

AN ORDINANCE AMENDING SECTIONS 531.01, 531.02 AND 531.03  
OF THE CODIFIED ORDINANCES OF THE CITY OF OBERLIN, OHIO, RELATIVE TO THE SALE  
AND POSSESSION OF NONRETURNABLE DISPOSABLE CONTAINERS

WHEREAS, in 1971 the City of Oberlin determined that the use of certain disposable beverage containers and their consequent disposal was producing an adverse effect upon the environment which was injurious to the health, safety, comfort, convenience, welfare and happiness of the residents of the City of Oberlin; and,

WHEREAS, in response to said determination and pursuant to the Charter of the City of Oberlin, the City Council of the City of Oberlin passed legislation, effective January 1, 1972, prohibiting the sale and possession for consumption of beverages in certain nonreturnable or disposable beverage containers; and,

WHEREAS, subsequent to the passage of said legislation the City has determined to amend said ordinance in order to help ensure fair and equal treatment of those subject to its provisions and avoid circumvention of its intent due to changes in the manufacture of certain nonrefillable containers;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That Sections 531.01, 531.02 and 531.03 of the Codified Ordinances of the City of Oberlin, Ohio, presently reading as follows:

"531.01 DEFINITIONS.

For the purposes of this chapter:

(a) "Beverage" means:

- (1) Nonalcoholic beverage, which includes any carbonated or non-carbonated beverages, fruit aid, soda, soda water, club soda, seltzer or ready mix tea.
- (2) Alcoholic beverage, which includes any beer, ale or other malt beverage containing one-half of one percent or more of alcohol by volume and not more than seven percent of alcohol by volume.

(b) "City" means the corporate limits of the City of Oberlin.

(c) "City Manager" means the City Manager of the City of Oberlin, or his designee.

(d) "Container" means any device made of glass or metal material used for the purpose of holding or containing either soft drink or beer.

- (e) Nonreturnable or disposable beverage container means any metal container with the capacity of twelve ounces or more so designed that a part of the metal container is detachable for purposes of opening it without the aid of a separate opener; or any device made of glass or plastic used for the purpose of holding or containing either soft drinks, beer or malt beverage not exceeding seven percent alcohol content and the title to which the seller intends to pass with the sale of the contents.
- (f) "Sale" means a commercial transaction by any person, firm, individual, corporation, partnership or vendor whereby beverages are exchanged for monetary consideration.
- (g) "Possession" means the physical possession of a nonreturnable or disposable beverage container in any location in the City other than for the purpose of trash collection.

#### 531.02 INSPECTION; RIGHT OF ENTRY.

The City Manager, or his designee, has the authority to enter upon the premises of any firm, individual, corporation, partnership or vendor selling beverages and which is licensed to conduct a business under the laws of this state, for the purpose of performing inspections to determine if the firm, individual, corporation, partnership or vendor is in compliance with the provisions of this chapter.

#### 531.03 SALE OR POSSESSION PROHIBITED.

- (a) No person shall sell or possess for consumption any beverage in a nonreturnable or disposable beverage container.
- (b) Whoever violates this section with reference to selling is guilty of a misdemeanor of the fourth degree. Whoever violates this section with reference to possession shall be fined not more than ten dollars (\$10.00)."

Be, and hereby are, amended to read as follows:

#### "531.01 DEFINITIONS.

For the purposes of this chapter:

- (a) "Soft Drink Beverage" means mineral water, soda water, ginger ale, root beer, sarsaparilla, pop, cola, or other carbonated or non-carbonated beverages or artificial mineral waters in liquid form commonly known as soft drinks intended for human consumption. Soft Drink Beverage does not include dairy products or fruit juices.
- (b) "Malt Beverage" means beer, ale, or similar beverages with a malt base.

- (c) "City" means all that territory located within the corporate limits of the City of Oberlin.
- (d) "City Manager" means the City Manager of the City of Oberlin or his designee.
- (e) "Container" means any airtight sealed device made of glass, metal, plastic, or other materials which directly holds or contains soft drink or malt beverages.
- (f) "Sale" means a transaction by any person, firm, individual, corporation, partnership, or vendor, in which beverages are sold or exchanged for monetary or other valuable consideration.
- (g) "Refillable Container" means any container used for the sale of soft drink or malt beverages which after use is washed, sterilized, refilled and resued for the sale of such beverages.
- (h) "Nonrefillable Container" means any container used for the sale of soft drinks or malt beverages other than a "Refillable Container" as defined hereinbefore.

531.02 INSPECTION; RIGHT OF ENTRY.

The City Manager, or his designee, has the authority to enter upon the premises of any firm, individual, corporation, partnership or vendor selling or offering for sale soft drinks and/or malt beverages in the City which is licensed to conduct a business under the laws of this state, for the purpose of performing inspections to determine if the firm, individual, corporation, partnership or vendor is in compliance with the provisions of this chapter. Any such inspections shall take place during the normal business hours of said premises.

531.03 SALE PROHIBITED.

- (a) No person, firm, individual, corporation, partnership, vendor, or other entity shall sell or offer for sale any soft drink or malt beverage in a nonrefillable container within the City.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Each day's violation of the provisions of this ordinance shall constitute a separate offense."

SECTION 2. The provisions of this ordinance are hereby declared to be severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to persons and circumstances.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading - June 3, 1985 - DEFEATED  
2nd Reading -  
3rd Reading -

ATTEST:

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Clerk of Council

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Chairman of Council

POSTED: