

AGENDA ITEM
May 17, 2022

Subject: Update Chapter 3 – Alcoholic Beverages

Department: Administration

This ordinance will approve an update of Chapter 3 pertaining to the sale, licensing, and use of Alcoholic Beverages in the City of Nevada.

Manager Notes:

Attached Chapter Revisions

- **Red color** are new Code additions
- **Black color** are from previous Code
- ~~**Strikethrough**~~ are Code removals

- **Major Changes – Removed**
 - Non-intoxicating Beer – 3.2 percent (State Law Change)
 - Limitation on number of licenses for package sales (State Law Change)
 - Hours of Sales (State Law Change)
 - Keg Sales
 - Separate License for Wine Manufacturing
 - Defined calculating distance of 100 feet prohibiting area (Churches, School, Public parks, etc)

- **Major Changes – Added**
 - Definition
 - Common eating and drinking areas, Microbrewery, Resorts & Restaurant Bars, Sunday Sales, Wine alcohol percentage & Wine Manufacturing by RSMO
 - Retail Licenses in Table Form & Added more License categories by RSMO
 - Limited Permits for 4th of July by RSMO
 - Special Events per C-1 zoning – Requires Council approval
 - To-Go sales by RSMO
 - Wine Sales by RSMO
 - Liquor Control Board Updates

- **Major Changes – Fees**
 - Added Sunday Sales License - \$300.00
 - Increased manufacturing 5% alcohol to \$375.00 from \$300.00
 - Increased manufacturing 22% alcohol to \$300.00 from \$150.00
 - Increased manufacturing all kinds alcohol to \$675.00 from \$300.00
 - Added Microbrewery - \$375.00 maximum

**A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AMENDING
CHAPTER 3 OF THE CODE OF THE CITY OF NEVADA MISSOURI**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA,
MISSOURI THAT:**

Section 1. Chapter 3 of the Code of the City of Nevada Missouri is hereby amended to read as follows:

Chapter 3 ALCOHOLIC BEVERAGES [1]

ARTICLE I – LICENSURE

- Sec. 3-1: Definitions
- Sec. 3-2: License required; separate license for each place of business
- Sec. 3-3: Form and contents of license
- Sec. 3-4: Qualifications for applicant for license
- Sec. 3-5: License types and fees; separate license for each place of business
- Sec. 3-6: License term; proration of fees
- Sec. 3-7: Transfer of license; abandonment and surrender of license
- Sec. 3-8: Permit and fee requirements for temporary locations for selling liquor by the drink (Caterers)
- Sec. 3-9: Limited permits: picnic permit; Fourth of July celebrations
- Sec. 3-10: Avoidance of off-premises consumption of alcohol

ARTICLE II – OBLIGATIONS OF LICENSEES

- Sec. 3-11: Hours of sale of intoxicating liquor
- Sec. 3-12: Sale of liquor prohibited near schools, churches, parks
- Sec. 3-13: Liquors not licensed not permitted on premises
- Sec. 3-14: Keg sales within City

ARTICLE III – ADDITIONAL REGULATIONS

- Sec. 3-15: Retailer-Packaged alcoholic beverages sold to customers in “to-go” containers
- Sec. 3-16: Draft beer, sale of 32 to 128 fluid ounces dispensed on premises for consumption off premises—requirements
- Sec. 3-17: Unfinished bottles of wine may be carried out of a restaurant bar, when—transportation permitted—wineries, unfinished bottles of wine may be removed, when—transportation permitted
- Sec. 3-18: Self-dispensing of beer or wine permitted, when
- Sec. 3-19: Sales to minors, drunkards, etc.
- Sec. 3-20: Purchase or possession by minors
- Sec. 3-21: Public consumption

ARTICLE IV – ADMINISTRATION

Sec. 3-22: Licensing Officer and Liquor Control Investigator created—duties

Sec. 3-23: Liquor Control Board created—membership—qualifications—vacancies—duties

Sec. 3-24: Application for; criteria for issuance of license; effect of approval or denial

Sec. 3-25: License payments

Sec. 3-26: Suspension, limitations, or revocations

Sec. 3-27: Hearings on suspensions, limitations, or revocations

Sec. 3-28: Effect of revocation on reissuance of license

Sec. 3-29: Administrative appeal procedure

ARTICLE I - LICENSURE

Sec. 3-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common eating and drinking area means 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 area or areas is, or is projected to be, at least two hundred seventy-five thousand dollars (\$275,000.00).

Financial interest means all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.

Intoxicating liquor means alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent (0.5%) by volume, except for intoxicating beer as defined herein.

Licensing officer means the person designated by the city manager to process license application documentation.

Liquor Control Board or Board means the Liquor Control Board of the City of Nevada.

Microbrewery means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand (10,000) barrels or less.

Meal means food that has been prepared on-premises at an establishment;

Original package means any package containing one or more standard bottles, cans, or pouches of beer.

Person means any individual, association, Joint Stock Company, syndicate, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court

Premises means the area designated within a liquor license where consumption of intoxicating liquors is authorized.

Public playground and public park means parks or playgrounds, the title to which is in the city or the school district, or the parks and recreation board of the city.

Resort means:

- (1) Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent (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 seventy-five thousand dollars per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales, or
- (2) A seasonal resort restaurant which is not a new restaurant establishment and which is open for business eight (8) or fewer consecutive months in any calendar year and for which fifty percent (50%) of all gross sales of such restaurant are sales of prepared meals.

Restaurant Bar means any establishment having a restaurant or similar facility on the premises where at least fifty percent (50%) of the gross income is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on such premises.

Sale by the drink means the sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty milliliters (50 ml).

Sunday Sales means sales at retail between the hours of 6:00 A.M. on Sundays and 1:30 A.M. on Mondays.

Tamperproof means that a lid, cap, or seal visibly demonstrates when a bag or container has been opened.

Vintage wine means bottled domestic white, rose or sparkling wine which is not less than five (5) years old, domestic red wine which is not less than ten (10) years old, or imported white, rose, red, sparkling or port wine which is not less than three (3) years old.

Wine means a beverage containing not in excess of fourteen percent (14%) of alcohol by weight.

Wine manufacturer means any person, partnership, association of persons, or corporation who has procured a license under subdivision (2) of subsection 1 of Sections 311.180 or 311.190 RSMo., and who manufactures in excess of two hundred (200) gallons of wine per calendar year.

Winery means any establishment at which wine is made.

Sec. 3-2. License required; separate license for each place of business.

- (a) It is unlawful for any person, either by himself or through the use of agents or servants, to engage in the manufacture, brewing, sale, or distribution of intoxicating liquors without first having taken out and obtained a license or permit authorizing such manufacture, brewing, sale, or distribution, in compliance with the terms of this chapter.
- (b) In instances in which the state issues a temporary license, the city will limit its license to the temporary period authorized by the state.
- (c) A separate license shall be required for each place of business.

Sec. 3-3. Form and contents of license.

- (a) After approval by the Liquor Control Board, licenses shall be issued by the licensing officer upon the proper forms, and signed and sealed by the licensing officer. Each license shall state specifically the type of license (RL-1 through RL-6, WL-1 through WL-6, or ML-1 through ML-5) to be sold under such license; and whether such license is issued authorizing the sale of intoxicating liquor for consumption on the premises or only authorizing the sale in the original package, not for consumption on the premises; or whether such license issued is for sale of liquor by the drink for consumption on the premises where it is sold.
- (b) All licenses authorizing the sale of intoxicating beverages for consumption on the premises shall specify the extent of the premises that is, whether the authority extends to the building exterior, parking lots or other adjacent areas. If not stated otherwise, the premises shall be considered the interior primary floor of the building.

Sec. 3-4. Qualifications of applicant for license.

- (a) No person shall be granted a license under this chapter unless such person is a qualified legal voter and a taxpaying citizen of the state, nor shall any corporation be granted a license hereunder unless the managing officer operating under the license has the abovementioned qualifications.

- (b) No person shall be granted a license whose license as a dealer in intoxicating liquor has been revoked by this or any other municipality or state or who has been convicted, since the ratification of the Twenty-First Amendment of the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or who employs or intends to employ in the person's beverage business any person not of good moral character, who has had any license as a liquor dealer revoked or who has been convicted of any such law since the date aforesaid.
- (c) No person shall be qualified for a license under this chapter if such person, any member of such partnership or corporation, or any officer, director or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interests therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this chapter, has had a license revoked under this chapter or has been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor since the ratification of the Twenty-First Amendment to the Constitution of the United States, or is not a person of good moral character.
- (d) No license authorizing the retail sale of intoxicating liquor for consumption on the premises where it is sold shall be issued unless the person or managing officer of a corporation applying for such license is a person of good moral character.

Sec. 3-5. License types and fees.

A. The following licenses are available to qualified applicants at each place of business and the charge for such licenses shall be as follows:

1. *Retail Licenses* for the Privilege of Selling:

RL-1 Malt Liquor (5% or less) – Original Package	Malt liquors in the original package and not for consumption on the premises, direct to consumers and not for resale	\$75.00
RL-2 Intoxicating liquor of all kinds	Intoxicating liquor in excess of five percent of alcohol by weight in the original package direct to consumer and not for resale, at retail and not for consumption on the premises *available to the following businesses: a drugstore, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, where such business to keeps in its store a stock	\$150.00

	of goods having a value according to invoices or at least \$1,000.00, exclusive of fixtures and intoxicating liquors	
RL-3 Malt liquor/wine by the drink	Malt liquor by the drink at retail for consumption or light wines containing not in excess of 14 percent alcohol by weight, or both, by the drink at retail for consumption on premises where it is sold	\$75.00
RL-4 Intoxicating liquor (all kinds) by the drink	Intoxicating liquor (all kinds) by the drink for consumption on the premises	\$450.00
RL-5 Sunday Sales	Any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor at retail may apply to the city for a special license at an additional cost	\$300.00
RL-6 Common Eating & Drinking Area	Intoxicating liquor (all kinds) by the drink for consumption within a common eating and drinking area, subject to the following additional rules: (1) Any intoxicating liquor sold by the drink for consumption within a common eating and drinking area shall be sold or offered for sale in special containers distinguishable by the selling establishment's name and/or its logo and by the type of drink sold (beer or mixed drink). (2) Any common eating and drinking area shall be designated by the posting of signs at all entrances and exits to the common eating and drinking area, and all sales and consumption of intoxicating liquors shall be restricted to this designated common eating and drinking area. Signs posted shall state that intoxicating liquors are prohibited except within this designated common eating and drinking area.	\$450.00

2. *Wholesale Licenses* for the privilege of:

WL-1 Malt Liquor (5% or less)	Selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by, or through a duly licensed wholesaler within this state	\$75.00
WL-2	Selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not	\$150.00

Liquor (22% or less)	in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state	
WL-3 Intoxicating liquor of all kinds	Selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by, or through a duly licensed wholesaler within this state	\$375.00
WL-4 Wholesale business or warehouse-Malt Liquor (5% or less)	Operating a wholesale place of business or warehouse located within the city, from which malt liquor containing not in excess of five percent alcohol by weight are sold at wholesale to a person duly licensed to sell such malt liquor at retail	\$112.50
WL-5 Wholesale business or warehouse-Liquor (22% or less)	Operating a wholesale place of business or warehouse, located within the city, from which intoxicating liquor, containing not in excess of 22 percent of alcohol by weight is sold at wholesale to a person duly licensed to sell such liquors at retail	\$300.00
WL-6 Wholesale business or warehouse-intoxicating liquor of all kinds	Operating a wholesale place of business or warehouse, located within the city, from which intoxicating liquor of all kinds are sold at wholesale to a person duly licensed to sell such liquor at retail	\$750.00

3. *Manufacturing Licenses* for the privilege of:

ML-1 Malt Liquor (5% or less)	Manufacturing and brewing in the city malt liquors containing not in excess of five percent of alcohol by weight	\$375.00
ML-2 Intoxicating Liquor (22% or less)	Intoxicating liquor containing not in excess of 22 percent of alcohol by weight	\$300.00
ML-3	Manufacturing, distilling or blending intoxicating liquor of all kinds within the city	\$675.00

Intoxicating liquor of all kinds		
ML-4 Wine or brandy	<p>Manufacturing wine or brandy in quantities not to exceed 500,000 gallons, not in excess of 18% of alcohol by weight for wine/34% by weight for brandy, from grapes, berries, other fruits, fruit products, honey, and vegetables produced or grown in the State of Missouri, exclusive of sugar, water, and spirits, subject to:</p> <p>(1) A licensee granted a wine or brandy manufacturer's license shall have the privileges accorded by RSMo § 311.190, except that no consumption on-premises will be permitted where prohibited by zoning ordinances of the City of Nevada, Missouri.</p> <p>(2) The word "consumption" for sole purposes of this specific subset of license and the zoning ordinances of the City of Nevada, Missouri, will not include wine tasting of not more than ½ ounce of a wine offered for sale under the license.</p>	\$7.50 per 500 gallons of wine/brandy produced (\$450.00 max fee)
ML-5 Microbrewery	<p>Operating a microbrewery</p> <p>May also apply for a license to sell all kinds of intoxicating liquor by the drink for consumption on the microbrewery's premises as provided for in RL-4; and may also sell beer and malt liquor produced at the microbrewery to duly licensed wholesales in accordance with Section 311.195 RSMo.</p>	\$7.50 for each 100 barrels (\$375.00 max fee)

Sec. 3-6. License term; proration of fees.

Licenses issued under the terms of this chapter shall be issued for a period of one year beginning with August 1 of each year. Persons desiring to secure a license after August 1 shall pay the prorated amount of the license charge for the portion of the license year from the date the license is issued to August 1.

Sec. 3-7. Transfer of license; abandonment and surrender of license.

- (a) No license issued under this chapter shall be transferable or assignable. The death of an individual licensee shall not be considered a transfer and the beverage business license may be continued under the license by the next of kin or the personal representative appointed by the probate court.
- (b) Any license issued for a Retail Liquor Establishment (RL-1 through RL-6) shall be deemed abandoned and forfeited in the event the licensee, for any successive period of five business days, fails to maintain a place of business

open to the public for at least five hours per day during customary business hours, stocked with (at cost) at least \$1,000.00 in goods other than beverages containing alcohol, and \$2,000.00 of beverage containing alcohol. Business days shall be those upon which the licensee is permitted by law to be open to the public. Permits for original stocking of inventory, temporary vacation and remodeling closings may be arranged, not to exceed 30 days, by application to the licensing officer, who by letter will confirm the closing and purpose therefor. Closings ordered by the state board of liquor control shall not be considered abandonment under this chapter.

- (c) Permits for closing by reason of illness of an owner licensee may be granted for up to 180 days upon application to the licensing officer.
- (d) A license may be transferred from one location to another location. An application for the transfer shall be processed in the same manner as an application for a new license.

Sec. 3-8. Permit and fee requirements for temporary locations for selling liquor by the drink (Caterers).

- (a) A temporary permit may be issued to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter, and such permittee may furnish provisions and service for use at a particular function, occasion, or event at a particular location other than licensed premises, not including a festival as defined in RSMo § 316.150. Such a permit may be effective for a period not to exceed six consecutive hours and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises otherwise licensed to sell alcoholic beverages for on-premises consumption in the city.
- (b) All provision of this chapter shall extend to the premises where the function, occasion, or event is held and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are on such premises. This section will not include the sale of packaged goods covered by this temporary permit.
- (c) No such temporary permit will allow such an event on Sunday.

Sec. 3-9. Limited permits: picnic permit; Fourth of July celebrations; complimentary liquor permit.

- (a) *Temporary Permits Authorized.*

(1) Notwithstanding the other provisions of this chapter, a permit for the sale of malt liquor as defined in RSMo § 311.200 for consumption on the premises where it is sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such malt liquor

at a picnic bazaar, fair, or similar gathering. Said permit shall be issued only for six hours on the day named therein and it shall not authorize the sale of aforesaid malt liquor for more than six hours by any said organization as described above in any fiscal year, unless such organization also secures a limited liquor permit as described below in subdivision (2) of this subsection (a).

(2) A limited liquor permit for the sale of wine and malt liquor for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale of such wine and malt liquor at any picnic, bazaar, fair, festival, or similar gathering or event held to commemorate the anniversary of the signing of the Declaration of Independence of the United States. These Fourth of July celebration permits shall only be available during the period of June fifteenth to July fifteenth. Such permit shall not authorize the sale of wine and/or malt liquor except between the hours of 6:00 a.m. and 1:30 a.m. and last for no longer than seven (7) calendar days; provided, however, that any such Fourth of July celebration permit may not authorize selling of intoxicating beverages on consecutive Sundays. Any permittees shall be subject to the provisions of RSMo. § 311.218, as well as any applicable ordinances regarding the distribution of intoxicating beverages, selling intoxicating beverages to minors, and all other applicable local laws or regulations.

(3) Notwithstanding the other provisions of this chapter, a permit for the short-term complimentary distribution of beer or wine in conjunction with a retail business event may be granted by the City Manager to a business located within the C-1 Local Business District. No such complimentary distributions of beer and/or wine will be exchanged for, or be a part of any, promotional sale, donation, discount, or other exchange in goods for which the business itself is primarily operated. No patron served complimentary beer or wine under this permit shall be served more than three (3) drinks. A business may apply for a permit for limited complimentary distribution on the forms as generated by the City Manager or licensing officer. A fee of \$15.00 shall be submitted with such application. Any business or individual seeking to distribute complimentary beer or wine under this permit must meet the qualifications of an eligible liquor licensee under Section 3-4. Any limited complimentary distribution permit shall last for a total duration of six (6) hours. No business shall be granted more than one (1) complimentary distribution permit within a ninety (90) day timeframe. No limited complimentary distribution permit may be granted by the City Manager to any business that is not in compliance with the city's zoning ordinance and current on all city taxes.

(4) A limited special event liquor license for the service and consumption of wine and/or malt liquor within the boundaries of an approved special event premises may be approved in accordance with Section 3-11.

- (b) To secure the permit under subdivisions (1) and (2) of subsection (a) of this section, the applicant shall complete a form provided by the licensing officer, and in addition to any other requirement of the licensing officer within the form application, any applicant for a permit must demonstrate the consent of the property owners of any areas that would be proposed as the permit's premises. The applicant for such permit shall pay the licensing officer a fee of \$150.00.
- (c) No such picnic license shall be held on Sunday, unless an event for the annual commemoration of the signing of the Declaration of Independence of the United States falls on a Sunday.
- (d) Before the Liquor Control Board issues a permit to the applicant, a copy of the permit issued by the state, authorizing the applicant to engage in the business for which a city permit is sought, shall be inspected and a copy shall be provided to the city.

Sec. 3-10. Avoidance of consumption of alcohol outside of licensed premises.

In the event the State of Missouri, exercising its right to license which preempts local control, issues a catering or picnic special event license allowing the sale of alcoholic drinks for "consumption on-premises" at a particular function, occasion, or event at a location other than the licensee's initially licensed location, it shall be the duty of the licensee to confine consumption to the particular location utilized by the licensee for the function, occasion, or event. This duty will be addressed by the licensee as follows:

- (1) The licensee will provide temporary fencing or another reasonable form of physical control that designates and identifies the area upon which the "consumption on-premises" is licensed.
- (2) The licensee will post a sign notifying customers that Missouri law permits sales only for consumption on-premises. The sign may thank customers for their cooperation.
- (3) The licensee will require customers leaving the premises to discard unfinished alcoholic drinks before leaving the premises in a container provided by the licensee by providing employees at the premises exit(s).

Sec. 3-11. License for Special Events within C-1 Local Business District Zone.

Unless otherwise authorized and permitted or licensed under this Chapter 3, it shall be unlawful for any person to sell or barter any intoxicating liquor within the C-1 Local Business District as provided for in Chapter 37 Article VI except as provided for in this section. Notwithstanding the foregoing, a state not-for-profit corporation (a "sponsor") incorporated or qualified, and in good standing with the secretary of state may apply for a special event license issued by the City Council pursuant to this section, which special event licenses may allow the sponsor, or by terms of the special event license granted, allow businesses within the C-1 Local Business District, to serve only malt liquor and/or wine to guests subject to the following conditions:

- (a) *Application for a Special Event License.* A sponsor wishing to allow malt liquor and wine to be served within an otherwise non-licensed premises or on public property within the C-1 Local Business District shall first make written application for a special event license to do so not less than forty-five (45) days prior to the first of any such events, to the licensing officer on forms provided by the licensing officer. Each application for special event license shall include the following:
- (1) The date(s) for which the special event license is sought;
 - (2) A diagram of the boundaries within the C-1 Local Business District where the special event is to take place, and a description of the proposed event. These boundaries, and specific businesses therein as required to be listed in subdivision (4) shall constitute the proposed "premises" for the special event license. The applicant/sponsor also shall provide a diagram of the areas of the points of service of malt liquor or wine, including if such points of service will be within specific businesses;
 - (3) A copy of a current certificate of occupancy covering each business within which malt liquor and/or wine are to be served under the license;
 - (4) A list containing the name and street addresses of all the businesses where malt liquor and/or wine will be served and/or consumed under the special event license;
 - (5) If the sponsor wishes for beer and wine to be served and/or consumed on public property, including within the city's rights-of-way, a description of the security measures to be taken for crowd control, including the number of employees/security staff employed to supervise the service and consumption of malt liquor and/or wine. If any streets are proposed to be blocked or temporarily closed for such special event license, a traffic control plan and alternative routing for traffic shall also be submitted with the application;
 - (6) The name, address, and affiliation with the sponsor of the person executing the application on behalf of the sponsor (the "sponsor's representative" or "representative");
 - (7) A statement by the representative that he or she has not been convicted of any felony;

- (8) An authorization allowing law enforcement and probation and parole agencies to release criminal record information concerning the representative to the licensing officer;
- (9) The representative's criminal history verified by the city police department, to be obtained by the representative and provided to the licensing officer;
- (10) A photograph of the representative shall be provided to the licensing officer;
- (11) Fingerprints of the representative taken by the licensing officer or city police department;
- (12) Before any special event license is issued under the provisions of this chapter, the applicant shall furnish to the licensing officer a certification from the building inspector and fire department stating that with respect to the application, the businesses within which malt liquor and/or wine are to be served are in compliance with the building, fire, and zoning code of the city;
- (13) If malt liquor and/or wine are to be served under supervision other than that of the sponsor, the sponsor shall provide a list to the licensing officer of the names and addresses of all the businesses which will be serving alcohol under the sponsor's license;
- (14) A certificate of good standing for the sponsor issued by the secretary of state dated within 60 days prior to the application date;
- (15) Satisfactory proof that a picnic permit has been issued by the state under the provisions of Chapter 311 RSMo.; and
- (16) The consent of fifty-one percent (51%) of the owners of property within 185 feet of the premises within which malt liquor or wine are to be served. In the case malt liquor and/or wine are to be consumed on public property, the sponsor shall also submit consent of the owners of fifty-one percent (51%) of the property within 185 feet of the exterior boundaries of the proposed premises.

The truth of all statements and answers made in the application shall be sworn to, to the knowledge and belief of the representative, and the representative's execution of the application must be witnessed and notarized by a notary public.

(b) Approval or Denial of Special Event License by City Council.

- (1) If upon review and determination of completeness of the application by the licensing officer, the licensing officer shall be presented to the City Council for approval or denial of the applicant's proposed special event license.
- (2) The City Council, in its review of the special event license applications submitted, shall consider the following when making a determination of approval or disapproval of an application for a proposed special event at a public meeting:

- (i) Compatibility with surrounding uses, whether adequate parking is available, the hours of operation, the frequency and duration, public safety, conveniences, litter control, signage, city services required, insurance coverage, site restoration and clean-up, performance bond/guarantees, etc.; and,
- (ii) If use of public property as part of the premises is proposed, whether the consumption of malt liquor and/or wine on public property is appropriate within the proposed premises and such use of public property does not pose a risk to public health or morals; and
- (iii) If blocking or temporarily closing any streets are proposed, if such traffic control plan is adequate to protect public safety.

(c) *Special Event License Terms.*

- (1) Each special event license upon issuance shall be effective for a prescribed period not to exceed one week. The special event license shall be effective between the hours of 5:00 p.m. and 12:00 a.m. on the day(s) of the event covered by the special event license, unless such other hours are specifically provided by the City Council.
- (2) For each special event licensed pursuant to the provisions of this section, the sponsor shall pay the sum of \$900.00 per event.
- (3) If the privileges authorized under any license or permit issued by the state Division of Alcohol and Tobacco Control to a licensee or sponsor holding a special event license issued by the City Council pursuant to this section are terminated, all the privileges authorized under the special event license issued by the City Council pursuant to this section shall also immediately terminate.
- (4) For special event licenses authorizing the service of malt liquor and/or wine on public property, all malt liquor and/or wine served must be served in distinctive plastic cup containers. No glass or bottles are permitted to be used for the service or consumption of malt liquor and/or wine under a special event license issued pursuant to this section.
- (5) No person under 21 years of age shall serve, be given, or receive any malt liquor or wine at any special event covered by a special event license issued pursuant to this section.
- (6) No donations shall be accepted where alcohol is served during the event covered by the special event license issued pursuant to this section.
- (7) Any violation of the provisions set forth in Chapter 3 by a person holding a special event license issued pursuant to this section or its employees, agents, or servants, or any business covered under such special event license, while operating under the special event license issued pursuant to this section that occurs on a premises defined by the submitted diagram, shall cause the special event license holder and such of its employees, agents, or servants and the covered business thereunder to be subject to enforcement action by the Liquor Control Board as provided under such section 3-26.

- (8) All restrictions made pursuant to this section shall be binding on the sponsor, and a recital shall be made in the application for the special event license issued pursuant to this section to the effect that the representative has authority to bind the sponsor with regard to all restrictions made and provided by the City Council respecting the special event as described in the application.
- (9) A license may be granted under this section only to the sponsor sponsoring a particular event, or its designee.
- (10) In order to promote and encourage diverse commercial activity within the C-1 Local Business District, multiple special event licenses, which cover the same geographic area and time within the C-1 Local Business District may be issued by the City Council. To also promote and encourage diverse commercial activity within the C-1 Local Business District, no more than twelve (12) special event licenses shall be granted to a single sponsor within a calendar year.
- (11) This section does not authorize the service, or additional sale of, of intoxicating liquors on any property for which a license issued under this chapter 3 is currently in effect.
- (12) The application underlying a special event license issued pursuant to this section may be updated from time to time to reflect changes to the prescribed area and/or the participating businesses under the special event license, or the locations where malt liquor and/or wine are to be served under the special event license. Any such changes shall be delivered to the licensing officer at least ten (10) days prior to the event at which such change will take place. Any expansion of the proposed premises for which a special event license is issued in excess of 5% of the total square footage of the premises shall require City Council approval for such expansion.

ARTICLE II – OBLIGATIONS OF LICENSEES

Sec. 3-11. Hours of sale of intoxicating liquor.

- (a) No person having a license under this chapter, nor any employee of such person, except as hereafter provided, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor, in any quantity, between the hours of 1:30 a.m. and 6:00 a.m. on Mondays through Saturdays, unless such additional hours are approved via license as provided for in a RL-5 License.
- (b) The above provision, with respect to Sunday sales and a closed place, shall not apply to entities holding a license, issued under the restaurant/bar exception under RSMo § 311.097, or to charitable, fraternal, religious service or veteran's organizations, which have obtained exemptions from the payment of federal income taxes under section 501 of the Internal Revenue Code (28 U.S.C. 1 *et seq.*), and who have obtained licenses from the state under RSMo. § 311.090.2. Licensees with the restaurant/bar licenses may sell between the hours of 9:00

a.m. on Sunday and midnight on Sunday. Licensees under the charitable, fraternal, religious service or veteran's organizations statute, issued by the state, may sell intoxicating liquor between the hours of 12:00 noon on Sunday and 12:00 midnight on Sunday by the drink at retail for consumption on the premises.

- (c) Entities holding licenses issued for Sunday sales may remain open between the hours of 9:00 a.m. on Sunday and midnight on Sunday, unless such additional hours are approved via license as provided for in a RL-5 License.

Sec. 3-12. Sale of liquor prohibited near schools, churches, parks.

- (a) No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within 100 feet of any public park, school, church, or other building regularly used as a place of religious 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 hereafter be established within 100 feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for lack of consent in writing as herein provided. The measurement shall be made along the shortest path that can be traveled by foot between the closest points of customer entry where intoxicating liquor is proposed to be sold or consumed and any normally used general public entrance of the public park, school, church, or place of worship.
- (b) Notwithstanding the above, the consumption and the sale of intoxicating liquor and beer on the Frank E. Peters Golf Course, including any golf clubhouse, is hereby authorized, but subject to reasonable restrictions and regulations as the parks board may issue from time to time. Authority is hereby delegated to the parks board to issue, amend, refine, adjust and perfect regulations to the end that:
 - (1) no beer or intoxicating liquor will be permitted on golf course premises unless purchased on-premises;
 - (2) no coolers will be permitted on the premises unless rented from the course;
 - (3) net profits from such sales will be devoted to golf course maintenance and improvement;
 - (4) consumption on the course, or at the club house, will be restricted and conditioned in a manner consistent with the city's responsibility to maintain the course as an attractive recreational site for the entire public of all ages;
 - (5) no exceptions or special concessions will be granted to any organization or tournament sponsor;

(6) the course manager, or other person authorized by the park board, will apply for and maintain such licenses as are necessary to comply with applicable laws and regulations.

(c) Subsection (a) of this Section shall not apply to:

- (1) Situations when a public park, school, church or place of worship is established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor after the license has been issued.
- (2) A license issued for the sale of intoxicating liquor pursuant to Section 311.218, RSMo. (for sale at any picnic, bazaar, fair, festival or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States), or to any church or school, itself.

Sec. 3-13. Liquors not licensed not permitted on premises.

No licensee under this chapter holding a license authorizing the sale of malt liquor by the drink for consumption on the premises shall keep or secret in or upon the licensed premises, or permit or allow any other person to secret or keep on the premises, any intoxicating liquor other than the kind expressly authorized to be sold by such licensee.

Sec. 3-14. Reserved.

ARTICLE III – ADDITIONAL REGULATIONS

Sec. 3-15. Retailer-Packaged Alcoholic Beverages Sold to Customers in “To-Go” Containers.

(a) Notwithstanding any provision of law to the contrary, any person who is licensed by the City to sell intoxicating liquor at retail by the drink for on-premises consumption may sell retailer-packaged alcoholic beverages to customers in containers, filled on such premises by any employee of the retailer who is twenty-one (21) years of age or older, for off-premises consumption if all the following requirements are met:

- (1) The container of the alcoholic beverage is rigid, durable, leak-proof, sealable, and designed to prevent consumption without removal of the tamper-proof cap or seal. A "sealable" container does not include a container with a lid with sipping holes or openings for straws;
- (2) The contents of each container do not exceed one hundred twenty-eight (128) ounces;
- (3) The patron orders and purchases a meal from the licensee simultaneous with the alcoholic beverage purchase;
- (4) The number of alcoholic beverages sold under this Section by a licensee for off-premises consumption is limited to twice the number of meal servings sold by the licensee for off-premises consumption;

(5) The licensee provides the patron with a dated receipt or an electronic record for the meal and alcohol beverages; and

(6) The container is either:

(i) Placed in a single-use, transparent bag that is securely sealed and made tamper-proof such that the lid, cap, or seal will visibly demonstrate when a bag or container has been opened; or

(ii) The container opening is sealed with tamper-proof tape that will visibly demonstrate when a bag or container has been opened.

(7) The filling of a container under this Section shall follow Section 3-304.17(c) of the 2009 Food and Drug Administration Food Code.

(b) Containers that are filled under Subsection (a) of this Section shall be affixed with a label or a tag that contains the name and address of the business that filled the container, in type not smaller than three (3) millimeters in height and not more than twelve (12) characters per inch, and states, "**THIS BEVERAGE CONTAINS ALCOHOL.**"

Sec. 3-16. Draft Beer, Sale of 32 to 128 Fluid Ounces Dispensed on Premises for Consumption Off Premises – Requirements.

(a) Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo. and has a license from the city authorizing retail sale in the original package (RL-1 and RL-2), may sell from thirty-two (32) to one hundred twenty-eight (128) fluid ounces of draft beer to customers in containers filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one (21) years of age to fill containers with draft beer.

(b) No provision of law, rule, or regulation shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under Subsection (a) of this Section, to any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo and has a license from the city authorizing retail sale in the original package (RL-1 and RL-2).

(c) Requirements Regarding Containers.

(1) Containers that are filled or refilled under Subsection (a) of this Section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three (3) millimeters in height and not more than twelve (12) characters per inch:

(i) Brand name of the product dispensed;

(ii) Name of brewer or bottler;

(iii) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;

(iv) Net contents;

(v) Name and address of the business that filled or refilled the container;

(vi) Date of fill or refill;

(vii) The following statement: "*This product may be unfiltered and unpasteurized. Keep refrigerated at all times.*"

(2) Containers that are filled or refilled under Subsection (a) of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, as regulated by 27 C.F.R. 16.20 to 16.22.

(d) Additional Regulations.

(1) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.

(2) Containers shall only be filled or refilled by an employee of the retailer.

(3) Containers shall be filled or refilled as follows:

(i) Containers shall be filled or refilled with a tube as described in Subsection (d) (4) below and:

(A) Food-grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;

(B) A container of liquid food-grade sanitizer shall be maintained for no more than ten (10) malt beverage taps that will be used for filling and refilling containers;

(C) Each container shall contain no fewer than five (5) tubes that will be used only for filling and refilling containers;

(D) The container shall be inspected visually for contamination;

(E) After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and

(F) A different tube from the container shall be used for each filling or refilling of a container; or

(ii) Containers shall be filled or refilled with a contamination-free process and:

(A) The container shall be inspected visually for contamination;

(B) The container shall only be filled or refilled by the retailer's employee; and

(C) The filling or refilling shall follow the Food and Drug Administration Code 2009, Section 3-304.17(c).

(4) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.

(5) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.

(6) After filling or refilling a container, the container shall be sealed as set forth in Subsection (c) of this Section.

Sec. 3-17. Unfinished Bottles of Wine may be Carried out of a Restaurant Bar, When – Transportation Permitted – Wineries, Unfinished Bottles of Wine may be Removed, When – Transportation Permitted

(a) Notwithstanding any other provision of law, it shall not be unlawful for the owner, operator, or employees of a restaurant bar to allow patrons to carry out one (1) or more bottles of unfinished wine, nor shall it be unlawful for patrons of such restaurant bar to carry out one (1) or more bottles of unfinished wine under the following conditions:

- (1) The patron must have ordered a meal;
- (2) The bottle or bottles of wine must have been at least partially consumed during the meal;
- (3) The restaurant bar must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (4) The restaurant bar must securely reseal the bottle or bottles of wine and place them in one (1) or more one-time-use, tamperproof, transparent bags and securely seal the bags.

(b) Notwithstanding any other provision of law, no person who transports one (1) or more bottles of unfinished wine which came from a restaurant bar under the circumstances described in Subsection (a) of this Section, in a vehicle, shall be considered to have violated any State law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the restaurant bar and the bottle or bottles of wine remain in the restaurant bar-furnished, one-time-use, tamper-proof, transparent bags with the seals intact.

(c) Notwithstanding any other provision of law, it shall be lawful for the owner, operator, or employees of a winery to allow patrons to carry out one (1) or more bottles of unfinished wine and it shall be lawful for patrons of such winery to carry out one (1) or more bottles of unfinished wine under the following conditions:

- (1) The bottle or bottles of wine must have been at least partially consumed at the winery;
- (2) The winery must provide a dated receipt for the unfinished bottle or bottles of wine; and

(3) The winery must securely reseal the bottle or bottles of wine and place them in one (1) or more one-time-use, tamper-proof, transparent bags and securely seal the bags.

(d) Notwithstanding any other provision of law, no person who transports one (1) or more bottles of unfinished wine which came from a winery under the circumstances described under Subsection (c) of this Section shall be considered to have violated any State law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the winery and the bottle or bottles of wine remain in the winery-furnished, one-time-use, tamper-proof, transparent bags with the seals intact.

Sec. 3-18. Self-Dispensing of Beer or Wine Permitted, When.

(a) Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a self-dispensing system, which is monitored and controlled by the licensee and allows patrons of the licensee to self-dispense beer or wine. Before a patron may dispense beer or wine, an employee of the licensee must first confirm that the patron is twenty-one (21) years of age, and then authorize an amount of beer or wine, not to exceed thirty-two (32) ounces of beer or sixteen (16) ounces of wine per patron per authorization, to be dispensed by the self-dispensing system.

(b) No provision of law or rule or regulation of the City shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish self-dispensing or cooling equipment or provide services for the maintenance, sanitation, or repair of self-dispensing systems.

Sec. 3-19. Sales to minors, drunkards, etc.

(a) It shall be unlawful for any person or his employee to sell or supply intoxicating liquor, or to permit intoxicating liquor to be sold or supplied, to:

- (1) Any habitual drunkard;
- (2) Any person who is apparently under the influence of intoxicating liquor; and
- (3) Any person under 21 years of age.

Sec. 3-20. Purchase or possession by minors.

(a) It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase, or have in his possession any intoxicating liquor.

(b) It shall be unlawful for any person under the age of 21 years to operate, ride, drive, occupy or sit in any vehicle, whether moving or not, containing intoxicating liquor. Any operator, passenger, or occupant of a vehicle under the age of 21 years shall be deemed to be in possession of any intoxicating liquor found in such vehicle; provided that this section shall not apply where the vehicle is

occupied by the parent or legal guardian of one of the persons under the age of 21 years, and the parent or legal guardian is over the age of 21 years.

Sec. 3-21. Public consumption.

- (a) It shall be unlawful for any person to consume intoxicating liquors upon any public street, sidewalk, alley, or public building. It shall be unlawful for any person to consume intoxicating liquors on or in any establishment, business, or parking lot generally open to the public unless a liquor license, limited permit, or special event license covering the specific day(s) authorizing liquor consumption has been issued for that establishment, business, or parking lot.
- (b) No person shall dispense, permit, or allow any person to consume or dispense intoxicating liquor in any commercial premises in the city, except as dispensed by the holder of a license for the sale and consumption of intoxicating liquor. This prohibition shall not apply to a non-reoccurring social gathering where no admission or fee of any kind is charged or accepted.

ARTICLE IV - ADMINISTRATION

Sec. 3-22. Licensing Officer and Liquor Control Investigator Created – Duties.

Licensing Officer. The city manager shall designate an individual to be the Licensing Officer. The licensing officer shall have the following duties:

- (1) Generating forms for liquor licensing applications;
- (2) Processing liquor licensing applications and determining completeness of such applications;
- (3) Collecting all applicable liquor license application fees prior to transmitting the application to the Liquor Control Board or City Council;
- (4) Keeping a complete record of all licenses issued, the date when issued and all license fees collected by reason of the issuance of such licenses;
- (5) Reporting to the chairman of the Liquor Control Board a list of all persons who have been licensed under the provisions of this chapter and who have failed or neglected to renew such license at its expiration; and
- (6) Report to the City Council regarding the state of liquor control within the City of Nevada upon request of the City Council.

Liquor Control Investigator. There shall also be created a Liquor Control Investigator designated by the city manager. This individual shall be tasked with investigating any such person whose license has not been renewed or any other person who has been reported to him as selling intoxicating liquor beer without first obtaining a license as provided herein for investigation. Such liquor control investigator shall report any findings or results of its investigations to the Liquor Control Board at a public meeting.

Sec. 3-23. Liquor Control Board Created – Membership – Qualifications – Vacancies – Duties.

- (a) *Created.* There is hereby established a Liquor Control Board for the purposes of processing, overseeing, and adjudicating matters pertaining to liquor control within the City of Nevada.
- (b) *Membership; Qualifications.* The Liquor Control Board shall consist of the three (3) members nominated by the City Manager and appointed by the City Council.
- (c) *Vacancies.* In the event of any vacancies on the Liquor Control Board, a replacement will be nominated by the City Manager and approved by the City Council.
- (d) *Duties.* The Liquor Control Board shall review all applications submitted to the licensing officer for a liquor license or permit, issue an approval, denial, or non-issuance regarding any complete license application presented to the Liquor Control Board, and shall preside over any hearings for the renewal, suspension, revocation, or discontinuance of any license issued by the licensing officer, except special event licenses granted by the City Council in Section 3-11, which shall be exclusively reviewed by the City Council.

Sec. 3-24. Application for; Criteria for Issuance of license; Effect of Approval or Denial.

- (a) All applicants for a license under this chapter are required to file with the licensing officer a written application, addressed to the city council on a form provided by the city. Such application shall be under oath, containing the information reasonably required to administer this chapter, particularly the type of license that applicant is seeking from the city, the name and address if the applicant is a person, or if a firm, partnership, or association, the name and address for each member of the firm, partnership, or association so applying, or, if the applicant is a corporation and requests a license for intoxicating liquor by the drink, the names and addresses of all its officers, members of its board of directors and ownership interests thereof shall be required. The application shall also contain all information describing in detail the premises for which a given license is being applied for and the location and address thereof, in addition to the cost value of inventory other than intoxicating liquor at the proposed place of business. The application shall be filed on or before the tenth day of the month preceding the month in which the license is due. All applications for licenses provided for in this chapter shall be made to the licensing officer and shall be accompanied by the amount of the license charge for the license for which application is made.
- (b) The applications shall be presented by the licensing officer to the Liquor Control Board, whereupon the Liquor Control Board will consider the following when

making a determination of approval or disapproval of an application at a public meeting:

- (1) Whether appropriate zoning exists for the proposed licensed premises;
- (2) The record of the applicant, owner, and managers of the proposed licensed premises as law abiding persons;
- (3) The proximity of the proposed licensed premises to certain uses as provided under Section 3-26; provided, however, that the Liquor Control Board is not empowered to extend the prohibited distances from those described under Section 3-26;
- (4) The nature, amount, and frequency of complaints and incidents at the proposed licensed premises requiring intervention by the licensing officer, the Police Department of the City or other law enforcement officers;
- (5) Whether the proposed premises complies with city building and fire codes;
- (6) Prior violations of federal, State, and/or local laws or ordinances pertaining to the regulation of the sale of intoxicating liquors;
- (7) The moral character of the manager and owner of the proposed premises, as well as that of any employee of the proposed licensed premises, including whether any license relating to intoxicating liquors was obtained through false and/or fraudulent statements in the application for such license;
- (8) Where there is evidence that applicant has not at all times kept an orderly place.

The Liquor Control Board may hear evidence as to these factors in addition to the information provided within the application, any reports from the liquor control investigator relevant to the application or applicant, and applicant may appear at the public meeting with counsel and produce witnesses on his/her behalf.

- (c) In the event of an approval of the application by the Liquor Control Board, the licensing officer shall issue the license by letter delivered in person or by mail. In the event of a disapproval of the application by the Liquor Control Board, the licensing officer shall transmit notice to the applicant by certified mail, return receipt requested, delivered to the address provided for in the application. The notice shall be in writing and shall be sufficiently definite to advise the applicant of the reason or grounds for the refusal to issue the license, as well as a right to appeal under Section 3-55.

Sec. 3-25. License payments.

- (a) The licensing officer shall not issue a license without first collecting the amount of the license fee, as specified by this chapter and other ordinances of the city.

- (b) The licensing officer shall not issue a license to any applicant that is known to be in default under the provisions of this chapter or indebted or obligated in any manner to the city except for current taxes.

Sec. 3-26. Suspension, limitations, or revocations.

- (a) The public policy of the state and the city is that the holding of licenses to sell intoxicating liquors is a privilege and not a right. The provisions of this section are designed to ensure that intoxicating liquor license holders are persons of responsible and moral character.
- (b) The Liquor Control Board may, in addition to other penalties provided by ordinance, suspend, limit, or revoke a license issued pursuant to this chapter if the licensee, his/her employees, or agents shall have been shown to be guilty, to have violated, or to be involved in, any of the following:
 - (1) An offense, resulting in a conviction, involving the use of force or violence upon the person of another in the operation of the business of the licensee;
 - (2) A conviction of a crime involving a felony by the licensee or any of the officers or the managing office of the license;
 - (3) Any false, misleading or fraudulent statement of fact in the license application for the licensee, or in any other document required by the city in conjunction therewith;
 - (4) Violation of any of the provisions of this article or any of the laws of this city;
 - (5) Violation of the laws of the state, the United States of America, or any rule or regulation pertaining to the sale and licensing of intoxicating liquors;
 - (6) Operation of the business in such a manner that it constitutes a nuisance to the neighborhood;
 - (7) Conduct by the officers, employees, or managing officers of the licensee such as public drunkenness when working or while on the premises, indecent exposure when working or when on the premises, or other conduct which shows improper conduct by an individual who is licensed pursuant to this chapter. For purposes of this section, the term "premises" shall include the licensed premises, the parking lots and the area around the business which is owned, used and maintained as part of the business;
 - (8) Lack of proper control of customers. The licensee shall use good judgment in the sale of intoxicating beverages and shall not sell the same to persons obviously intoxicated. If any customer becomes unruly or abusive, it shall be the duty of the licensee to call and fully cooperate with police or other law enforcement authority. The licensee shall take appropriate and necessary steps to supervise the areas immediately outside the liquor establishment, shall keep said areas free from litter, and shall not allow such

areas immediately outside the authorized liquor consumption premises to become a gathering location for the liquor establishment's customers;

- (c) The chairman of the Liquor Control Board shall notify the licensee, in writing, of any intended action and the reasons therefor, and transmit the required notice for a hearing as described in Section 3-54.

Sec. 3-27. Hearings on suspension, limitations, or revocations.

- (a) The Liquor Control Board will designate the city prosecutor to act as legal advisor to the Liquor Control Board. The Liquor Control Board shall call a hearing, shall set forth in writing, and send to the applicant or licensee, by means of public posting, registered mail, certified mail, or hand delivery, notice of a hearing to determine the existence of any facts which constitute grounds for the suspension, limitations, or revocation of a license or permit. The notification shall include the date, time and place of the hearing, and said hearing shall be provided not less than ten (10) days nor more than thirty (30) days from the date of the public posting.
- (b) At least the chairman of the Liquor Control Board and one member of the Liquor Control Board shall be in attendance. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or licensee fails to appear at the hearing the evidence of the existence of facts which constitute grounds for the denial, limit, suspension, or revocation of the license or permit shall be considered un rebutted. The hearing need not be conducted according to the strict application of the rules of evidence, however all witnesses shall be sworn. Any relevant evidence may be admitted and considered by the Liquor Control Board if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the Liquor Control Board. A copy of the decision of the Liquor Control Board specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee within a reasonable time of the hearing. For purposes of appeal, the decision of the Liquor Control Board shall be final.
- (c) Upon final decision being rendered, the parties shall be informed of the right to appeal under the provisions of the city's administrative appeal procedure. Any decision not appealed within 30 days from the date of the decision is final.
- (d) A licensee whose license is suspended or revoked shall immediately discontinue the business, occupation, or activity for which the license was issued. A separate offense shall be deemed committed each day the license holder continues to conduct the licensed business after suspension or revocation.

Sec. 3-28. Effect of revocation on reissuance of license.

Whenever the city has revoked a license, it shall be necessary, before any license is issued, to operate a liquor establishment at the same location, that the procedures for issuance of a license be followed as set forth in sections 3-2 and 3-37.

Sec. 3-29. Administrative appeal procedure.

- (a) Any decision rendered by the Liquor Control Board, serving as the hearing examiner, in response to denial, suspension, limitations, or revocation may be appealed by the license holder. A license holder's notice of intent to appeal must be submitted in writing to the city manager within 30 days of the decision being rendered by the Liquor Control Board.
- (b) The city manager will designate an administrative hearing officer. The city prosecuting attorney may serve as counsel for the city in said proceedings.
- (c) The administrative hearing officer will proceed with the appeal process in the manner specified herein.
- (d) A copy of the decision of the administrative hearing officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or license holder within ten days of the appeal hearing.
- (e) The decision of the administrative hearing officer shall be final.
- (f) If requested by the appellant, a record will be provided at the appellant's cost. The deposit is to be set by the administrative hearing officer.

(1) for state liquor-controlled law see current versions of Section 311.010 etseq and 312.010 etseq, RSMo. For prohibition against driving while under the influence of alcohol see Section 19-47 of this code. For prohibition against public drunkenness, see Section 23-16 of this code. For prohibition of drinking of intoxicating liquors in certain places see Section 23-37 of this code.

Section 2. This ordinance shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED and ADOPTED by the City Council of the City of Nevada, Missouri, this _____ day of _____, 2022.

CITY OF NEVADA, MISSOURI

(SEAL)

By: _____
George Knox, Mayor

Attest:

Stephanie Martin, City Clerk

Chapter 3 ALCOHOLIC BEVERAGES⁴ [1]

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Sec. 3-3: Form and contents of license

Sec. 3-4: Qualifications for applicant for license

Sec. 3-5: License types and fees; separate license for each place of business

Sec. 3-6: License term; proration of fees

Sec. 3-7: Transfer of license; abandonment and surrender of license

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Sec. 3-19: Sales to minors, drunkards, etc.

Sec. 3-20: Purchase or possession by minors

Sec. 3-21: Public consumption

ARTICLE IV – ADMINISTRATION

⁴State law reference(s)—State liquor control law, RSMo § 311.010 et seq.; nonintoxicating beer, RSMo § 312.010 et seq.

Cross reference(s)—Prohibition against driving while under the influence of alcohol, § 19-47; public drunkenness, § 23-16; prohibition against drinking of intoxicating liquors in certain places, § 23-37.

Sec. 3-22: Licensing Officer and Liquor Control Investigator created—duties
Sec. 3-23: Liquor Control Board created—membership—qualifications—vacancies—duties
Sec. 3-24: Application for; criteria for issuance of license; effect of approval or denial
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Sec. 3-26: Suspension, limitations, or revocations
Sec. 3-27: Hearings on suspensions, limitations, or revocations
Sec. 3-28: Effect of revocation on reissuance of license
Sec. 3-29: Administrative appeal procedure

ARTICLE I - LICENSURE

Sec. 3-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common eating and drinking area means 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 area or areas is, or is projected to be, at least two hundred seventy-five thousand dollars (\$275,000.00).

Financial interest means all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.

Intoxicating liquor means alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or a combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent alcohol(0.5%) by volume, except for intoxicating beer as defined herein.-

Licensing officer means the person designated by the city manager to process license application documentation.

~~*Nonintoxicating beer* means beer manufactured from pure hops or pure extract of hops, and pure barely 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 not less than one-half percent by volume and not exceeding 3.2 percent by weight.~~

Liquor Control Board or Board means the Liquor Control Board of the City of Nevada.

Microbrewery means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand (10,000) barrels or less.

Meal means food that has been prepared on-premises at an establishment;

Original package means any package containing ~~three~~one or more standard bottles of, cans, or pouches of beer.

Person means any individual, association, Joint Stock Company, syndicate, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court

Premises means the area designated within a liquor license where consumption of intoxicating liquors is authorized.

Public playground and public and public park means parks or playgrounds, the title to which is in the city or the school district, or the parks and recreation board of the city.

~~(Code 1998, § 3-100)~~

Resort means:

(1) Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent (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 seventy-five thousand dollars per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales, or

(2) A seasonal resort restaurant which is not a new restaurant establishment and which is open for business eight (8) or fewer consecutive months in any calendar year and for which fifty percent (50%) of all gross sales of such restaurant are sales of prepared meals.

Restaurant Bar means any establishment having a restaurant or similar facility on the premises where at least fifty percent (50%) of the gross income is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross

income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on such premises.

Sale by the drink means the sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty milliliters (50 ml).

Sunday Sales means sales at retail between the hours of 6:00 A.M. on Sundays and 1:30 A.M. on Mondays.

Tamperproof means that a lid, cap, or seal visibly demonstrates when a bag or container has been opened.

Vintage wine means bottled domestic white, rose or sparkling wine which is not less than five (5) years old, domestic red wine which is not less than ten (10) years old, or imported white, rose, red, sparkling or port wine which is not less than three (3) years old.

Wine means a beverage containing not in excess of fourteen percent (14%) of alcohol by weight.

Wine manufacturer means any person, partnership, association of persons, or corporation who has procured a license under subdivision (2) of subsection 1 of Sections 311.180 or 311.190 RSMo., and who manufactures in excess of two hundred (200) gallons of wine per calendar year.

Winery means any establishment at which wine is made.

Sec. 3-2. License required; separate license for each place of business.

(a) It is unlawful for any person, either by himself or through the use of agents or servants, to engage in the manufacture, brewing, sale, or distribution of intoxicating liquors without first having taken out and obtained a license or permit authorizing such manufacture, brewing, sale, or distribution, in compliance with the terms of this chapter.

~~Sec. 3-2.(b)~~ In instances in which the state issues a temporary license, the city will limit its license to the temporary period authorized by the state.

(c) A separate license shall be required for each place of business.

Sec. 3-3. Form and contents of license.

(a) After approval by the Liquor Control Board, licenses shall be issued by the licensing officer upon the proper forms, and signed and sealed by the licensing officer. Each license shall state specifically the type of license (RL-1 through RL-6, WL-1 through WL-6, or ML-1 through ML-5) to be sold under such license; and whether such license is issued authorizing the sale of intoxicating liquor for consumption on the premises or only authorizing the sale in the original package, not for consumption on the premises; or whether such license issued is for sale of liquor by the drink for consumption on the premises where it is sold.

(b) All licenses authorizing the sale of intoxicating beverages for consumption on the premises shall specify the extent of the premises that is, whether the authority extends to the building exterior, parking lots or other adjacent areas. If not stated otherwise, the premises shall be considered the interior primary floor of the building.

Sec. 3-4. Qualifications of applicant for license.

- (a) No person shall be granted a license under this chapter unless such person is a qualified legal voter and a taxpaying citizen of the state, nor shall any corporation be granted a license hereunder unless the managing officer operating under the license has the abovementioned qualifications.
- (b) No person shall be granted a license whose license as a dealer in intoxicating liquor ~~or nonintoxicating beer~~ has been revoked by this or any other municipality or state or who has been convicted, since the ratification of the Twenty-First Amendment of the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or ~~nonintoxicating beer~~ or who employs or intends to employ in ~~his~~ the person's beverage business any person not of good moral character, who has had any license as a liquor dealer revoked or who has been convicted of any such law since the date aforesaid.
- (c) No person shall be qualified for a license under this chapter if such person, any member of such partnership or corporation, or any officer, director or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interests therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this chapter, has had a license revoked under this chapter or has been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor ~~or nonintoxicating beer~~ since the ratification of the Twenty-First Amendment to the Constitution of the United States, or is not a person of good moral character.

~~(d) Before any license is issued pursuant to the provisions of this chapter, the applicant therefor shall apply in writing to the licensing officer, giving the location of the place of business, including the specific areas inside or outside the building to which the license is to apply, the names of all parties interested in the business to be operated under such license, except in the case of a corporation when the name of the president, secretary and manager only need be given.~~

~~(e)~~(d) No license authorizing the retail sale of intoxicating liquor for consumption on the premises where it is sold shall be issued unless the person or managing

officer of a corporation applying for such license is a person of good moral character.

~~(f) Before any license shall be issued under this chapter, the applicant for such license shall pay the proper fees as required and shall present to the licensing officer a copy of the license issued by the state authorizing the applicant to engage in the business for which a city license is sought.~~

Sec. 3-35. License ~~required~~types and fees.

~~(a) It is unlawful for any person, either by himself or through the use of agents or servants, to engage in the manufacture, brewing, sale or distribution of intoxicating liquors or nonintoxicating beer without first having taken out and obtained a license authorizing such manufacture, brewing, sale or distribution, in compliance with the terms of this chapter.~~

~~(b) In instances in which the state issues a temporary license, the city will limit its license to the temporary period authorized by the state.~~

~~(Code 1998, § 3-3)~~

The following licenses are available to qualified applicants at ~~Sec. 3-4. License fees; separate license for each place of business.~~

~~A. A separate license shall be required for each place of business and the charge for such licenses shall be as follows:~~

1. Retail Licenses for the Privilege of Selling:

<u>RL-1</u> <u>Malt Liquor</u> <u>(5% or less) –</u> <u>Original</u> <u>Package</u>	<u>Malt liquors in the original package and not for consumption on the premises, direct to consumers and not for resale</u>	<u>\$75.00</u>
<u>RL-2</u> <u>Intoxicating</u> <u>liquor of all</u> <u>kinds</u>	<u>Intoxicating liquor in excess of five percent of alcohol by weight in the original package direct to consumer and not for resale, at retail and not for consumption on the premises</u> <u>*available to the following businesses: a drugstore, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, where such business to keeps in its store a stock of goods having a value according to invoices or at least \$1,000.00, exclusive of fixtures and intoxicating liquors</u>	<u>\$150.00</u>

<u>RL-3</u> <u>Malt liquor/wine by the drink</u>	<u>Malt liquor by the drink at retail for consumption or light wines containing not in excess of 14 percent alcohol by weight, or both, by the drink at retail for consumption on premises where it is sold</u>	<u>\$75.00</u>
<u>RL-4</u> <u>Intoxicating liquor (all kinds) by the drink</u>	<u>Intoxicating liquor (all kinds) by the drink for consumption on the premises</u>	<u>\$450.00</u>
<u>RL-5</u> <u>Sunday Sales</u>	<u>Any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor at retail may apply to the city for a special license at an additional cost</u>	<u>\$300.00</u>
<u>RL-6</u> <u>Common Eating & Drinking Area</u>	<u>Intoxicating liquor (all kinds) by the drink for consumption within a common eating and drinking area, subject to the following additional rules:</u> <u>(1) Any intoxicating liquor sold by the drink for consumption within a common eating and drinking area shall be sold or offered for sale in special containers distinguishable by the selling establishment's name and/or its logo and by the type of drink sold (beer or mixed drink).</u> <u>(2) Any common eating and drinking area shall be designated by the posting of signs at all entrances and exits to the common eating and drinking area, and all sales and consumption of intoxicating liquors shall be restricted to this designated common eating and drinking area. Signs posted shall state that intoxicating liquors are prohibited except within this designated common eating and drinking area.</u>	<u>\$450.00</u>

2. Wholesale Licenses for the privilege of:

<u>WL-1</u> <u>Malt Liquor (5% or less)</u>	<u>Selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by, or through a duly licensed wholesaler within this state</u>	<u>\$75.00</u>
<u>WL-2</u>	<u>Selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not</u>	<u>\$150.00</u>

<u>Liquor (22% or less)</u>	<u>in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state</u>	
<u>WL-3</u> <u>Intoxicating liquor of all kinds</u>	<u>Selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by, or through a duly licensed wholesaler within this state</u>	<u>\$375.00</u>
<u>WL-4</u> <u>Wholesale business or warehouse- Malt Liquor (5% or less)</u>	<u>Operating a wholesale place of business or warehouse located within the city, from which malt liquor containing not in excess of five percent alcohol by weight are sold at wholesale to a person duly licensed to sell such malt liquor at retail</u>	<u>\$112.50</u>
<u>WL-5</u> <u>Wholesale business or warehouse- Liquor (22% or less)</u>	<u>Operating a wholesale place of business or warehouse, located within the city, from which intoxicating liquor, containing not in excess of 22 percent of alcohol by weight is sold at wholesale to a person duly licensed to sell such liquors at retail</u>	<u>\$300.00</u>
<u>WL-6</u> <u>Wholesale business or warehouse- intoxicating liquor of all kinds</u>	<u>Operating a wholesale place of business or warehouse, located within the city, from which intoxicating liquor of all kinds are sold at wholesale to a person duly licensed to sell such liquor at retail</u>	<u>\$750.00</u>

3. Manufacturing Licenses for the privilege of:

<u>ML-1</u> <u>Malt Liquor (5% or less)</u>	<u>Manufacturing and brewing in the city malt liquors containing not in excess of five percent of alcohol by weight</u>	<u>\$375.00</u>
<u>ML-2</u> <u>Intoxicating Liquor (22% or less)</u>	<u>Intoxicating liquor containing not in excess of 22 percent of alcohol by weight</u>	<u>\$300.00</u>

<u>ML-3</u> <u>Intoxicating liquor of all kinds</u>	<u>Manufacturing, distilling or blending intoxicating liquor of all kinds within the city</u>	<u>\$675.00</u>
<u>ML-4</u> <u>Wine or brandy</u>	<u>Manufacturing wine or brandy in quantities not to exceed 500,000 gallons, not in excess of 18% of alcohol by weight for wine/34% by weight for brandy, from grapes, berries, other fruits, fruit products, honey, and vegetables produced or grown in the State of Missouri, exclusive of sugar, water, and spirits, subject to:</u> <u>(1) A licensee granted a wine or brandy manufacturer's license shall have the privileges accorded by RSMo § 311.190, except that no consumption on-premises will be permitted where prohibited by zoning ordinances of the City of Nevada, Missouri.</u> <u>(2) The word "consumption" for sole purposes of this specific subset of license and the zoning ordinances of the City of Nevada, Missouri, will not include wine tasting of not more than ½ ounce of a wine offered for sale under the license.</u>	<u>\$7.50 per 500 gallons of wine/brandy produced (\$450.00 max fee)</u>
<u>ML-5</u> <u>Microbrewery</u>	<u>Operating a microbrewery</u> <u>May also apply for a license to sell all kinds of intoxicating liquor by the drink for consumption on the microbrewery's premises as provided for in RL-4; and may also sell beer and malt liquor produced at the microbrewery to duly licensed wholesales in accordance with Section 311.195 RSMo.</u>	<u>\$7.50 for each 100 barrels (\$375.00 max fee)</u>

~~Sec. 3-(a) For the privilege of manufacturing and brewing in the city malt liquors containing not in excess of five percent of alcohol by weight, the license fee shall be \$300.00 per year.~~

~~(b) For the privilege of manufacturing in the city intoxicating liquor containing not in excess of 22 percent of alcohol by weight, the license fee shall be \$150.00 per year.~~

~~(c) For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within the city, the license fee shall be \$300.00 per year.~~

~~(d) For the privilege of operating and maintaining a wholesale place of business or warehouse located within the city, from which malt liquor containing not in excess of five percent alcohol by weight are sold at wholesale to a person duly~~

~~licensed to sell such malt liquor at retail, the license fee shall be \$75.00 per year.~~

- ~~(e) For the privilege of operating and maintaining a wholesale place of business or warehouse, located within the city, from which intoxicating liquor, containing not in excess of 22 percent of alcohol by weight, and nonintoxicating beer, both of which are sold at wholesale to a person duly licensed to sell such liquors at retail, the license fee shall be \$150.00 per year.~~
- ~~(f) For the privilege of operating and maintaining a wholesale place of business or warehouse, located within the city, from which intoxicating liquor of all kinds and nonintoxicating beer are both sold at wholesale to a person duly licensed to sell such liquor at retail, the license fee shall be \$375.00 per year.~~
- ~~(g) For the privilege of selling in the city intoxicating liquor in excess of five percent of alcohol by weight in the original package, at retail and not for consumption on the premises, the license fee shall be \$150.00 per year. This license shall also permit the holder thereof to sell malt liquor of all kinds in the original package direct to consumer and not for resale.~~
- ~~(h) For the privilege of selling malt liquors containing in excess of 3.2 percent alcohol by weight, but not in excess of five percent by weight in the original package and not for consumption on the premises, direct to consumers and not for resale, the license fee shall be \$75.00.~~
- ~~(i) For the privilege of selling malt liquor not in excess of 3.2 percent alcohol by weight in the original package and not for consumption on the premises, direct to consumers and not for resale, the license fee shall be \$22.50 per year.~~
- ~~(j) For the privilege of selling malt liquors containing in excess of 3.2 percent alcohol by weight and not in excess of five percent by weight, by the drink at retail for consumption on the premises where it is sold, or light wines containing not in excess of 14 percent alcohol by weight, or both, by the drink at retail for consumption on premises where it is sold, the license fee shall be \$75.00.~~
- ~~(k) For the privilege of selling malt liquors containing not in excess of 3.2 percent alcohol by weight, by the drink at retail for consumption on the premises where it is sold, the license fee shall be \$37.50.~~
- ~~(l) For the privilege of selling intoxicating liquor in excess of five percent of alcohol by weight, by the drink for consumption on the premises, the license fee shall be \$450.00 per year; provided that the establishment shall have qualified in all ways for a state liquor license under RSMo § 311.095, 1969.~~

~~(Code 1998, § 3-4; Ord. No. 6132, § 1, 11-18-2003)~~

~~6~~Sec. 3-5. License term; proration of fees.

Licenses issued under the terms of this chapter shall be issued for a period of one year beginning with August 1 of each year. Persons desiring to secure a license after August 1 shall pay the prorated amount of the license charge for the portion of the license year from the date the license is issued to August 1.

~~(Code 1998, § 3-5; Ord. No. 6132, § 2, 11-18-2003)~~

~~Sec. 3-6. Limitation on number of licenses for package sale of intoxicating liquor.~~

~~(a) The number of city licenses to sell intoxicating liquor in excess of five percent of alcohol by weight in the original package is hereby limited to one such license for each unit of 800 of population or portion thereof. Licenses will be limited to one location per license.~~

~~(b) The term population, as used in this section, means the population of the city as most recently determined and published by the bureau of census of the department of commerce.~~

~~(Code 1998, § 3-6; Ord. No. 7663, § 1, 8-3-2010; Ord. No. 8009, § 1, 10-21-2014)~~

Sec. 3-7. Transfer of license; abandonment and surrender of license.

- (a) No license issued under this chapter shall be transferable or assignable. The death of an individual licensee shall not be considered a transfer and the beverage business license may be continued under the license by the next of kin or the personal representative appointed by the probate court.
- (b) Any license issued ~~under subsection (g), (h), (i), (j), (k) and (l) of section 3-4~~ for a Retail Liquor Establishment (RL-1 through RL-6) shall be deemed abandoned and forfeited in the event the licensee, for any successive period of five business days, fails to maintain a place of business open to the public for at least five hours per day during customary business hours, stocked with (at cost) at least \$1,000.00 in goods other than beverages containing alcohol, and \$2,000.00 of beverage containing alcohol. Business days shall be those upon which the licensee is permitted by law to be open to the public. Permits for original stocking of inventory, temporary vacation and remodeling closings may be arranged, not to exceed 30 days, by application to the licensing officer, who by letter will confirm the closing and purpose therefor. Closings ordered by the state board of liquor control shall not be considered abandonment under this chapter.
- (c) Permits for closing by reason of illness of an owner licensee may be granted for up to 180 days upon application to the licensing officer.

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- (d) A license may be transferred from one location to another location. An application for the transfer shall be processed in the same manner as an application for a new license.

~~(Code 1998, § 3-7)~~

Sec. 3-8. ~~Keg sales within the city.~~

- ~~a.—The term "keg," means any container capable of holding four or more gallons of beer, wine or intoxicating liquor and which is designed to dispense beer, wine or intoxicating liquor directly from the container for purposes of consumption.~~
- ~~b.—Each keg sold at retail for off-premises consumption shall be labeled with the name and address of the retail licensee and an identification number. The label shall be affixed to a tag that is attached to the handle on the top chime of the keg.~~
- ~~c.—Each retail licensee shall require each keg purchaser to present positive identification at the time of purchase. The licensee shall record for each keg sale the date of sale, the size of keg, any applicable keg identification number, if available, the amount of the container deposit, the name, address and date of birth of the purchaser, and the form of identification presented by such purchaser. The purchaser shall sign a statement at the time of purchase attesting to the accuracy of the purchaser's name and address and acknowledging that misuse of the keg or its contents may result in civil liability, criminal prosecution, or both. The licensee shall retain the identification form for a minimum of three months following the sale of the keg.~~
- ~~d.—The licensee shall not refund a deposit for a keg that is returned without the required label and identification number intact and legible. The licensee shall record the date of return of the keg and the condition of the label and identification number on the identification form required pursuant to subsection c. of this section. The licensee may retain any deposit not refunded for this reason. Upon the return of a properly labeled keg from a consumer, the licensee shall remove the tag from the keg and retain such tag with the identification form as required pursuant to subsection c. of this section. This requirement shall not apply to permanent identification numbers or other forms of identification placed on the keg by a manufacturer.~~
- ~~e.—This section shall not impose any new or additional civil or criminal liability upon the retail licensee.~~

~~(Code 1998, § 3-8; Ord. No. 6225, § 3-24, 7-20-2004)~~

~~Sec. 3-9.~~ **Permit and fee requirements for temporary locations for selling liquor by the drink. (Caterers).**

- (a) A temporary permit may be issued to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter, and such permittee may furnish provisions and service for use at a particular function, occasion, or event at a particular location other than licensed premises, not including a festival as defined in RSMo § 316.150. Such a permit may be effective for a period not to exceed six consecutive hours and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises otherwise licensed to sell alcoholic beverages for on-premises consumption in the city.
- (b) All provision of this chapter shall extend to the premises where the function, occasion, or event is held and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are on such premises. This section will not include the sale of packaged goods covered by this temporary permit.
- (c) No such temporary permit will allow such an event on Sunday.

~~(Code 1998, § 3-9)~~

Sec. 3-109. Limited permits: picnic permit; picnic license Fourth of July celebrations; complimentary liquor permit.

~~(a)~~ (a) Temporary Permits Authorized.

(1) Notwithstanding the other provisions of this chapter, a permit for the sale of malt liquor as defined in RSMo § 311.200 for consumption on the premises where it is sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such malt liquor at a picnic bazaar, fair, or similar gathering. Said permit shall be issued only for six hours on the day named therein and it shall not authorize the sale of aforesaid malt liquor for more than six hours by any said organization as described above in any fiscal year, unless such organization also secures a limited liquor permit as described below in subdivision (2) of this subsection (a).

(2) A limited liquor permit for the sale of wine and malt liquor for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale of such win and malt liquor at any picnic, bazaar, fair, festival, or similar gathering or event held to commemorate the anniversary of the signing of the Declaration of Independence of the United States. These Fourth of July celebration permits

shall only be available during the period of June fifteenth to July fifteenth. Such permit shall not authorize the sale of wine and/or malt liquor except between the hours of 6:00 a.m. and 1:30 a.m. and last for no longer than seven (7) calendar days; provided, however, that any such Fourth of July celebration permit may not authorize selling of intoxicating beverages on consecutive Sundays. Any permittees shall be subject to the provisions of RSMo. § 311.218, as well as any applicable ordinances regarding the distribution of intoxicating beverages, selling intoxicating beverages to minors, and all other applicable local laws or regulations.

(3) Notwithstanding the other provisions of this chapter, a permit for the short-term complimentary distribution of beer or wine in conjunction with a retail business event may be granted by the City Manager to a business located within the C-1 Local Business District. No such complimentary distributions of beer and/or wine will be exchanged for, or be a part of any, promotional sale, donation, discount, or other exchange in goods for which the business itself is primarily operated. No patron served complimentary beer or wine under this permit shall be served more than three (3) drinks. A business may apply for a permit for limited complimentary distribution on the forms as generated by the City Manager or licensing officer. A fee of \$15.00 shall be submitted with such application. Any business or individual seeking to distribute complimentary beer or wine under this permit must meet the qualifications of an eligible liquor licensee under Section 3-4. Any limited complimentary distribution permit shall last for a total duration of six (6) hours. No business shall be granted more than one (1) complimentary distribution permit within a ninety (90) day timeframe. No limited complimentary distribution permit may be granted by the City Manager to any business that is not in compliance with the city's zoning ordinance and current on all city taxes.

(4) A limited special event liquor license for the service and consumption of wine and/or malt liquor within the boundaries of an approved special event premises may be approved in accordance with Section 3-11.

- (b) To secure the permit under subdivisions (1) and (2) of subsection (a) of this section, the applicant shall complete a form provided by the licensing officer, and in addition to any other requirement of the licensing officer within the form application, any applicant for a permit must demonstrate the consent of the property owners of any areas that would be proposed as the permit's premises. The applicant for such permit shall pay the licensing officer a fee of \$150.00.
- (c) No such picnic license shall be held on Sunday, unless an event for the annual commemoration of the signing of the Declaration of Independence of the United States falls on a Sunday.

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- (d) Before the ~~licensing officer~~Liquor Control Board issues a ~~license~~permit to the applicant, a copy of the ~~license~~permit issued by the state, authorizing the applicant to engage in the business for which a city ~~license~~permit is sought, shall be inspected and a copy shall be provided to the city.

~~(Code 1998, § 3-10)~~

~~Sec. 3-11. License payments.~~

- ~~(a) The licensing officer shall not issue a license without first collecting the amount of the license fee, as specified by this chapter and other ordinances of the city.~~
- ~~(b) The licensing officer shall not issue a license to any applicant that is known to be in default under the provisions of this chapter or indebted or obligated in any manner to the city except for current taxes.~~

~~(Code 1998, § 3-11)~~

~~Sec. 3-12. Issuance of license.~~

- ~~(a) All applicants for a license under this chapter are required to file with the licensing officer a written application, addressed to the city council on a form provided by the city. Such application shall be under oath, containing the information reasonably required to administer this chapter. The application shall be filed on or before the tenth day of the month preceding the month in which the license is due.~~
- ~~(b) All applications for licenses mentioned in this chapter shall be made to the licensing officer and shall be accompanied by the amount of the license charge for the license for which application is made. The applications shall be presented by the clerk to the council. Upon approval of the application by the council, the clerk shall issue the license. Upon disapproval of the application by the council, the clerk shall notify the applicant therefor to appear at the next regular meeting of the council or a called meeting of the council to show cause, if any, why such application should be approved, with full right to have counsel and produce witnesses in his behalf. The notice shall be in writing and shall be sufficiently definite to advise the applicant of the reason or grounds for the refusal to issue the license and the time and place of the council meeting. Such applicant shall have at least ten days' notice of such meeting unless a meeting within less time is consented to by the applicant.~~
- ~~(c) The city council may refuse to issue a license under the provisions of this chapter whenever it is shown, or the council has knowledge, that a licensee has not at all times kept an orderly place or that such licensee, or any employee, agent or servant of such licensee, has violated any of the provisions of this chapter, the liquor laws of the state or that the license held by such licensee was obtained through false and fraudulent statements in the application for such license.~~

~~(Code 1998, § 3-12)~~

~~**10**~~~~**Sec. 3-13. Form and contents.**~~

- ~~(a) After approval by the city council, licenses shall be issued by the licensing officer upon the proper forms, and signed and sealed by the city clerk. Each license shall state specifically whether the license is for a distiller, brewer, wholesaler or distributor, and in the case of a retailer's license, shall state the alcoholic content of the intoxicating liquor or nonintoxicating beer to be sold under such license; and whether such license is issued authorizing the sale of intoxicating liquor or nonintoxicating beer for consumption on the premises or only authorizing the sale in the original package, not for consumption on the premises; or whether such license issued is for sale of liquor by the drink for consumption on the premises where it is sold.~~
- ~~(b) All licenses authorizing the sale of intoxicating beverages or nonintoxicating beer for consumption on the premises shall specify whether the authority extends to the building, parking lots or other adjacent premises.~~

~~(Code 1998, § 3-13)~~

~~**Sec. 3-14. Avoidance of off-premises consumption of alcohol**~~ **outside of licensed premises.**

In the event the State of Missouri, exercising its right to license which preempts local control, issues a catering or picnic special event license allowing the sale of alcoholic drinks for "consumption on-premises" at a particular function, occasion, or event at a location other than the licensee's initially licensed location, it shall be the duty of the licensee to confine consumption to the particular location utilized by the licensee for the function, occasion, or event. This duty will be addressed by the licensee as follows:

- ~~(1)~~ The licensee will provide temporary fencing or another reasonable form of physical control that designates and identifies the area upon which the "consumption on-premises" is licensed.
- ~~(2)~~ The licensee will post a sign notifying customers that Missouri law permits sales only for consumption on-premises. The sign may thank customers for their cooperation.
- ~~(3)~~ The licensee will require customers leaving the premises to discard unfinished alcoholic drinks before leaving the premises in a container provided by the licensee by providing employees at the premises exit(s).

~~(Ord. No. 8060, § 1, 9-1-2015)~~

~~**Secs. 3-15—3-23. Reserved.**~~

Sec. 3-11. License for Special Events within C-1 Local Business District Zone.

Unless otherwise authorized and permitted or licensed under this Chapter 3, it shall be unlawful for any person to sell or barter any intoxicating liquor within the C-1 Local Business District as provided for in Chapter 37 Article VI except as provided for in this section. Notwithstanding the foregoing, a state not-for-profit corporation (a "sponsor") incorporated or qualified, and in good standing with the secretary of state may apply for a special event license issued by the City Council pursuant to this section, which special event licenses may allow the sponsor, or by terms of the special event license granted, allow businesses within the C-1 Local Business District, to serve only malt liquor and/or wine to guests subject to the following conditions:

(a) *Application for a Special Event License.* A sponsor wishing to allow malt liquor and wine to be served within an otherwise non-licensed premises or on public property within the C-1 Local Business District shall first make written application for a special event license to do so not less than forty-five (45) days prior to the first of any such events, to the licensing officer on forms provided by the licensing officer. Each application for special event license shall include the following:

- (1) The date(s) for which the special event license is sought;
- (2) A diagram of the boundaries within the C-1 Local Business District where the special event is to take place, and a description of the proposed event. These boundaries, and specific businesses therein as required to be listed in subdivision (4) shall constitute the proposed "premises" for the special event license. The applicant/sponsor also shall provide a diagram of the areas of the points of service of malt liquor or wine, including if such points of service will be within specific businesses;
- (3) A copy of a current certificate of occupancy covering each business within which malt liquor and/or wine are to be served under the license;
- (4) A list containing the name and street addresses of all the businesses where malt liquor and/or wine will be served and/or consumed under the special event license;
- (5) If the sponsor wishes for beer and wine to be served and/or consumed on public property, including within the city's rights-of-way, a description of the security measures to be taken for crowd control, including the number of employees/security staff employed to supervise the service and consumption of malt liquor and/or wine. If any streets are proposed to be blocked or temporarily closed for such special event license, a traffic control plan and alternative routing for traffic shall also be submitted with the application;
- (6) The name, address, and affiliation with the sponsor of the person executing the application on behalf of the sponsor (the "sponsor's representative" or "representative");
- (7) A statement by the representative that he or she has not been convicted of any felony;

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- (8) An authorization allowing law enforcement and probation and parole agencies to release criminal record information concerning the representative to the licensing officer;
 - (9) The representative's criminal history verified by the city police department, to be obtained by the representative and provided to the licensing officer;
 - (10) A photograph of the representative shall be provided to the licensing officer;
 - (11) Fingerprints of the representative taken by the licensing officer or city police department;
 - (12) Before any special event license is issued under the provisions of this chapter, the applicant shall furnish to the licensing officer a certification from the building inspector and fire department stating that with respect to the application, the businesses within which malt liquor and/or wine are to be served are in compliance with the building, fire, and zoning code of the city;
 - (13) If malt liquor and/or wine are to be served under supervision other than that of the sponsor, the sponsor shall provide a list to the licensing officer of the names and addresses of all the businesses which will be serving alcohol under the sponsor's license;
 - (14) A certificate of good standing for the sponsor issued by the secretary of state dated within 60 days prior to the application date;
 - (15) Satisfactory proof that a picnic permit has been issued by the state under the provisions of Chapter 311 RSMo.; and
 - (16) The consent of fifty-one percent (51%) of the owners of property within 185 feet of the premises within which malt liquor or wine are to be served. In the case malt liquor and/or wine are to be consumed on public property, the sponsor shall also submit consent of the owners of fifty-one percent (51%) of the property within 185 feet of the exterior boundaries of the proposed premises.

The truth of all statements and answers made in the application shall be sworn to, to the knowledge and belief of the representative, and the representative's execution of the application must be witnessed and notarized by a notary public.

(b) Approval or Denial of Special Event License by City Council.

- (1) If upon review and determination of completeness of the application by the licensing officer, the licensing officer shall be presented to the City Council for approval or denial of the applicant's proposed special event license.
- (2) The City Council, in its review of the special event license applications submitted, shall consider the following when making a determination of approval or disapproval of an application for a proposed special event at a public meeting:

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- (i) Compatibility with surrounding uses, whether adequate parking is available, the hours of operation, the frequency and duration, public safety, conveniences, litter control, signage, city services required, insurance coverage, site restoration and clean-up, performance bond/guarantees, etc.; and,
 - (ii) If use of public property as part of the premises is proposed, whether the consumption of malt liquor and/or wine on public property is appropriate within the proposed premises and such use of public property does not pose a risk to public health or morals; and
 - (iii) If blocking or temporarily closing any streets are proposed, if such traffic control plan is adequate to protect public safety.

(c) Special Event License Terms.

- (1) Each special event license upon issuance shall be effective for a prescribed period not to exceed one week. The special event license shall be effective between the hours of 5:00 p.m. and 12:00 a.m. on the day(s) of the event covered by the special event license, unless such other hours are specifically provided by the City Council.
- (2) For each special event licensed pursuant to the provisions of this section, the sponsor shall pay the sum of \$900.00 per event.
- (3) If the privileges authorized under any license or permit issued by the state Division of Alcohol and Tobacco Control to a licensee or sponsor holding a special event license issued by the City Council pursuant to this section are terminated, all the privileges authorized under the special event license issued by the City Council pursuant to this section shall also immediately terminate.
- (4) For special event licenses authorizing the service of malt liquor and/or wine on public property, all malt liquor and/or wine served must be served in distinctive plastic cup containers. No glass or bottles are permitted to be used for the service or consumption of malt liquor and/or wine under a special event license issued pursuant to this section.
- (5) No person under 21 years of age shall serve, be given, or receive any malt liquor or wine at any special event covered by a special event license issued pursuant to this section.
- (6) No donations shall be accepted where alcohol is served during the event covered by the special event license issued pursuant to this section.

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- (7) Any violation of the provisions set forth in Chapter 3 by a person holding a special event license issued pursuant to this section or its employees, agents, or servants, or any business covered under such special event license, while operating under the special event license issued pursuant to this section that occurs on a premises defined by the submitted diagram, shall cause the special event license holder and such of its employees, agents, or servants and the covered business thereunder to be subject to enforcement action by the Liquor Control Board as provided under such section 3-26.
- (8) All restrictions made pursuant to this section shall be binding on the sponsor, and a recital shall be made in the application for the special event license issued pursuant to this section to the effect that the representative has authority to bind the sponsor with regard to all restrictions made and provided by the City Council respecting the special event as described in the application.
- (9) A license may be granted under this section only to the sponsor sponsoring a particular event, or its designee.
- (10) In order to promote and encourage diverse commercial activity within the C-1 Local Business District, multiple special event licenses, which cover the same geographic area and time within the C-1 Local Business District may be issued by the City Council. To also promote and encourage diverse commercial activity within the C-1 Local Business District, no more than twelve (12) special event licenses shall be granted to a single sponsor within a calendar year.
- (11) This section does not authorize the service, or additional sale of, of intoxicating liquors on any property for which a license issued under this chapter 3 is currently in effect.
- (12) The application underlying a special event license issued pursuant to this section may be updated from time to time to reflect changes to the prescribed area and/or the participating businesses under the special event license, or the locations where malt liquor and/or wine are to be served under the special event license. Any such changes shall be delivered to the licensing officer at least ten (10) days prior to the event at which such change will take place. Any expansion of the proposed premises for which a special event license is issued in excess of 5% of the total square footage of the premises shall require City Council approval for such expansion.

ARTICLE II – OBLIGATIONS OF LICENSEES

Sec. 3-11. ~~Sec. 3-24.~~ Hours of sale of intoxicating liquor.

- (a) No person having a license under this chapter, nor any employee of such person, except as hereafter provided, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor, in any quantity, between the hours of 1:30 a.m. and 6:00 a.m. on Mondays

through Saturdays, unless such additional hours are approved via license as provided for in a RL-5 License.

- (b) The above ~~provisions~~provision, with respect to Sunday sales and a closed place, shall not apply to entities holding a license ~~from the state~~, issued under the restaurant/bar exception under RSMo § 311.097, or to charitable, fraternal, religious service or veteran's organizations, which have obtained exemptions from the payment of federal income taxes under section 501 of the Internal Revenue Code (28 USCU.S.C. 1 *et seq.*), and who have obtained licenses from the state under RSMo, § 311.090.2. Licensees with the restaurant/bar licenses may sell between the hours of 9:00 a.m. on Sunday and midnight on Sunday. Licensees under the charitable, fraternal, religious service or veteran's organizations statute, issued by the state, may sell intoxicating liquor between the hours of 12:00 noon on Sunday and 12:00 midnight on Sunday by the drink at retail for consumption on the premises.
- (c) Entities holding licenses ~~from the state~~ issued for Sunday sales may remain open between the hours of 9:00 a.m. on Sunday and midnight on Sunday.

~~(Code 1998, § 3-24; Ord. No. 6132, § 3, 11-18-2003)~~

, unless such additional hours are approved via ~~Sec. 3-25. Hours of sale of nonintoxicating beer.~~

~~It is unlawful for any licensee under the provisions of this article to sell, give or otherwise dispose of, or suffer the same to be done, on or about the premises for which license is issued, any nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m. as provided for in a RL-5 License.~~

~~(Code 1998, §Sec. 3-25)~~

~~Sec. 3-26~~12. Sale of liquor prohibited near schools, churches, parks.

- (a) No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within 100 feet of any, public park, school, church, or other building regularly used as a place of religious 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 hereafter be established within 100 feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for lack of consent in writing as herein provided. The measurement shall be made along the shortest path that can be traveled by foot between the closest points of customer entry where intoxicating liquor is proposed to be sold or consumed and any normally used general public entrance of the public park, school, church, or place of worship.

(b) Notwithstanding the above, the consumption and the sale of intoxicating liquor and beer on the Frank E. Peters Golf Course, including any golf clubhouse, is hereby authorized, but subject to reasonable restrictions and regulations as the parks board may issue from time to time. Authority is hereby delegated to the parks board to issue, amend, refine, adjust and perfect regulations to the end that:

(1) no beer or intoxicating liquor will be permitted on golf course premises unless purchased on-premises; ~~(c) Authority is hereby delegated to the parks board to issue, amend, refine, adjust and perfect regulations to the end that: (1) no beer or intoxicating liquor will be permitted on golf course premises unless purchased on-premises;~~

(2) no coolers will be permitted on the premises unless rented from the course;

(3) net profits from such sales will be devoted to golf course maintenance and improvement;

(4) consumption on the course, or at the club house, will be restricted and conditioned in a manner consistent with the city's responsibility to maintain the course as an attractive recreational site for the entire public of all ages;

(5) no exceptions or special concessions will be granted to any organization or tournament sponsor;

(6) the course manager, or other person authorized by the park board, will apply for and maintain such licenses as are necessary to comply with applicable laws and regulations.

~~(Code 1998, § 3-26; Ord. No. 7880, § (c) Subsection (a) of this Section shall not apply to:~~

~~(1, 2-19-2013; Ord. No. 7968, § 1, 4-15-2014; Ord. No. 8117, § 1, 9-20-2016)~~

~~**Sec. 3-27. Sale of) Situations when a public park, school, church or place of worship is established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor and beer for consumption on premises around after the public square.**~~

~~(a) No person, either for himself or by or through any agent, officer, servant, employee or substitute, shall be issued a license to sell or shall sell any intoxicating liquor or any beer, whether intoxicating or nonintoxicating, for consumption on the premises at any location on the public square of the city or streets leading from the public square for a distance of one block has been issued.~~

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- (2) A license issued for the sale of intoxicating liquor pursuant to Section 311.218, RSMo. (for sale at any picnic, bazaar, fair, festival or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States), or to any church or school, itself.

Sec. 3-13. Liquors not licensed not permitted on premises.

No licensee under this chapter holding a license authorizing the sale of malt liquor by the drink for consumption on the premises shall keep or secret in or upon the licensed premises, or permit or allow any other person to secret or keep on the premises, any intoxicating liquor other than the kind expressly authorized to be sold by such licensee.

Sec. 3-14. Reserved.

ARTICLE III – ADDITIONAL REGULATIONS

Sec. 3-15. Retailer-Packaged Alcoholic Beverages Sold to Customers in “To-Go” Containers.

(a) Notwithstanding any provision of law to the contrary, any person who is licensed by the City to sell intoxicating liquor at retail by the drink for on-premises consumption may sell retailer-packaged alcoholic beverages to customers in containers, filled on such premises by any employee of the retailer who is twenty-one (21) years of age or older, for off-premises consumption if all the following requirements are met:

- (1) The container of the alcoholic beverage is rigid, durable, leak-proof, sealable, and designed to prevent consumption without removal of the tamper-proof cap or seal. A "sealable" container does not include a container with a lid with sipping holes or openings for straws;
- (2) The contents of each container do not exceed one hundred twenty-eight (128) ounces;
- (3) The patron orders and purchases a meal from the licensee simultaneous with the alcoholic beverage purchase;
- (4) The number of alcoholic beverages sold under this Section by a licensee for off-premises consumption is limited to twice the number of meal servings sold by the licensee for off-premises consumption;
- (5) The licensee provides the patron with a dated receipt or an electronic record for the meal and alcohol beverages; and
- (6) The container is either:
 - (i) Placed in a single-use, transparent bag that is securely sealed and made tamper-proof such that the lid, cap, or seal will visibly demonstrate when a bag or container has been opened; or

(ii) The container opening is sealed with tamper-proof tape that will visibly demonstrate when a bag or container has been opened.

(7) The filling of a container under this Section shall follow Section 3-304.17(c) of the 2009 Food and Drug Administration Food Code.

(b) Containers that are filled under Subsection (a) of this Section shall be affixed with a label or a tag that contains the name and address of the business that filled the container, in type not smaller than three (3) millimeters in height and not more than twelve (12) characters per inch, and states, "**THIS BEVERAGE CONTAINS ALCOHOL.**"

Sec. 3-16. Draft Beer, Sale of 32 to 128 Fluid Ounces Dispensed on Premises for Consumption Off Premises – Requirements.

(a) Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo. and has a license from the city authorizing retail sale in the original package (RL-1 and RL-2), may sell from thirty-two (32) to one hundred twenty-eight (128) fluid ounces of draft beer to customers in containers filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one (21) years of age to fill containers with draft beer.

(b) No provision of law, rule, or regulation shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under Subsection (a) of this Section, to any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo and has a license from the city authorizing retail sale in the original package (RL-1 and RL-2).

(c) Requirements Regarding Containers.

(1) Containers that are filled or refilled under Subsection (a) of this Section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three (3) millimeters in height and not more than twelve (12) characters per inch:

(i) Brand name of the product dispensed;

(ii) Name of brewer or bottler;

(iii) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;

(iv) Net contents;

(v) Name and address of the business that filled or refilled the container;

(vi) Date of fill or refill;

(vii) The following statement: "*This product may be unfiltered and unpasteurized. Keep refrigerated at all times.*"

(2) Containers that are filled or refilled under Subsection (a) of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, as regulated by 27 C.F.R. 16.20 to 16.22.

(d) Additional Regulations.

(1) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.

(2) Containers shall only be filled or refilled by an employee of the retailer.

(3) Containers shall be filled or refilled as follows:

(i) Containers shall be filled or refilled with a tube as described in Subsection (d) (4) below and:

(A) Food-grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;

(B) A container of liquid food-grade sanitizer shall be maintained for no more than ten (10) malt beverage taps that will be used for filling and refilling containers;

(C) Each container shall contain no fewer than five (5) tubes that will be used only for filling and refilling containers;

(D) The container shall be inspected visually for contamination;

(E) After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and

(F) A different tube from the container shall be used for each filling or refilling of a container; or

(ii) Containers shall be filled or refilled with a contamination-free process and:

(A) The container shall be inspected visually for contamination;

(B) The container shall only be filled or refilled by the retailer's employee; and

(C) The filling or refilling shall follow the Food and Drug Administration Code 2009, Section 3-304.17(c).

(4) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.

(5) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.

(6) After filling or refilling a container, the container shall be sealed as set forth in Subsection (c) of this Section.

Sec. 3-17. Unfinished Bottles of Wine may be Carried out of a Restaurant Bar, When – Transportation Permitted – Wineries, Unfinished Bottles of Wine may be Removed, When – Transportation Permitted

(a) Notwithstanding any other provision of law, it shall not be unlawful for the owner, operator, or employees of a restaurant bar to allow patrons to carry out one (1) or more bottles of unfinished wine, nor shall it be unlawful for patrons of such restaurant bar to carry out one (1) or more bottles of unfinished wine under the following conditions:

- (1) The patron must have ordered a meal;
- (2) The bottle or bottles of wine must have been at least partially consumed during the meal;
- (3) The restaurant bar must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (4) The restaurant bar must securely reseal the bottle or bottles of wine and place them in one (1) or more one-time-use, tamperproof, transparent bags and securely seal the bags.

(b) Notwithstanding any other provision of law, no person who transports one (1) or more bottles of unfinished wine which came from a restaurant bar under the circumstances described in Subsection (a) of this Section, in a vehicle, shall be considered to have violated any State law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the restaurant bar and the bottle or bottles of wine remain in the restaurant bar-furnished, one-time-use, tamper-proof, transparent bags with the seals intact.

(c) Notwithstanding any other provision of law, it shall be lawful for the owner, operator, or employees of a winery to allow patrons to carry out one (1) or more bottles of unfinished wine and it shall be lawful for patrons of such winery to carry out one (1) or more bottles of unfinished wine under the following conditions:

- (1) The bottle or bottles of wine must have been at least partially consumed at the winery;
- (2) The winery must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (3) The winery must securely reseal the bottle or bottles of wine and place them in one (1) or more one-time-use, tamper-proof, transparent bags and securely seal the bags.

(d) Notwithstanding any other provision of law, no person who transports one (1) or more bottles of unfinished wine which came from a winery under the circumstances described under Subsection (c) of this Section shall be considered to have violated any State law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the winery and the bottle or bottles of wine remain in the winery-furnished, one-time-use, tamper-proof, transparent bags with the seals intact.

~~Sec. (b) — If any person as mentioned in subsection (a) of this section shall be a corporation or association, then the sale of over 50 percent of the stock of such corporation or association shall, for the purpose of this section, be defined as a sale, transfer or assignment of the business of selling intoxicating liquor or beer, intoxicating or nonintoxicating, for consumption on the premises.~~

~~(c) Provisions of section 3-27 of the Code of the City of Nevada Missouri, shall not apply to persons holding a valid license issued by the state under RSMo § 311.095.~~

~~(Code 1998, § 3-27; Ord. No. 6561, § 2, 7-5-2006; Ord. No. 6698, § 1, 10-16-2007)~~

~~**Sec. 3-28. Sale of wine and intoxicating liquors in conjunction with gourmet foods or cheese on the public square.**~~

~~(a) Other provisions of this code notwithstanding, gourmet food stores may be located on the public square or the streets leading one block off the public square and said establishments may be licensed to sell wine and other intoxicating liquor by the package.~~

~~(b) Gourmet food stores are defined for purposes of this section as retail establishments, maintaining at all times an inventory of food constituting at least 40 percent of the total wholesale cost inventory of the retailer.~~

~~(Ord. No. 6724, § 1, 2-19-2008)~~

~~**Sec. 3-29. License for manufacturing wine or brandy.**~~

~~(a) A separate license is hereby authorized for the privilege of manufacturing wine or brandy within the City of Nevada, Missouri, all as envisioned and with the privileges accorded by the state licensing law which requires compliance with the federal and state laws and regulations and establishes the license fee for the state and the terms and conditions and privileges accorded by said license, all as set out in RSMo § 311.190.~~

~~(b) The license charge for the municipal license shall be the fee authorized and permitted by the state – 1.5 times the charge made by the state.~~

~~(c) A licensee granted a wine or brandy manufacturer's license shall have the privileges accorded by RSMo § 311.190, except that no consumption on premises will be permitted where prohibited by zoning ordinances of the City of Nevada, Missouri.~~

~~(d) The license authorized by this section shall not be subject to the limitations imposed on packaged sale of intoxicating liquor in section 3-6 of the Code of the City of Nevada, Missouri.~~

~~(e) The word "consumption" for sole purposes of premises licensed under the ordinance from which this section derives and the zoning ordinances of the City of Nevada, Missouri, will not include wine tasting of not more than ½ ounce of a wine offered for sale under the license.~~

~~(Ord. No. 7870, § 1, 1-8-2013)~~

~~Secs. 3-30—3-37. Reserved.~~

~~Sec. 3-383-18. Self-Dispensing of Beer or Wine Permitted, When.~~

~~(a) Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a self-dispensing system, which is monitored and controlled by the licensee and allows patrons of the licensee to self-dispense beer or wine. Before a patron may dispense beer or wine, an employee of the licensee must first confirm that the patron is twenty-one (21) years of age, and then authorize an amount of beer or wine, not to exceed thirty-two (32) ounces of beer or sixteen (16) ounces of wine per patron per authorization, to be dispensed by the self-dispensing system.~~

~~(b) No provision of law or rule or regulation of the City shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish self-dispensing or cooling equipment or provide services for the maintenance, sanitation, or repair of self-dispensing systems.~~

~~Sec. 3-19. Sales to minors, drunkards, etc.~~

~~(a) It shall be unlawful for any person or his employee to sell or supply intoxicating liquor ~~and/or nonintoxicating beer~~, or to permit intoxicating liquor ~~and/or nonintoxicating beer~~ to be sold or supplied, to:~~

~~(1) Any habitual drunkard;~~

~~(2) Any person who is apparently under the influence of intoxicating liquor; and~~

~~(3) Any person under 21 years of age. (1) — Any habitual drunkard;~~

~~(2) Any person who is apparently under the influence of intoxicating liquor; and~~

~~(3) Any person under 21 years of age.~~

~~(Code 1998, § 3-38)~~

Sec. ~~3-39~~20. Purchase or possession by minors.

- (a) It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase, or have in his possession any intoxicating liquor ~~and/or nonintoxicating beer.~~
- (b) It shall be unlawful for any person under the age of 21 years to operate, ride, drive, occupy or sit in any vehicle, whether moving or not, containing intoxicating liquor ~~and/or nonintoxicating beer.~~ Any operator, passenger, or occupant of a vehicle under the age of 21 years shall be deemed to be in possession of any intoxicating liquor ~~and/or nonintoxicating beer~~ found in such vehicle; provided that this section shall not apply where the vehicle is occupied by the parent or legal guardian of one of the persons under the age of 21 years, and the parent or legal guardian is over the age of 21 years.

~~(Code 1998, § Sec. 3-39)~~

21Sec. 3-40. Public consumption.

- (a) It shall be unlawful for any person to consume intoxicating liquors ~~and/or non-intoxicating beer~~ upon any public street, sidewalk, alley, or public building. It shall be unlawful for any person to consume intoxicating liquors ~~and/or non-intoxicating beer~~ on or in any establishment, business, or parking lot generally open to the public unless a liquor license, limited permit, or special event license covering the specific day(s) authorizing liquor consumption has been issued for that establishment, business, or parking lot.
- (b) No person shall dispense, permit, or allow any person to consume or dispense ~~any alcoholic beverage, intoxicating liquor, or non-intoxicating beer~~ in any commercial premises in the city, except as dispensed by the holder of a license for the sale and consumption of alcoholic beverages-intoxicating liquor. This prohibition shall not apply to a non-reoccurring social gathering where no admission or fee of any kind is charged or accepted.

ARTICLE IV - ADMINISTRATION

Sec. 3-22. Licensing Officer and Liquor Control Investigator Created – Duties.

Licensing Officer. The city manager shall designate an individual to be the Licensing Officer. The licensing officer shall have the following duties:

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- (1) Generating forms for liquor licensing applications;
 - (2) Processing liquor licensing applications and determining completeness of such applications;
 - (3) Collecting all applicable liquor license application fees prior to transmitting the application to the Liquor Control Board or City Council;
 - (4) Keeping a complete record of all licenses issued, the date when issued and all license fees collected by reason of the issuance of such licenses;
 - (5) Reporting to the chairman of the Liquor Control Board a list of all persons who have been licensed under the provisions of this chapter and who have failed or neglected to renew such license at its expiration; and
 - (6) Report to the City Council regarding the state of liquor control within the City of Nevada upon request of the City Council.

Liquor Control Investigator. There shall also be created a Liquor Control Investigator designated by the city manager. This individual shall be tasked with investigating any such person whose license has not been renewed or any other person who has been reported to him as selling intoxicating liquor beer without first obtaining a license as provided herein for investigation. Such liquor control investigator shall report any findings or results of its investigations to the Liquor Control Board at a public meeting.

Sec. 3-23. Liquor Control Board Created – Membership – Qualifications – Vacancies – Duties.

- (a) Created. There is hereby established a Liquor Control Board for the purposes of processing, overseeing, and adjudicating matters pertaining to liquor control within the City of Nevada.
- (b) Membership; Qualifications. The Liquor Control Board shall consist of the three (3) members nominated by the City Manager and appointed by the City Council.
- (c) Vacancies. In the event of any vacancies on the Liquor Control Board, a replacement will be nominated by the City Manager and approved by the City Council.
- (d) Duties. The Liquor Control Board shall review all applications submitted to the licensing officer for a liquor license or permit, issue an approval, denial, or non-issuance regarding any complete license application presented to the Liquor Control Board, and shall preside over any hearings for the renewal, suspension, revocation, or discontinuance of any license issued by the licensing officer, except special event licenses granted by the City Council in Section 3-11, which shall be exclusively reviewed by the City Council.

Sec. 3-24. Application for; Criteria for Issuance of license; Effect of Approval or Denial.

- (a) All applicants for a license under this chapter are required to file with the licensing officer a written application, addressed to the city council on a form provided by the city. Such application shall be under oath, containing the information reasonably required to administer this chapter, particularly the type of license that applicant is seeking from the city, the name and address if the applicant is a person, or if a firm, partnership, or association, the name and address for each member of the firm, partnership, or association so applying, or, if the applicant is a corporation and requests a license for intoxicating liquor by the drink, the names and addresses of all its officers, members of its board of directors and ownership interests thereof shall be required. The application shall also contain all information describing in detail the premises for which a given license is being applied for and the location and address thereof, in addition to the cost value of inventory other than intoxicating liquor at the proposed place of business. The application shall be filed on or before the tenth day of the month preceding the month in which the license is due. All applications for licenses provided for in this chapter shall be made to the licensing officer and shall be accompanied by the amount of the license charge for the license for which application is made.
- (b) The applications shall be presented by the licensing officer to the Liquor Control Board, whereupon the Liquor Control Board will consider the following when making a determination of approval or disapproval of an application at a public meeting:
- (1) Whether appropriate zoning exists for the proposed licensed premises;
 - (2) The record of the applicant, owner, and managers of the proposed licensed premises as law abiding persons;
 - (3) The proximity of the proposed licensed premises to certain uses as provided under Section 3-26; provided, however, that the Liquor Control Board is not empowered to extend the prohibited distances from those described under Section 3-26;
 - (4) The nature, amount, and frequency of complaints and incidents at the proposed licensed premises requiring intervention by the licensing officer, the Police Department of the City or other law enforcement officers;
 - (5) Whether the proposed premises complies with city building and fire codes;
 - (6) Prior violations of federal, State, and/or local laws or ordinances pertaining to the regulation of the sale of intoxicating liquors;
 - (7) The moral character of the manager and owner of the proposed premises, as well as that of any employee of the proposed licensed premises,

including whether any license relating to intoxicating liquors was obtained through false and/or fraudulent statements in the application for such license;

- (8) Where there is evidence that applicant has not at all times kept an orderly place.

The Liquor Control Board may hear evidence as to these factors in addition to the information provided within the application, any reports from the liquor control investigator relevant to the application or applicant, and applicant may appear at the public meeting with counsel and produce witnesses on his/her behalf.

- (c) In the event of an approval of the application by the Liquor Control Board, the licensing officer shall issue the license by letter delivered in person or by mail. In the event of a disapproval of the application by the Liquor Control Board, the licensing officer shall transmit notice to the applicant by certified mail, return receipt requested, delivered to the address provided for in the application. The notice shall be in writing and shall be sufficiently definite to advise the applicant of the reason or grounds for the refusal to issue the license, as well as a right to appeal under Section 3-55.

Sec. 3-25. License payments.

- (a) The licensing officer shall not issue a license without first collecting the amount of the license fee, as specified by this chapter and other ordinances of the city.

(b) The licensing officer shall not issue a license to any applicant that is known to be in default under the provisions of this chapter or indebted or obligated in any manner to the city except for current taxes. (Code 1998, § 3-40; Ord. No. 8362, § 1, 10-6-2020)

Sec. 3-41. "No drinking" signs.

~~No intoxicating liquor and/or nonintoxicating beer shall be drunk, consumed or publicly exhibited in a public dining room, lunchroom, soda fountain or any place where meals or lunches and soft drinks are served, where the owner or manager exhibits in the premises signs or placards to the effect that intoxicating liquor and/or nonintoxicating beer may not be drunk in or about the premises. Such signs or placards shall be of sufficient size in sufficient number to be easily discernible to the general public.~~

~~(Code 1998, § 3-41)~~

Sec. 3-42. Liquors not licensed not permitted on premises.

~~No licensee under this chapter holding a license authorizing the sale of malt liquor by the drink for consumption on the premises shall keep or secrete in or upon the licensed premises, or permit or allow any other person to secrete or keep on the~~

~~premises, any intoxicating liquor other than the kind expressly authorized to be sold by such licensee.~~

~~(Code 1998, § 3-42)~~

~~**Sec. 3-43. Intoxicating liquors prohibited.**~~

~~It shall be unlawful for the holder of any license for the sale of nonintoxicating beer as a retailer, either for consumption on the premises or in the original package, to have on or about the premises where such nonintoxicating beer business is conducted, any beer or other intoxicating liquor of any kind whatsoever having an alcoholic content of more than 3.2 percent by weight.~~

~~(Code 1998, § 3-43)~~

~~**Secs. 3-44—3-50. Reserved.**~~

~~See~~

Sec. 3-5126. Suspension, limitations, or revocations.

- (a) The public policy of the state and the city is that the holding of licenses to sell intoxicating liquors ~~or nonintoxicating beer~~ is a privilege and not a right. The provisions of this section are designed to ensure that intoxicating liquor ~~or nonintoxicating beer~~ license holders are persons of responsible and moral character.
- (b) ~~There is hereby established for the city a liquor control board which shall be composed of the fire chief, planning director and finance director, who shall serve as chairman of the board, or when unavailable one appointed by the city manager.~~
- (c) ~~The duty of the liquor control board shall be to determine whether or not license holders comply with the provisions of this chapter.~~
- (d) ~~The liquor control board~~Liquor Control Board may, in addition to other penalties provided by ordinance, suspend, limit, or revoke a license issued pursuant to this ~~division~~chapter if the licensee ~~or, his/her~~ employees, or agents shall have been shown to be guilty ~~or, to~~ have violated, or to be involved in, any of the following:
 - (1) ~~—~~— An offense, resulting in a conviction, involving the use of force or violence upon the person of another in the operation of the business of the licensee;
 - (2) ~~—~~— A conviction of a crime involving a felony by the licensee or any of the officers or the managing office of the license;

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- (3) ~~Any false, misleading or fraudulent statement of fact in the license application for the licensee, or in any other document required by the city in conjunction therewith;~~
 - (4) ~~Violation of any of the provisions of this article or any of the laws of this city;~~
 - (5) ~~Violation of the laws of the state, the United States of America, or any rule or regulation pertaining to the sale and licensing of intoxicating liquors;~~
 - (6) ~~Operation of the business in such a manner that it constitutes a nuisance to the neighborhood;~~
 - (7) ~~Conduct by the officers, employees, or managing officers of the licensee such as public drunkenness when working or while on the premises, indecent exposure when working or when on the premises, or other conduct which shows improper conduct by an individual who is licensed pursuant to this ~~article~~chapter. For purposes of this section, the term "premises" shall include the licensed premises, the parking lots and the area around the business which is owned, used and maintained as part of the business;~~
 - (8) ~~Lack of proper control of customers. The licensee shall use good judgment in the sale of intoxicating beverages and shall not sell the same to persons obviously intoxicated. If any customer becomes unruly or abusive, it shall be the duty of the licensee to call and fully cooperate with police or other law enforcement authority. The licensee shall take appropriate and necessary steps to supervise the ~~premises~~areas immediately outside the liquor establishment, shall keep said ~~premises~~areas free from litter, and shall not allow ~~such areas~~immediately outside the ~~authorized liquor consumption~~ premises to become a gathering location for the liquor establishment's customers;~~
 - (9) ~~c) The chairman of the Liquor Control Board shall notify the licensee, in writing, of any intended action and the reasons therefor, and ~~of the right to request a hearing in regard thereto. The action indicated in~~transmit the written~~required~~ notice shall be final, unless the licensee chooses to file a request with the chairman, in writing, for a hearing ~~within ten days of the notice. If a request for hearing is received, the board shall proceed in accordance with sections as described in Section~~ 3-54.~~

~~(Code 1998, § 3-51)~~

~~Sec. 3-52. Miscellaneous licensing duties of the licensing officer and liquor control investigator.~~

~~The licensing officer shall keep a complete record of all licenses issued, the date when issued and all license fees collected by reason of the issuance of such licenses.~~

The licensing officer shall report to the chairman a list of all persons who have been licensed under the provisions of this chapter and who have failed or neglected to renew such license at its expiration. The chairman shall deliver a copy of such report to the liquor control investigator for investigation of such person whose license has not been renewed or any other person who has been reported to him as selling intoxicating liquor and/or nonintoxicating beer without first obtaining a license as provided herein for investigation.

(Code 1998, § 3-52)

3-27. ~~Sec. 3-53.~~ Effect of revocation on reissuance of license.

Whenever the city has revoked a license, it shall be necessary, before any license is issued, to operate a liquor establishment at the same location, that the procedures for issuance of a license be followed as set forth in sections 3-2 and 3-37.

(Code 1998, § 3-53)

~~Sec. 3-54.~~ Hearings on suspension, limitations, or revocations.

- (a) ~~Upon receipt of a timely written request for a hearing, the liquor control board, acting as the hearing examiner,~~(a) The Liquor Control Board will designate the city prosecutor to act as legal advisor to the ~~board and~~Liquor Control Board. The Liquor Control Board shall call a hearing ~~and~~, shall set forth in writing, and send to the applicant or licensee, by means of public posting, registered mail, certified mail, or hand delivery, notice of a hearing ~~which shall be conducted~~ to determine the existence of any facts which constitute grounds for the suspension, limitations, or revocation of a license or permit. The notification shall include the date, time and place of the hearing, and said hearing shall be provided not less than ~~fifteen (10)~~ days nor more than ~~thirty (30)~~ days from the date of the public posting.
- (b) At least the chairman of the ~~board~~Liquor Control Board and one member of the ~~liquor control board~~Liquor Control Board shall be in attendance. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or licensee fails to appear at the hearing the evidence of the existence of facts which constitute grounds for the denial, limit, suspension, or revocation of the license or permit shall be considered unrebutted. The hearing need not be conducted according to the strict application of the rules of evidence-, however all witnesses shall be sworn. Any relevant evidence may be admitted and considered by the ~~liquor control board~~Liquor Control Board if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by

the ~~liquor control board~~Liquor Control Board. A copy of the decision of the ~~liquor control board~~Liquor Control Board specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee within a reasonable time of the hearing. For purposes of appeal, the decision of the ~~liquor control board~~Liquor Control Board shall be final.

- (c) Upon final decision being rendered, the parties shall be informed of the right to appeal under the provisions of the city's administrative appeal procedure. Any decision not appealed within 30 days from the date of the decision is final.

~~(Code 1998, § 3-54)~~

~~(d) A licensee whose license is suspended or revoked shall immediately discontinue the business, occupation, or activity for which the license was issued. A separate offense shall be deemed committed each day the license holder continues to conduct the licensed business after suspension or revocation.~~

Sec. 3-28. Effect of revocation on reissuance of license.

~~Whenever the city has revoked a license, it shall be necessary, before any license is issued, to operate a liquor establishment at the same location, that the procedures for issuance of a license be followed as set forth in sections 3-552 and 3-37.~~

Sec. 3-29. Administrative appeal procedure.

- (a) Any decision rendered by the ~~liquor control board~~Liquor Control Board, serving as the hearing examiner, in response to denial, suspension, limitations, or revocation may be appealed by the license holder. A license holder's notice of intent to appeal must be submitted in writing to the city manager within 30 days of the decision being rendered by the ~~liquor control board~~Liquor Control Board.
- (b) The city manager will designate an administrative hearing officer. The city prosecuting attorney may serve as counsel for the city in said proceedings.
- (c) The administrative hearing officer will proceed with the appeal process in the manner specified herein.
- (d) A copy of the decision of the administrative hearing officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or license holder within ten days of the appeal hearing.
- (e) The decision of the administrative hearing officer shall be final.
- (f) If requested by the appellant, a record will be provided at the ~~appellants~~appellant's cost. The deposit is to be set by the administrative hearing officer.

~~(Code 1998, § 3-55)~~

~~Sec. 3-56. Amendment of municipal ordinances to comply with 2021 legislative changes.~~

- ~~(a) *Privileges and obligations under municipal licenses heretofore or hereafter issued.* From and after August 28, 2021, the privileges and obligations of licensees under city licenses heretofore and hereafter issued will be (and by law must be) consistent with the privileges and obligations of licensees under licenses issued by the department of liquor control, subject however to lawful limitations issued by this municipality.~~
- ~~(b) *Days and hours of operation under municipal licenses heretofore and hereafter issued.* From and after August 28, 2021, to the extent the legislature has mandated a change in the days and hours of operation of state licensees not heretofore recognized by this municipality, said expanded hours are hereby recognized and approved.~~
- ~~(c) *Restrictions on "to go alcohol".* From and after August 28, 2021, any sale, of retailer packaged liquor to a consumer in a container filled on such premises, subject to consumption off premises, is subject to the restrictions contained in RSMo § 311.202. A violation of this provision shall be subject to the general penalty provision of the Code of the City of Nevada, Missouri.~~
- ~~(d) *New or special permits.* From and after August 28, 2021, to the extent the legislature has authorized new licenses and special permits, the City of Nevada will issue on customary forms for liquor license applications, such new licenses, and special permits at a fee of \$150.00, it being recognized that application and licensing permits the municipal government to maintain awareness of such operations as well as provide verification of entitlement to licensed operations that may impact the community.~~
- ~~(e) *Prevailing and superseding applicability.* The provisions of this section prevail over and supersede all existing provisions of chapter 3 of the Code of the City of Nevada, Missouri.~~

~~(Ord. No. 8438, 8-24-2021)~~