

CHAPTER 113: ALCOHOLIC BEVERAGES

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§ 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT PLACE. Any establishment whose business building contains a square footage of at least 6,000 square feet, and where games of skill commonly known as billiards, volleyball, indoor golf, bowling, or soccer are usually played or has a dance floor of at least 2,500 square feet or any outdoor golf course with a minimum of nine holes, and which has annual gross receipts of at least \$100,000 of which at least \$50,000 of such gross receipts is in non-alcoholic sales.

BOARD. The Board of Aldermen of the City of Otterville, Missouri.

CITY. The City of Otterville, Missouri.

CLOSED PLACE. A place where all doors are locked and where no patrons are in the place or about the premises.

COLLECTOR. The Collector of the City of Otterville, Missouri. If a vacancy exists in the office of **COLLECTOR**, the City Clerk of the city shall exercise the duties and authorities herein delegated to the **COLLECTOR**.

COMMON EATING AND DRINKING AREA. An area or areas within a building or group of buildings designated for the eating of food and drinking of liquor sold at retail by establishments which do not provide areas within their premises for the consumption of food and liquor, where the costs of maintaining such area or areas are shared by the payment of common area maintenance charges, as provided in the respective leases permitting the use of such areas or otherwise, and where the annual gross income from the sale of prepared meals or food consumed in such common eating and drinking area is, or is projected to be, at least \$275,000.

CONSUMPTION ON THE PREMISES. Where beer is served to, and consumed by, buyer on the premises of licensee.

FINANCIAL INTEREST. As defined in RSMo. § 311.060(4), as amended.

INTOXICATING LIQUOR. Alcohol for beverage purposes, including alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, apart of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of 0.5% by volume, except for non-intoxicating beer as defined herein. All beverages having an alcoholic content of less than 0.5% by volume shall be exempt from the provisions of this chapter.

LICENSEE. The person to whom a license authorized by this chapter has been issued.

LIGHT WINES. An intoxicating liquor consisting of wine containing not in excess of 14% of alcohol by weight made exclusively from grapes, berries, and other fruits and vegetables.

MALT LIQUOR. An intoxicating liquor containing alcohol in excess of 3.2% by weight and not in excess of 5% by weight, manufactured from pure hops or pure extract of hops, or pure barley malt or wholesome grains or cereals, and wholesome yeast and pure water.

NON-INTOXICATING BEER. Any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives, and adulterants, and having an alcoholic content of more than 0.5% by volume and not exceeding 3.2% by weight.

ORIGINAL PACKAGE. Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one or more bottles or other containers of intoxicating liquor or non-intoxicating beer, where the package and/or container(s) describes the contents thereof as intoxicating liquor or non-intoxicating beer. **ORIGINAL PACKAGE** shall also be construed and held to refer to any package containing three or more standard bottles of beer.

PERSON. An individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any state or federal court.

RESORT. Any establishment having at least 30 rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least 60% of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than \$75,000 per year with at least \$50,000 of such gross receipts from non-alcoholic sales, or means a seasonal resort restaurant with food sales as determined in RSMo. § 311.095(2). Any facility which is owned and operated as a part of the **RESORT** may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

RESTAURANT BAR. Any establishment having a restaurant or similar facility on the premises at least 50% of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least \$200,000 from the sale of prepared meals or food consumed on such premises.

SALE. The transfer of title or possession, or both, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, or an agreement therefor.

SALE BY THE DRINK. Sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than 50 milliliters shall be deemed **SALE BY THE DRINK** and may be made only by a holder of a retail liquor dealer's license, and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served. (Prior Code, § 600.010) (Ord. 181, passed 1-20-1976)

§ 113.02 LICENSE REQUIRED; CLASSES OF LICENSES.

(A) *License required.* No person shall sell or offer for sale intoxicating liquor or non-intoxicating beer in the city without a currently valid liquor license issued by the city. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.

(B) *General licenses.* Any person possessing the qualifications and meeting the requirements of this chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer:

(1) *Package liquor - malt liquor only.* Sales of malt liquor at retail in the original package not for consumption on the premises where sold;

(2) *Package liquor - non-intoxicating beer.* Sales of non-intoxicating beer at retail in the original package not for consumption on the premises where sold;

(3) *Package liquor - all kinds*. Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in divisions (B)(1) and (B)(2) above;

(4) *Liquor by the drink - malt liquor/light wine only*. Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in divisions (B)(1) above and (B)(5) below;

(5) *Liquor by the drink - non-intoxicating beer*. Sales of non-intoxicating beer at retail by the drink for consumption on the premises where sold, including sales as set forth in division (B)(2) above; and

(6) *Intoxicating liquor by the drink*. Sales of intoxicating liquor by the drink at retail for consumption on the premises where sold.

(C) *Sunday sales*. Any person who is licensed under the provisions of this chapter or who otherwise possesses the qualifications and meets the requirements of this chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer on Sundays between the hours of 9:00 a.m. and midnight:

(1) *Package liquor - all kinds*. Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold;

(2) *Liquor by the drink - restaurant bar*. Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar;

(3) *Liquor by the drink - amusement place*. Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place;

(4) *Liquor by the drink - place of entertainment*. Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment; and

(5) *Liquor by the drink - common eating and drinking area*. Sales of liquor of all kinds by the drink at retail not for consumption on the premises where sold but for consumption in a common eating or drinking area.

(D) *Permits*.

(1) *Temporary permit for sale by drink*. Any person who possesses the qualifications, meets the requirements, and complies with the provisions of § 113.03(C), may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.

(2) *Tasting permit*. Any person who is licensed to sell intoxicating liquor in the original package at retail under divisions (B)(3) and (C) above, may apply for a special permit to conduct wine, malt beverage, and distilled spirit tastings on the licensed premises; however, nothing in this

section shall be construed to permit the licensee to sell wine, malt beverages, or distilled spirits for on-premises consumption.

(Prior Code, § 600.020) (Ord. 326, passed 12-6-2003; Ord. 401, passed 8-11-2010) Penalty, see § 113.99

§ 113.03 LICENSE REGULATIONS.

(A) *Package sales, limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his or her store a stock of goods having a value according to invoices of at least \$1,000, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this chapter or law.

(B) *Newly-opened restaurant bars or amusement places.*

(1) Any new restaurant bar having been in operation for less than 90 days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 a.m. and midnight on Sunday for a period not to exceed 90 days, if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least 50% of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than \$200,000. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

(2) Any new amusement place having been in operation for less than 90 days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 a.m. and midnight on Sunday for a period not to exceed 90 days, if the amusement place can show a projection of gross receipts of at least \$100,000, of which at least \$50,000 of such gross receipts are in non-alcoholic sales for the first year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

(C) *Temporary permit for sale by drink - certain organizations.*

(1) The City Clerk may issue a permit for the sale of intoxicating liquor and non-intoxicating beer for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

(2) If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor and non-intoxicating beer on that day beginning at 11:00 a.m.

(3) At the same time that an applicant applies for a permit under the provisions of this division (C), the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.

(4) No provision of law or rule or regulation of the city shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling, or dispensing equipment for use by the permit holder at such picnic, bazaar, fair, or similar gathering.

(D) *Operating hours, days.*

(1) No licensee or any employee of such licensee shall sell, give away, or otherwise dispose of, or allow the same to be done, on or about the premises, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays, and between the hours of 1:30 a.m. on Sunday and 6:00 a.m. on Monday, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.

(2) When January 1, March 17, July 4, or December 31 falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his or her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this chapter to the contrary.

(E) *General license regulations.*

(1) Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.

(2) A separate license shall be required for each place of business. Every license issued under the provisions of this chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

(3) No license issued under this chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the

remaining partner, or partners, originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid, without obtaining a new license.

(4) In the event any licensee desires to change the location of his or her place of business in the city, it shall be necessary for him or her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this section.

(F) *Druggists may sell and physicians prescribe liquor.* Any druggist may have in his or her possession intoxicating liquor purchased by him or her from a licensed vendor under a license pursuant to state law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this state, and lawfully inspected, gauged, and labeled as provided by state law; such intoxicating liquor to be used in connection with the business of a druggist, in compounding medicines or as a solvent or preservative; provided, that nothing in this chapter shall prevent a regularly licensed druggist, after he or she procures a license therefor, from selling intoxicating liquor in the original package, but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his or her professional judgment for any patient at any time, or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

(G) *Fees taken in lieu of proportionate part of merchant's tax and ad valorem tax.* The fees to be charged under the provisions of this section shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for the stock and sales of intoxicating liquor or non-intoxicating beer under the provisions of this chapter or any other ordinance of the city, and the aggregate amount of the sales thereof made by any licensee hereunder shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock of sales be included in the computation of any merchant's license or ad valorem tax.

(Prior Code, § 600.030) (Ord. 326, passed 12-6-2003) Penalty, see § 113.99

§ 113.04 SCHEDULE OF LICENSE FEES.

(A) The following categories and sub-categories of license shall be issued upon compliance with provisions of this chapter and payment of the license fee indicated.

(1) *General licenses.*

<i>License</i>	<i>Fee</i>
Intoxicating liquor (all kinds) - original package	\$150
Intoxicating liquor by the drink at retail for consumption on the premises where sold	\$450

<i>License</i>	<i>Fee</i>
Malt liquor and light wines - by drink	\$52.50
Malt liquor - original package	\$22.50
Non-intoxicating beer - by drink	\$37.50
Non-intoxicating beer - original package	\$22.50

(2) *Sunday sales (additional fees).*

<i>License</i>	<i>Fee</i>
Intoxicating liquor - original package	\$300
Liquor by the drink - charitable organizations	\$300
Restaurant bars	\$300

(3) *Permits.*

<i>Permit</i>	<i>Fee</i>
Tasting permit	\$37.50
Temporary permit - by the drink for certain organizations (seven days max)	\$37.50
Of the license fee to be paid for any such license, the applicant shall pay as many twelfths as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July 1.	

(B) No refund shall be made for any unexpired term of a license surrendered, revoked, or suspended.

(Prior Code, § 600.040) (Ord. 181, passed 1-20-1976; Ord. 335, passed 8-7-2004; Ord. 370, passed 1-6-2007; Ord. 401, passed 8-11-2010)

§ 113.05 APPLICATION FOR LICENSE AND RENEWAL.

(A) *Filing of an application.* Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the city, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the city.

(B) *Bond requirements.* Each application for a license shall be accompanied by a bond, to be given to the city in the amount of \$1,000 with sufficient sureties, conditioned that the person obtaining such license shall at all times abide by the provisions of the state's Liquor Control Act, this chapter, and all

other ordinances of the city. Only one bond shall be required under this section from any one person and such bond shall, while in force, cover all licenses held by any one applicant and all classes of sales carried on hereunder. Such bond may be sued on in the name of the city for the use and benefits of any person damaged by the breach of any of the conditions thereof.

(C) *Qualifications.* Neither the applicant nor any officer, director, or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale, or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business, and if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the city; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The Board of Aldermen also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.

(D) *Hearing on application.* Upon the filing of the application with the Clerk, the Clerk shall fix a date for a hearing before the Board not more than 31 days from the date of filing of the application, and shall give the applicant written notice of the date of the hearing. The hearing shall be conducted in accordance with § 113.11.

(1) *Location of certain businesses.*

(a) *Distance from schools and the like.* The Board shall consider the location of the proposed business for which a license is sought with respect to its proximity to a school, a church, a public park or playground, and to other places of the character for which a license is sought, and shall have authority to refuse to issue a license when in their judgment the issuance thereof would not be in the best interests of the locality in which the applicant applies for a location of such place. In no event shall the Board approve the issuance of a license for the sale of liquor within 300 feet of any school, church, or other building regularly used as a place of worship unless the applicant for the license shall first obtain the consent in writing of the board of directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship; except that when a school, church, or place of worship shall thereafter be established within 300 feet of any place of business licensed to sell intoxicating liquor, renewal of the license shall not be denied for lack of consent in writing as herein provided.

(b) *Licensed premises in residential districts.* The Board shall not authorize the issuance of a license under this chapter for the sale of 5% beer, or 3.2% beer for consumption on the premises where sold, within a residential district unless and until the applicant for such a license shall have presented to the Board a petition containing the signatures of 75% of the persons owning the property located within a radius of 300 feet of the proposed licensed premises, consenting to the establishment of such licensed business and the granting of a license therefor; provided however, it shall not be necessary for any person desiring to obtain a renewal of a license of an established place of business within a residential district to obtain such consent.

(2) *Findings required for approval.* The Board shall approve the application if, after the hearing it finds that:

(a) Issuance of the requested license would be in the best interests of the locality of the proposed business;

(b) The applicant is a person of good moral character, a native born or naturalized citizen of the United States of America, a registered voter, and a taxpaying citizen of the city;

(c) No license theretofore issued to such applicant to sell intoxicating liquors has been revoked within two years of the date of the application;

(d) The applicant has not been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of the violation of any law applicable to the sale of intoxicating liquor, or that such applicant has not employed in his or her business any person whose license has been revoked or who has been convicted of violating the provisions of such law since the date aforesaid; and

(e) The applicant plans and proposes to conduct a retail liquor business in compliance with the laws of the state, the ordinances of the city, and the provisions of this chapter.

(E) *Application approval.* Upon approval of any application for a license, the Clerk shall grant the applicant a license to conduct business in the city for a term to expire on June 30 next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.

(F) *License renewal.* Applications for renewal of licenses must be filed on or before May 1 of each calendar year. Such renewal application shall be reviewed by the Board at its next meeting. Upon approval of the majority of the Board and payment of the license fee provided herein, the Clerk shall renew the license. In the event that any person residing or conducting businesses within 200 feet of the applicant's place of business shall file a written protest against the renewal of such license, the Board shall conduct a hearing on the application for license renewal as provided in division (D) above. (Prior Code, § 600.050) (Ord. 95, passed 10-21-1963; Ord. 181, passed 1-20-1976)

§ 113.06 LICENSES; DEFACED, DESTROYED, OR LOST.

Whenever any license issued under the provisions of this chapter is defaced, destroyed, or lost, the Collector shall issue a duplicate license for that license defaced, destroyed, or lost, upon the payment of a fee of \$0.50 by licensee.

(Prior Code, § 600.055) (Ord. 181, passed 1-20-1976)

§ 113.07 LICENSE OR IDENTIFICATION CARD MUST BE SHOWN UPON REQUEST BY LICENSEE BEFORE PURCHASE.

An operator's or chauffeur's license issued under the provisions of RSMo. § 302.177, as amended, or an identification card as provided for in RSMo. § 302.181, shall be presented by the holder thereof upon request of any person licensed, or the servant, agent, or employee of such person, for the purpose of aiding the licensee, or the servant, agent, or employee thereof, to determine whether or not the person presenting such license or identification is at least 21 years of age when such person desires to purchase 5% beer or 3.2% beer from a person licensed.

(Prior Code, § 600.057) (Ord. 181, passed 1-20-1976)

§ 113.08 MINORS.

(A) Persons 18 years of age or older may sell or handle liquor or beer.

(1) Except as otherwise provided in this section, no person under the age of 21 years shall sell or assist in the sale or dispensing of intoxicating liquor or non-intoxicating beer.

(2) In any place of business licensed in accordance with this chapter, persons at least 18 years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor or non-intoxicating beer. Delivery of intoxicating liquor or non-intoxicating beer away from the licensed business premises cannot be performed by anyone under the age of 21 years. Any licensee who employs any person under the age of 21 years, as authorized by this division (A) shall, when at least 50% of the licensee's gross sales does not consist of non-alcoholic sales, have an employee 21 years of age or older on the licensed premises during all hours of operation.

(3) Persons 18 years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or non-intoxicating beer in places of business which sell food for consumption on the premises if at least 50% of all sales in those places consists of food; provided, that nothing in this section shall authorize persons under 21 years of age to mix or serve across the bar intoxicating beverages or non-intoxicating beer.

(B) Sales to minor; exceptions. No licensee, his or her employee, or any other person, shall procure for, sell, vend, give away, or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of 21 years, except that this section shall not apply to the parent or guardian of the

minor nor to the supplying of intoxicating liquor to a person under the age of 21 years for medical purposes only, or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.

(C) Misrepresentation of age by minor to obtain liquor - use of altered driver's license, passport, or ID cards.

(1) No person under the age of 21 years shall represent, for the purpose of purchasing, asking for, or in any way receiving any intoxicating liquor, that he or she has attained the age of 21 years, except in cases authorized by law.

(2) In addition to division (C)(1) above, no person under the age of 21 years shall use a reproduced, modified, or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport, ~~or~~ identification card established in RSMo. § 302.181, for the purpose of purchasing, asking for, or in any way receiving any intoxicating liquor.

(D) Purchase or possession by minor. No person under the age of 21 years shall purchase, attempt to purchase, or possess any intoxicating liquor or non-intoxicating beer except as otherwise authorized by law. For purposes of prosecution, a manufacturer sealed container which describes its contents as intoxicating liquor or non-intoxicating beer need not be opened or the contents tested to establish the contents as intoxicating liquor or non-intoxicating beer.

(Prior Code, § 600.060) Penalty, see § 113.99

§ 113.09 MISCELLANEOUS OFFENSES.

(A) Unlawful for licensed retailer to purchase from other than licensed wholesaler. It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by, or through a duly licensed wholesale liquor dealer in this state. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this section.

(B) Mixing liquor with drugs prohibited. No licensee or any other person shall, for any purpose whatsoever, mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold, or supplied by him or her as a beverage, any drug or form of methyl alcohol or impure form of alcohol.

(C) Unlawful to sell unlabeled liquor. It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the state's Liquor Control Law, and any such person upon conviction shall have his or her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two years thereafter.

(D) Only those liquors authorized by license to be kept on premises. It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises

to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

(E) *Off-premises consumption.*

(1) No licensee shall sell intoxicating liquor at retail in the original package, not to be consumed on the premises where sold, in any original package containing less than 50 milliliters.

(2) No licensee shall permit any person to remove from the licensed premises any intoxicating liquor or non-intoxicating beer in any unsealed glass, bottle, can, or other open container of any type.

(3) All licensees shall post a notice at each exit of the premises which is used by customers or patrons that "NO ALCOHOLIC BEVERAGES MAY BE CARRIED IN AN OPEN CONTAINER OUT OF THIS BUILDING".

(F) *Persons apparently intoxicated not to be provided with intoxicating liquor or non-intoxicating beer.* It shall be unlawful for any licensee, or his or her employee or agent, to sell or supply intoxicating liquor or non-intoxicating beer, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

(G) *Drinking in public places prohibited.*

(1) For purposes of this section, the term **PUBLIC PLACE** shall mean any public street, highway, alley, sidewalk, thoroughfare, or other public way of the city, or any parking lot.

(2) No person shall drink or ingest any intoxicating liquor or non-intoxicating beer in or on any public place.

(3) No person shall possess or have under his or her control any unsealed glass, bottle, can, or other open container of any type containing any intoxicating liquor or non-intoxicating beer while in or upon any public place.

(4) No person shall possess or have under his or her control any unsealed glass, bottle, can, or other open container of any type containing any intoxicating liquor or non-intoxicating beer while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he or she has control of whether or not he or she has actual physical possession of the open container.

(H) *Live entertainment on premises prohibited.* No person licensed for the sale of intoxicating liquor by the drink for consumption on the premises shall permit or allow any live entertainment on the premises. The playing and singing of music solely shall not be considered entertainment under this section.

(Prior Code, § 600.070) Penalty, see § 113.99

§ 113.10 ADMINISTRATION OF LAW; LICENSE SUSPENSION.

(A) *Suspension or revocation of license; when; manner.* The Board may suspend or revoke the license of any person for cause shown. In such cases, the City Clerk shall schedule a hearing before the Board not less than ten days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date, and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail, or by posting on the licensed premises. The hearing shall be conducted in accordance with § 113.11.

(B) *Grounds for suspension or revocation.* A license may be suspended or revoked for any of the following reasons:

(1) Violating any of the provisions of either this chapter, RSMo. Chapters 311 or 312, or any ordinance of the city;

(2) Failing to obtain or keep a license from the State Supervisor of Liquor Control;

(3) Making a false affidavit in an application for a license under this chapter;

(4) Failing to keep an orderly place or house;

(5) Selling, offering for sale, possessing, or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession, or consumption of which is not authorized under the license;

(6) Selling, offering for sale, possessing, or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the state; or

(7) Selling, giving, or otherwise supplying intoxicating liquor to:

(a) Any person under the age of 21 years;

(b) Any person during unauthorized hours on the licensed premises;

(c) A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor; or

(d) Any person on the licensed premises during a term of suspension as ordered by the Board.

(C) *Automatic revocation/suspension.* A license shall be revoked automatically if the licensee's state liquor license is revoked or if the licensee is convicted in any court of any violation of RSMo. Chapters

311 or 312. A license shall be suspended automatically if the licensee's state liquor license is suspended, and the suspension shall be for a term not less than that imposed by the state.

(D) *Effect of suspension.* No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor or non-intoxicating beer during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.
(Prior Code, § 600.080)

§ 113.11 HEARINGS UPON SUSPENSION OR REVOCATION OF LICENSES.

(A) *Testimony; evidence.* Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within 200 feet of the proposed establishment shall have the right to produce witnesses and testimony.

(B) *Witnesses; how summoned.* Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this state. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.

(C) *Witnesses to be sworn.* Before any witness shall testify in any such hearing, he or she shall be sworn by the City Clerk to tell the truth and nothing but the truth.

(D) *Decision; suspension or revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to § 113.10, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.

(E) *Appeal.* Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in RSMo. Chapter 536, provided such appeal is filed within ten days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.
(Prior Code, § 600.090)

§ 113.12 CONVICTION OF A LICENSEE OF A FELONY.

The conviction of a licensee of a felony by any court of the state or of any other state of the United States of America or by any court of the United States of America shall automatically revoke a license

issued to such licensee under the provisions of this chapter, without the necessity of an application provided for in § 113.10(B).

(Prior Code, § 600.095) (Ord. 181, passed 1-20-1976)

§ 113.99 PENALTY.

Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine of not more than \$500 or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment.

(Prior Code, § 600.100)