

AGENDA REQUEST FORM

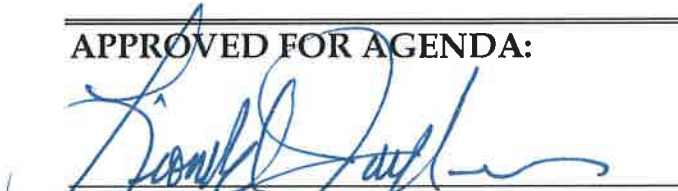
FOR: Council Meeting of April 5, 2022

FROM: Mayor Lioneld Jordan

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:


AN ORDINANCE TO AMEND § 111.06 PROHIBITED ACTIVITIES/WARNING NOTICE IN CHAPTER 111 ALCOHOLIC BEVERAGES OF THE *FAYETTEVILLE CITY CODE* TO ALIGN WITH STATE LAW REGARDING THE AGE LIMIT FOR HANDLING AND SERVING ALCOHOLIC BEVERAGES

APPROVED FOR AGENDA:



Mayor Lioneld Jordan

3/11/22
Date



Asst. City Attorney Blake Pennington
Approved as to form

3/11/22
Date

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 111.06 PROHIBITED ACTIVITIES/WARNING NOTICE IN CHAPTER 111 ALCOHOLIC BEVERAGES OF THE *FAYETTEVILLE CITY CODE* TO ALIGN WITH STATE LAW REGARDING THE AGE LIMIT FOR HANDLING AND SERVING ALCOHOLIC BEVERAGES

WHEREAS, the City Code provides that a person 18 years and older may legally handle and serve beer and wine if employed by a licensed liquor or beer wholesaler or native winery; and

WHEREAS, state law allows individuals under the age of 21 to handle and sell alcoholic beverages in a broader range of locations including grocery stores, restaurants, private clubs, hotels, and motels; and

WHEREAS, the City Code should be amended to align with state law regarding the age limit for handling and serving alcoholic beverages to expand employment opportunities for 18, 19, and 20 years olds in our community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §111.06(A)(1)(d) of the *Fayetteville City Code* and enacts a new § 111.06(A)(1)(d) as follows:

“(d) Except as provided in this subsection, it is unlawful for a wholesaler, retailer, or transporter of alcoholic beverages to allow an employee or other person under twenty-one (21) years of age to have anything to do with the selling, transporting or handling of an alcoholic beverage.

(i) With the written consent of a parent or guardian, a person eighteen (18) years of age and older may:

- (A) Sell or otherwise handle beer and wine at retail grocery establishments; or
- (B) Be employed by a licensed liquor wholesaler or licensed beer wholesaler or by a licensed native winery to handle alcoholic beverages at the place of business of the licensed wholesaler or winery.

(ii) A person nineteen (19) years of age and older may sell and handle alcoholic beverages at a restaurant, private club, hotel, or motel that is licensed for on-premises consumption of alcoholic beverages under this chapter.”

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: Mayor Jordan

CC: Susan Norton, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: Blake Pennington, Assistant City Attorney

THRU: Kit Williams, City Attorney

DATE: February 22, 2022

RE: Age Limit for Serving Alcohol

A paralegal with Darden Restaurants, the owner of Olive Garden and Longhorn Steakhouse, raised an issue this morning that we wanted to bring to your attention.

In 1999, the Arkansas General Assembly amended the state's alcohol laws to allow a person 18 years of age or older to handle beer and wine at a retail grocery store and handle or serve alcohol if employed by a licensed liquor or beer wholesaler or native winery as long as they were serving at their employer's place of business.

In response, the City Council amended § 111.06 to mirror the language regarding wholesalers and native wineries but made no such provision for grocery stores. This is likely because the Fred Hanna administration and the retail liquor store owners opposed any sale of beer or wine in grocery stores.

The Fayetteville City Code actually banned the sale of beer and wine in grocery stores despite an Attorney General's opinion that such a ban violated state law. The City Council in the late 1990s repealed the ban to comply with state law but, after Kit left office, Mayor Hanna convince the next City Council to reenact the ban. After Kit became City Attorney, he found out about the re-banning of the sale of beer and wine out of grocery stores and requested such ban be again repealed. The Chief of Police had wanted to keep beer and wine out of grocery stores so the age limit might been put in place as a compromise.

Age Limit for Serving Alcohol

In 2003, the Arkansas General Assembly adopted another amendment allowing a person 19 years of age or older to handle and sell alcoholic beverages at restaurants, private clubs, hotels, and motels that are licensed for on-premises consumption.

Fayetteville has never adopted the 2003 statutory change in the City Code. It is possible some employers may not be aware that the City Code does not match state law. However, assuming employers are following the City's additional restrictions, we are limiting the employment opportunities of 18, 19 and 20 year old residents who would otherwise be qualified under state law to handle and serve alcohol at work. It is our recommendation that we submit an amendment for City Council consideration that mirrors Ark. Code Ann. § 3-3-204 (attached for your reference) so that § 111.06(A)(1)(d) of the City Code reads as follows:

“(d) Except as provided in this subsection, it is unlawful for a wholesaler, retailer, or transporter of alcoholic beverages to allow an employee or other person under twenty-one (21) years of age to have anything to do with the selling, transporting or handling of an alcoholic beverage.

(i) With the written consent of a parent or guardian, a person eighteen (18) years of age and older may:

(A) Sell or otherwise handle beer and wine at retail grocery establishments; or

(B) Be employed by a licensed liquor wholesaler or licensed beer wholesaler or by a licensed native winery to handle alcoholic beverages at the place of business of the licensed wholesaler or winery.

(ii) A person nineteen (19) years of age and older may sell and handle alcoholic beverages at a restaurant, private club, hotel, or motel that is licensed for on-premises consumption of alcoholic beverages under this chapter.”

A.C.A. § 3-3-204

Current through all acts of the 2021 Regular Session, First Extraordinary Session, Extended Session, and Second Extraordinary Session, including corrections and edits by the Arkansas Code Revision Commission

AR - Arkansas Code Annotated > Title 3 Alcoholic Beverages > Chapter 3 Prohibited Practices > Subchapter 2 — Particular Practices Prohibited

3-3-204. Handling by minor.

(a) Except as provided in subsection (b) or subsection (c) of this section, it is unlawful for a wholesaler, retailer, or transporter of alcoholic beverages to allow an employee or any other person under twenty-one (21) years of age to have anything to do with the selling, transporting, or handling of an alcoholic beverage.

(b) With the written consent of a parent or guardian, a person eighteen (18) years of age and older may:

(1) Sell or otherwise handle beer and wine at retail grocery establishments; or

(2) Be employed by a licensed liquor wholesaler or licensed beer wholesaler or by a licensed native winery to handle alcoholic beverages at the place of business of the licensed wholesaler or winery.

(c) A person nineteen (19) years of age and older may sell and handle alcoholic beverages at a restaurant, private club, hotel, or motel that is licensed for on-premises consumption of alcoholic beverages under this chapter.

(d)

(1) A person who violates this section is guilty of a violation and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

(2) The violation shall be grounds for suspension, cancellation, or revocation by the Director of the Alcoholic Beverage Control Division of any permit issued to the person by the director.

History

Acts 1969, No. 129, §§ 1, 2; 1983, No. 527, § 1; A.S.A. 1947, §§ 48-903.2, 48-903.3; Acts 1987, No. 515, § 1; 1999, No. 1169, § 1; 2001, No. 1553, § 3; 2003, No. 1807, § 1; 2005, No. 1994, § 28; 2009, No. 294, § 1; 2013, No. 527, § 2.

Annotations

Notes