

*(as amended)*

**FIRST READING 04/05/2011**

**SECOND READING 05/03/2011**

**AN ORDINANCE OF THE CITY OF HANNIBAL AMENDING CHAPTER 3, ARTICLE 1 AND ARTICLE III RELATIVE TO *CONSUMPTION OF ALCOHOL IN PUBLIC***

**WHEREAS**, the City of Hannibal in it's historic downtown area has certain unique locations of restaurants and bars which lend themselves to limited outside consumption of food, beverages and alcohol; and

**WHEREAS**, the City Council of the City of Hannibal having considered the matter believes that if properly supervised and regulated, that consumption of alcohol in the immediately adjacent area to such bars and restaurants will not be an undue burden on the safety, peace and well being of the Citizens of Hannibal.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Hannibal, Missouri to-wit:

**SECTION ONE:** That the Code of the City of Hannibal, Chapter 3, Article I, Section 3-1 shall be amended to read as follows:

**Sec. 3-1. Consumption in public.**

(a) No person shall consume alcohol or have in their possession any type of open container, cup, can or bottle with the seal broken of any beer, wine or other alcoholic beverage upon any public street, public parking lot, public alley, public sidewalk, city park or facilities except as provided herein.

(b) The city council, upon proper application, may grant permission for the sale and consumption of alcohol upon city property.

(c) The director of parks and recreation is hereby authorized to allow consumption or possession of alcohol on city park property, and facilities of the parks and recreation department in conjunction with a lease, contract, use agreement or other agreement between the city and an individual, group or organization. Such consumption or possession shall be limited to the period of time specified in the lease, and shall further be restricted solely to the areas authorized for use, and within the confines of the designated area as specified in the contract, use agreement or other agreement.



(d) Notwithstanding the provisions of subsection (a), public consumption and possession of alcohol shall be allowed if such alcohol is provided by a restaurant or bar which holds a liquor license allowing public consumption. However, such consumption and possession shall only be allowed within the confines of the area designated within the license from the period of 11:00 A.M. to 11:00 P.M. The license holder shall have an affirmative duty to place it's customers on notice of the area allowed for consumption, and shall properly supervise their customer's consumption of alcohol within that area. It shall be unlawful for the license holder, or their employees to allow any person to consume or possess alcohol provided by them in any location not allowed under their license. It shall only be lawful for a person to consume or possess alcohol pursuant to this section if their entire body and the alcohol in question is within the confines of the designated area at all times.

(Code 1963, § 304.335; Code 1988, § 3-1; Ord. No. 3296, § 1, 1-14-1983; Ord. No. 3364, § 1, 10-4-1983; Ord. No. 4529, § 1, 5-18-2010)

**SECTION TWO:** That the Code of the City of Hannibal, Chapter 3, Article III, Division 2 shall be amended to include the following new sections:

**Sec. 3-120. Public Consumption Addendum to Liquor License.**

(a) Any holder of a liquor license pursuant to Sec. 3-114 (1), (3), or (8) of these ordinances, who holds such a license for an establishment lying within the area bordered on the North by Rock Street, on the East by the Mississippi River, on the South by Collier Street and on the West by Third Street, may apply for an addendum to their license allowing public consumption of alcohol.

(b) Consumption or possession of alcohol in conjunction with this license shall be limited to a designated area, which shall be clearly marked and delineated. If such area will utilize the public sidewalk, the area shall not be so large as to interfere with the normal passage of foot traffic on the sidewalk and shall be reasonably calculated to allow the easy and free passage of pedestrians. If the area to be utilized is not directly contiguous with the establishment of the license holder, no alcohol may be carried into the area except by a designated waiter, waitress or server of the license holder. The license addendum shall specifically describe the designated area, and shall be provided upon demand to any Police Officer, representative, officer or agent of the City, or representative, officer or agent of the Missouri Division of Alcohol and Tobacco Control, investigating any actual, alleged, or perceived violation of this ordinance.

**Sec. 3-121. Application For Public Consumption Addendum**

(a) The application for the liquor license addendum as described in Section 3-120 shall utilize a form as promulgated by the City of Hannibal, which form shall make such requirements for approval as deemed necessary at the sole discretion of the City. Such requirements shall include but shall not be limited to a specific designation of the area to



be utilized, a proposal for the method of delineating the area to be utilized in such a manner as to put the public on notice of it's exact location, and approval of the application by the Police Department, Fire Department, Street Department, and City Engineer's Office, with reference by said departments to all statutory and code requirements.

- (b) Applications must be accompanied by a written consent from all adjacent contiguous property owners.
- (c) The addendum shall be valid for a period of twelve (12) months, unless otherwise suspended or revoked. Prior suspensions or revocation shall be considered when reviewing applications for renewal.
- (d) Applications shall be considered by the City Manager, or his appointed designee, and shall be given final approval or rejected within seven (7) days of delivery to the City Manager or his appointed designee. However, in the event that the City Manager or his appointed designee should require additional time to consider any application, such time shall be extended with written notice provided to the applicant. Any person whose application is rejected shall have a right of appeal to the Hannibal City Council.
- (e) In addition to making application with the City of Hannibal, the license holder shall be required to make such application with the Missouri Division of Alcohol and Tobacco Control for permission for outside liquor sales as shall be required by law, and shall be required to comply with all requirements prior to issuance of the public consumption addendum by the City of Hannibal.
- (f) If the license holder shall obtain all necessary approval of the Missouri Division of Alcohol and Tobacco Control and the City of Hannibal, said license holder shall pay an annual fee of no less than \$100.00 for an open container addendum to their liquor license. Such fee amount shall be adjusted annually for inflation by the Department of Budget, utilizing such methods as may be authorized for adjustment of the bid limits of the City of Hannibal for inflation.

### **Sec. 3-122. Violations of Public Consumption Ordinances**

(a) It shall be unlawful for any person to violate any provision of this ordinance. Any such violations may be prosecuted in the Municipal Court of the City of Hannibal.

(b) In addition to any other penalties set out herein, the public consumption addendum to a license shall be administratively suspended for any of the matters set out in section (c) herein. Determination of suspension shall be made by the City Manager or his appointed designee. The addendum shall be suspended for a period of one (1) week for a first offense, one (1) month for a second offense within one year, and six (6) months for a third offense within one year. A fourth offense within one year shall result in a permanent revocation of the addendum, and proof of 4 or more offenses within one year shall be grounds for refusal of a new application for a public consumption addendum to a liquor license. License holders shall have a right of appeal to the City Court of the City of Hannibal. Such appeal must be filed within 10 days of receiving written notice of the suspension or revocation.

(c) It shall be the basis for a suspension as set out in section (b) above if any license holder, or their customers, employees or agents while on the premises shall be convicted of:

- (1) a violation of Section 3-1(d) or 3-120,



- (2) Peace Disturbance as defined in Section 16-157 of these ordinances.
- (3) Assault as defined in Section 16-27 of these ordinances.
- (4) Indecent exposure as defined in Section 16-126 of these ordinances.
- (5) Public Indecency as defined in Section 16-127 of these ordinances.
- (6) Keeping a place of prostitution or leasing a building for the purposes of prostitution as defined in Chapter 567 of the Revised Statutes of Missouri or other applicable law.
- (7) Littering as defined in Section 16-1 of these ordinances.
- (8) Exhibition of a Dangerous weapon as defined in Section 16-151 of these ordinances.
- (9) Discharge of a firearm as defined in Section 16-152 of these ordinances.
- (10) The production or creation of unnecessary noise as defined in 16-159 of these ordinances.
- (11) The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in section 3-66 of these ordinances.

**SECTION THREE:** It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion or sub-portion separately and independently of any other part, portion or sub-portion. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, portions and sub-portions shall be and remain in full force and effect.

**SECTION FOUR:** All ordinances and parts of ordinances in conflict with this ordinance, in so far as they conflict, are hereby repealed.

**SECTION FIVE:** That this Ordinance shall be in full force and effect from and after its passage and approval.

**Adopted this 3rd day of May, 2011.**

**Approved this 3rd day of May, 2011.**

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**Roy G. Hark, Mayor**

**ATTEST:**

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**Angelica N. Vance, City Clerk**