

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 4783

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: MR. GOULD

PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: ARTIGUE

SECONDED BY: CANULETTE

ON THE 7 DAY OF JUNE , 2012

PLEASE SEE ATTACHED FOR COMPLETE DOCUMENT

ORDINANCE TO AMEND AND REENACT ARTICLE VIII OF THE ST. TAMMANY PARISH CODE OF ORDINANCES, PERMIT PROVISIONS APPLICABLE TO ARTICLES VI & VII, BY REPEALING SEC. 3-190.05 AND CREATING NEW SEC. 3-190.03, DISPENSING OR SELLING OF ALCOHOL BEVERAGES VIA DRIVE-THRU WINDOWS IS PROHIBITED.

WHEREAS,

THE PARISH OF ST. TAMMANY HEREBY ORDAINS:

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 12 DAY OF JULY , 2012 ; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

MARTIN W. GOULD, JR., COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

PATRICIA P. BRISTER, PARISH PRESIDENT

Published Introduction: MAY 31 , 2012

Published Adoption: _____, 2012

Delivered to Parish President: _____, 2012 at _____

Returned to Council Clerk: _____, 2012 at _____

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO.: 4783

ORDINANCE COUNCIL SERIES NO. 12-

COUNCIL SPONSOR: MR. GOULD

PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: MR. ARTIGUE

SECONDED BY: MR. CANULETTE

ON THE 7TH DAY OF JUNE 2012

ORDINANCE TO AMEND AND REENACT ARTICLE VIII OF THE ST. TAMMANY PARISH CODE OF ORDINANCES, PERMIT PROVISIONS APPLICABLE TO ARTICLES VI & VII, BY REPEALING SEC. 3-190.05 AND CREATING NEW SEC. 3-190.03, DISPENSING OR SELLING OF ALCOHOL BEVERAGES VIA DRIVE-THRU WINDOWS IS PROHIBITED.

WHEREAS, the Governing Authority of St. Tammany Parish has previously expressed its intent to prevent dispensing and/or sale of alcoholic beverages via drive-thru windows and consumption of alcoholic beverages in motor vehicles and to amend the Code of Ordinances to establish restrictions in connection with open containers in motor vehicles and drinking while driving; and

WHEREAS, there is a rational connection between the prevention of drunk driving and prohibiting dispensing or selling of alcoholic beverages of through what is commonly referred to as drive up windows. A dispenser or seller of alcohol beverages may be able to more readily ascertain the age and level of intoxication of consumers when consumers are required to enter an establishment to purchase alcohol. There is also a rational relationship between the prohibition against open intoxicants in vehicles. The legislature seeks to discourage the practice of drinking and driving, whether or not a consumer may easily circumvent the law by purchasing alcohol in a closed container that is subsequently opened on the road; and

WHEREAS, it is in the best interest of the public health, safety and welfare that dispensing, distributing or selling of alcoholic beverages via drive-thru windows and consumption of alcoholic beverages in motor vehicles be prohibited.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Article VIII of the St. Tammany Parish Code of Ordinances, Permit Provisions Applicable to Articles VI & VII, is amended by repealing Sec. 3-190.05 and creating new Sec. 3-190.03, Dispensing or Selling of Alcoholic Beverages Via Drive-Thru Windows is Prohibited, all as more particularly provided for immediately hereinafter, to-wit:

ARTICLE VIII PERMIT PROVISIONS APPLICABLE TO ARTICLES VI & VII

SEC. 3-190.00 Consumption by Driver

~~EDITORIAL NOTE: New Sections 3-190.00 - 3-190.06 prohibiting open containers by drivers of motor vehicles added by authority of Ordinance No. 91-1442, adopted 05/16/91.~~

It shall be unlawful for any driver to drink or consume alcoholic beverages in any private motor vehicle, when such vehicle is being operated upon a public street within the unincorporated parish limits. ~~(EDITORIAL NOTE: New Sections 3-190.00 - 3-190.06 prohibiting open containers by drivers of motor vehicles added by authority of Ordinance No. 91-1442, adopted 05/16/91. Ord. No. 91-1442, adopted 05/16/91)~~

SEC. 3-190.02 Possession by Driver

It shall be unlawful for a driver to have in his possession, while operating a private motor vehicle upon a public street within the unincorporated parish limits, any bottle, container or receptacle containing alcoholic beverages, which has been opened, or the seal broken, or the contents of which have been partially removed. (Ord. No. 91-1442, adopted 05/16/91)

SEC. 3-190.03 Dispensing or Selling of Alcoholic Beverages Via a Drive-Thru Window is Prohibited

It shall be unlawful for any person to distribute, dispense or sell through any opening, window, door or orifice to the exterior of any establishment that sells alcoholic beverages, including, but not limited to, through any opening commonly described as a "drive-thru window" or "drive up

window".

SEC. 3-190.04 Definitions

1. **"Private motor vehicle"** - Any motor vehicle which is not operating as a licensed passenger carrier. Examples: automobile, truck, van, motorcycle, bicycle, recreational vehicle, etc.
2. **"Alcoholic Beverage"** - Any fluid or liquid suitable for human consumption of either low or high content alcohol, including, but not limited to, beer, ale, malt beverage, stout, wine, wine cooler, cider, or intoxicating liquors (pure or rectified by distillation).
3. **"Open Container"** - Any container, receptacle or vessel capable of holding fluids or liquids of low or high content alcohol with visible evidence of an opening or broken seal whereby consumption is possible or probable. Examples: can, bottle, glass or other container marked with visible evidence of alcohol content.

(Ord. No. 91-1442, adopted 05/16/91)

SEC. 3-190.05 Intent Of Ordinance

~~To prevent dispensing and/or sale of alcoholic beverages via drive-thru windows and consumption of alcoholic beverages in motor vehicles, it is the desire of this governing body to amend the Code of Ordinances to establish restrictions in connection with open containers in motor vehicles and drinking while driving. (Ord. No. 91-1442, adopted 05/16/91)~~

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are superceded hereby.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective immediately upon adoption.

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 12 DAY OF JULY, 2012, AND BECOMES ORDINANCE COUNCIL SERIES NO. 12-.

MARTIN W. GOULD, JR., COUNCIL CHAIRMAN

ATTEST:

THERESA FORD, COUNCIL CLERK

PATRICIA P. BRISTER, PARISH PRESIDENT

Published Introduction: MAY 31, 2012
Published adoption on: _____, 2012
Delivered to Parish President: _____, 2012 @ _____
Returned to Council Clerk: _____, 2012 @ _____