

BILL NO. 7013

ORDINANCE NO. 6873

ORDINANCE APPROVING A SERVER CERTIFICATE REQUIREMENT

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**WHEREAS,** the City has found that a significant number of local establishments have been out of compliance with state and local requirements relative to the serving of alcohol to minors; and

**WHEREAS,** the City believes that a mandatory server training program related to alcohol sales would improve compliance with liquor sale regulations; and

**WHEREAS,** the State of Missouri provides easily accessible and free server training through the SMART program;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI AS FOLLOWS:**

**Section 1.** Article III of Chapter 600 of the Code of Ordinances of the City of Clayton, Missouri, is hereby established to read as follows:

Chapter 600. Alcoholic Beverages.

ARTICLE III. SERVER CERTIFICATE

Section 600.300. Definitions.

The following definitions apply to this article:

**Department**

Department of Finance

**Director**

Director of Finance or the director's designee.

**Permit**

To give permission to; or to allow by silent consent, by not prohibiting, or by failing to exercise control.

**Server**

Any person directly engaged in the retail sale, service, delivery or dispensing of alcoholic beverages, including taking orders for, accepting payment for, mixing, serving or assisting in mixing or serving any alcoholic beverage.

Section 600.310 Server certificate required.

- A. It shall be unlawful for any person to work as a server without a valid server certificate issued to that person by the director.

- B. It shall be unlawful for any person holding a license under this chapter to permit any person to work as a server unless the server has deposited with the license holder a valid server certificate issued to the server by the director.
- C. Each person holding a server certificate who is employed by a person licensed under this chapter shall deposit the certificate or a copy thereof with such employer during the tenure of the holder's employment.
- D. It shall be an affirmative defense to a charge of violating this section that the person working as a server, at the time of the alleged offense, had been employed at the place of business for less than thirty (30) days.

#### Section 600.320 Qualifications.

- A. A holder of a server certificate must be at least eighteen (18) years of age. Applicants will be required to provide government-issued identification that includes their date of birth and photo at the time of application.
- B. A holder of a server certificate must have successfully completed the State of Missouri Alcohol Responsibility Training (SMART) program within the twelve (12) months immediately preceding filing an application for a certificate.

#### Section 600.330 Server certificate; how obtained.

- A. A person desiring to be employed as a server shall submit a written application for a server certificate to the department on forms provided by the department. The application shall be submitted by the applicant in person.
- B. The server certificate shall be valid for three (3) years from the date of issuance.

#### Section 600.340 Suspension and revocation of server certificates.

- A. The director may suspend or revoke the server certificate of any certificate holder who violates any of the laws pertaining to serving alcoholic beverages or who has made any false, misleading or fraudulent statement in the certificate application.
- B. Procedure.
  - 1. Suspension or revocation shall be initiated by serving written notice of the suspension or revocation to the person intended to be suspended or revoked. The notice shall set forth the specific grounds for the suspension or revocation and advise the person of the right to appeal. The notice shall be served by registered or certified mail or by delivering a copy of the notice to the person subject to suspension or revocation or the person's agent or employee. The suspension or revocation shall take effect ten (10) days after service of the notice unless an appeal is taken to the City Manager. If an appeal is taken, the suspension or revocation shall not take effect until a final order upholding the suspension or revocation is entered by the City Manager or until the appeal is dismissed by the appellant.

2. Within ten (10) days after service of a written notice of suspension or revocation, the person affected by the notice may file a written request for a hearing before the City Manager contesting the suspension or revocation.
3. The City Manager shall give the appellant at least ten (10) day notice of a hearing. At the hearing, the City and the appellant shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses and impeach any witness. Oral evidence shall be taken on oath or affirmation. All evidence shall be suitably recorded and preserved. The technical rules of evidence shall not apply, but the City Manager may exclude evidence which is irrelevant or repetitious. The City and appellant shall be entitled to present oral arguments or written briefs at or after the hearing.
4. The City Manager shall make written findings of fact and conclusions of law and issue a final order. Findings of fact shall be based upon competent and substantial evidence found in the record as a whole. A copy of the City Manager's order, findings of fact and conclusions of law, shall be delivered or mailed to the appellant.
5. An appellant aggrieved by the decision of the City Manager may, within five (5) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the City Manager under this Section. The written request must set forth in a concise manner the decision being appealed and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within five (5) days of the date of the City Manager's decision. A copy of the request and any supporting documents or materials filed by the appellant must be served by the appellant party on the City Manager within three (3) days of filing with the City Clerk. The Board of Aldermen may consider the appeal on the record of the prior decision by the City Manager or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.
6. Any appellant aggrieved by the final determination of the City may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of St. Louis County. Such petition shall be filed within ten (10) days after the final determination.

Section 600.350 Additional unlawful acts.

- A. It shall be unlawful for any person to deliver, use or possess any expired, forged or false server certificate.
- B. It shall be unlawful for any person to manufacture, forge, or otherwise falsify a server certificate.
- C. It shall be unlawful for any person to give, lend, sell or otherwise provide an expired or false server certificate to any other person.

- D. It shall be unlawful for any lawful holder of a server certificate to give, lend, sell, or otherwise provide the server certificate to any person other than an employer.

**Section 2.** It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

**Section 3.** The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations, the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

**Section 4.** This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen this 27<sup>th</sup> day of February 2024.

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Mayor

Attest:

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City Clerk