *Supply or sale of alcoholic beverage to minor*

1. Any person who is licensed by the City of Westphalia to sell intoxicating liquor/alcoholic beverages by the drink, or his agents or employees who shall sell, barter, give away or by any means allow a minor under the age of 21 years to possess or consume any intoxicating liquor/alcoholic beverage while in or upon the licensed premises shall be deemed guilty of a misdemeanor.
2. The person to whom the license to sell intoxicating liquor/alcoholic beverages is issued shall **AT ALL TIMES BE HELD RESPONSIBLE FOR ALL PERSONS WHO ARE UNDER THE AGE OF 21 YEARS WHILE IN HIS/HER ESTABLISHMENT.** This burden of responsibility shall be ever inclusive and any and all violations shall be Prima Facie evidence of guilt and said licensee shall be deemed guilty of a misdemeanor.
3. Any person in violation of any section of this ordinance shall be deemed guilty of a misdemeanor and upon conviction fined and/or jailed not to exceed the limits as provided for under the Missouri State Statutes for specific classes of misdemeanors of such nature. Suspension and/or revocation of any or all license to serve or sell intoxicating liquor/alcoholic beverages may also result from violation of this ordinance.

Section 5 Display

Every liquor license issued under this ordinance shall be displayed by the business so licensed.

Section 6 Schedule of Liquor License Fees

- A. The following categories of liquor licenses shall be issued upon compliance with the provisions of this ordinance and annual payment of the liquor license fee indicated:
 1. Package Liquor License - \$100.00 annual fee.
 2. Restaurant/Bar Liquor License - \$250.00 annual fee.
 3. Sale by the Drink Liquor License – Annual amount established by Osage County Clerk’s Office.
 4. Temporary Liquor License - \$25.00 (per event, expires in 7 days from authorization).

Section 7 Liquor License Application and Renewal Procedures

- A. *Filing and Application* – Any person desiring to engage in the sale of intoxicating liquor shall file an application for an original or renewal liquor license with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant, and giving such information as may be necessary for the Clerk to properly perform their duties as required by City ordinance and State law. The application shall also be subject to all other provisions as hereinafter set forth. Each application shall also be accompanied by a proper remittance reflecting the appropriate liquor license fee made payable to the “City of Westphalia” and shall be deposited into City funds.
- B. Before any new license shall be issued under this ordinance, the applicant shall pay a non-refundable fifty-dollar (\$50.00) fee. The cost of an annual renewal of said license, as required by Section 6A, is noted above. Under no circumstances shall license fees due be prorated. In addition, if the annual

renewal is not paid by the 31st day of July, a twenty-dollar (\$20.00) per week penalty shall be assessed. The penalty shall be for each full seven-day period or portion thereof for which the business operates without a valid liquor license. Liquor licenses are not transferable and are required to be posted at each business location. A new liquor license must be purchased for a fee of fifty dollars (\$50.00) if the business moves to a new address or has new management.

Section 8 Issuance

Any liquor license applied for under this ordinance shall be issued by the City Clerk only upon compliance by the applicant therefore with all provisions of this ordinance, Business License Ordinance 02-20, and the City of Westphalia Zoning Code. All liquor license applications must include a copy of the current State of Missouri liquor license and the current Osage County liquor license.

Section 9 Term — Renewal

All liquor licenses issued under this ordinance, excluding the Temporary Liquor License, shall be renewed annually during the month of July and shall become delinquent if not renewed by July 31st of each year.

Section 10 Suspension or Revocation

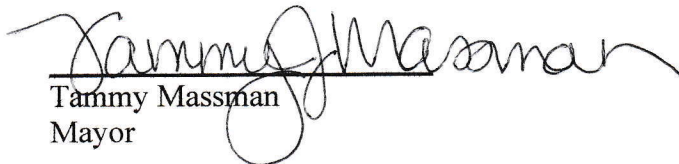
Any liquor license issued under the provisions of this ordinance may be suspended or revoked by the Board of Aldermen for the violation by the licensee of any applicable provision of this ordinance, State law, or rule or regulation. The Board of Aldermen shall provide the license holder an opportunity for a public hearing before the Board of Aldermen. Upon the completion of such hearing, if the Board of Aldermen finds by substantial evidence that a violation has occurred, the liquor license shall either be suspended for a time not to exceed one hundred eighty (180) days or shall be revoked. Should any business become delinquent on any taxes due to the City, County, State or Federal Government, the Mayor, with the consent of a majority of the Board of Aldermen, is authorized to revoke said liquor license until proof of payment, a copy of the new State of Missouri liquor license, and a copy of the new Osage County liquor license is supplied to the City Clerk.

Section 11 Penalty for Violation of Chapter

- A. Any person in violation of any section of this ordinance shall be deemed guilty of a misdemeanor and upon conviction fined and/or jailed not to exceed the limits as provided for under the Missouri State Statutes for specific classes of misdemeanors of such nature. Suspension and/or revocation of any or all license to serve or sell intoxicating liquor/alcoholic beverages may also result from violation of this ordinance.
- B. Any person who does not secure a liquor license prior to the sale of intoxicating liquor within the City, whose liquor license is revoked and who continues to operate, or whose license is not renewed and who continues to operate is guilty of an ordinance violation punishable by fine of not more than five hundred dollars (\$500.00). Each day of operation after one (1) of the acts described in this Section occurs shall be considered to be a separate offense. In the event that the sale of intoxicating liquor continues for a period of greater than fourteen (14) days, the Mayor, with the consent of a majority of the Board of Aldermen, is authorized to direct the City Attorney or their designee to file an action in the Circuit Court of Osage County seeking an injunction to prevent such business from continuing operation until such time as they have brought themselves into compliance with this ordinance. Should such litigation be necessary to enforce the terms hereof, the business in question shall be responsible for the reasonable attorney's fees and costs incurred by the city in enforcing this ordinance, in addition to all fines for the late acquisition of a liquor license as described herein. Prior to the filing of any such litigation, the City shall provide via hand-delivery to the business address of record for the offending party a written notice indicating that litigation as described herein will be filed within not less than seven days if a liquor license is not acquired.

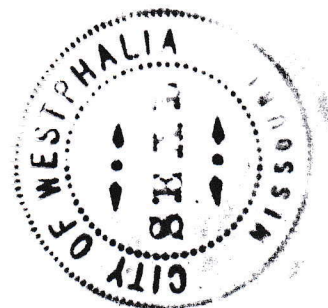
WHEREAS, this Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval by the Mayor, City of Westphalia, Missouri. All liquor licenses issued under Ordinances 87-2, 88-1, 89-1, and 93-1 shall remain valid and in effect until their expiration pursuant to their terms.

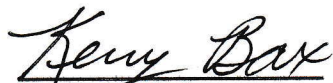
DULY PASSED on this 25th day of May, 2021.

By: 
Tammy Massman
Mayor

Address:
City of Westphalia – City Hall
116 East Main Street
P.O. Box 36
Westphalia, MO 65085

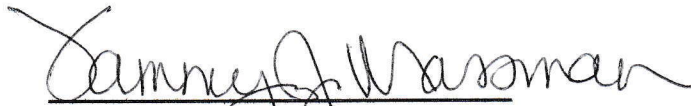
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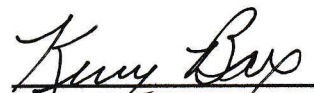

Kerry Bax
City Clerk

STATEMENT OF THE AYES AND NAYS: (4 -Ayes; 0 -Nays)

APPROVED this 25th day of May, 2021.


Tammy Massman
Mayor

ATTEST:


Kerry Bax
City Clerk