

Chapter 5 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

As used in this chapter, the following words and phrases shall have the respective meanings ascribed to them in this section:

Club means a corporation organized under the laws of this state or an association not formed for pecuniary profit solely for promoting some common object other than the sale and consumption of alcoholic liquors.

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and where sleeping accommodations are offered for adequate pay to travelers and guests.

Intoxicating liquor means and includes 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 by volume.

Light wines means and includes light wines containing not in excess of fourteen (14) percent of alcohol by weight exclusively from grapes, berries and other fruits and vegetables.

Malt liquor (beer) shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water, and free from all harmful substances, preservatives and adulterants, having an alcoholic content of not more than five (5) percent by weight.

Nonintoxicating beer shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops, pure barley malt or other wholesome grains or cereals, wholesome yeast, pure water, and free from all harmful substances, preservatives and adulterants, having an alcoholic content of more than one-half of one (0.5) percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

Original package means any package containing one (1) or more standard bottles, cans, or pouches of beer or intoxicating liquor sold in sealed containers.

Person means and includes an individual, association, joint stock company, syndicate, copartnership, corporation, receiver, trustee, conservator, or other office appointed by any state or federal court.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually served and regularly served.

¹Editor's note(s)—Formerly, Ch. 5 was designated Ch. 3 (see editor's note for Ch. 3).

State law reference(s)—State liquor control law, RSMo 311.010 et seq.

Cross reference(s)—Driving while intoxicated, §§ 45-901, 45-902.

(Ord. No. 2981, § 2, 3-5-90)

Cross reference(s)—Definitions for Code, § 1-1.

State law reference(s)—Similar definitions, RSMo 311.020, 311.030, 312.010.

Sec. 5-2. Sale, disposal to minors.

No person shall sell, give away or otherwise dispose of or suffer the same to be done, any intoxicating liquor or nonintoxicating beer in any quantity to any person under the age of twenty-one (21) years.

(Ord. No. 2981, § 2, 3-5-90)

State law reference(s)—Similar provisions, RSMo 311.310, 312.400.

Sec. 5-3. Purchase or possession by minor.

- (a) Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in RSMo 311.020, or who is visibly intoxicated as defined in RSMo 577.001, or has a detectable blood alcohol content of more than two-hundredths of one (.0002) percent or more by weight of alcohol in such person's blood is guilty of violating this section. For purposes of prosecution under this section, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.
- (b) Any person convicted of violating this section shall be punished for a first violation by a fine not to exceed three hundred dollars (\$300.00). A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed ninety (90) days and/or a fine not to exceed five hundred dollars (\$500.00).

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 07-138, § 1, 12-3-07; Ord. No. 11-87, § 1, 10-17-11)

State law reference(s)—Similar provisions, RSMo 311.325.

Sec. 5-4. Sale, disposal to drunkards.

No person shall sell, give away or otherwise dispose of or suffer the same to be done, any intoxicating liquor or nonintoxicating beer to any intoxicated person or habitual drunkard.

(Ord. No. 2981, § 2, 3-5-90)

State law reference(s)—Similar provisions, RSMo 311.310, 312.400.

Sec. 5-5. Intoxicated person, how handled; officer granted immunity.

- (a) A person who appears to be incapacitated or intoxicated may be taken by a police officer to the person's residence, to any available treatment service, or to any other appropriate local facility, which may, if necessary, include jail for custody not exceeding twelve (12) hours.
- (b) Any officer detaining such person shall be immune from prosecution for false arrest and shall not be responsible for damages for taking action pursuant to subsection (a) hereof if the officer has reasonable

grounds to believe the person is incapacitated or intoxicated by alcohol, and he does not use unreasonable excessive force to detain such person.

- (c) Such immunity from prosecution includes the taking of reasonable action to protect himself or herself from harm by the intoxicated or incapacitated person.

(Ord. No. 2981, § 2, 3-5-90)

State law reference(s)—Similar provisions, RSMo 67.315.

Sec. 5-6. Public assemblies.

It shall be unlawful for any person in the city to enter any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or any courthouse, in a drunken or intoxicated condition, or to attend any other assemblage of people met for a lawful purpose at any other public place, in a drunken or intoxicated condition, or to drink or offer to drink any intoxicating liquor in the presence of any such assembly of people.

(Ord. No. 2981, § 2, 3-5-90)

State law reference(s)—Similar provisions, RSMo 574.075.

Sec. 5-7. Consumption of alcoholic beverages in public places and public intoxication.

- (a) It shall be unlawful for any person to drink intoxicating liquor or nonintoxicating beer upon the public streets, parking lots, alleys, highways, thoroughfares, or sidewalks within the city unless the city has issued appropriate permits for activities that allow consumption at specific events.
- (b) It shall be unlawful for any person to be in an intoxicated condition upon the public streets, parking lots, alleys, highways, thoroughfares, or sidewalks within the city. A person is in an intoxicated condition when he or she is under the influence of alcohol, a controlled substance, or drug, or any combination thereof, so as to be impaired in his or her ability to safely walk in the areas set forth in this subsection. (See RSMo 577.001).

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 16-14, § 1, 2-1-16)

Editor's note(s)—Ord. No. 16-14, § 1, adopted Feb. 1, 2016, changed the title of § 5-7 from "Consumption of alcoholic beverages in public places" to read as herein set out.

Sec. 5-8. Location proximate to churches and schools.

The distance from a church or school of a license for the sale of intoxicating liquor shall be controlled by RSMo 311.080.1. All previous distance requirements are hereby repealed.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 09-08, § 1, 2-2-09; Ord. No. 11-40, § 1, 5-16-11; Ord. No. 16-92, § 1, 10-3-16)

Sec. 5-9. Sale at city-sanctioned events.

- (a) The city may authorize the sale of intoxicating liquor, malt liquor (beer), or nonintoxicating beer at city-sanctioned events upon city property or rights-of-way. Application for authorization shall be made in the same manner as set forth in this chapter for applications for liquor licenses.
- (b) Any license for sale at city-sanctioned events shall require that:

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- (1) The area of sale be enclosed in a manner specified in the license but in no event in a manner consisting of less than a rope surrounding the area sufficient to designate the area permitted for sale and consumption.
 - (2) All intoxicating liquor, malt liquor (beer), or nonintoxicating beer contained in open containers and purchased within the enclosed area be consumed within that area and that no intoxicating liquor, malt liquor (beer), or nonintoxicating beer contained in open containers leave the enclosed area.
 - (3) Any special conditions deemed necessary by the city be followed.
 - (4) The licensee comply with all other state and municipal laws.
- (c) The fee shall be as set forth elsewhere in this chapter for temporary permits.
- (Ord. No. 12-38, § 1, 6-4-12; Ord. No. 12-52, § 1, 7-16-12)

Secs. 5-10—5-19. Reserved.

ARTICLE II. LICENSES²

Sec. 5-20. Required.

No person shall, either by himself or through the use of agents or servants, engage in the manufacture, brewing, sale or distribution of intoxicating liquors or nonintoxicating beer within the city, without first having taken out and obtained a license authorizing such manufacture, brewing, sale or distribution in compliance with the terms of this chapter.

(Ord. No. 2981, § 2, 3-5-90)

Sec. 5-21. Duration; revocation for non-use.

- (a) A license issued under this chapter shall be issued for a period of one year from June 30 of each year and persons desiring to secure licenses after June 30 shall pay for such portion of the license year remaining at the time such license is issued. Thereafter, all renewals of licenses shall be made on June 30 of each year unless the city clerk is notified by the police department of its objection to the renewal.
- (b) In the event the holder of any license issued hereunder fails to begin operation thereunder within sixty (60) days of issuance, the holder's license shall be automatically revoked. The board of aldermen may waive this revocation but only upon written application for said waiver and upon a showing of hardship or good cause.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 1, 9-16-19)

Sec. 5-22. Application; contents.

- (a) *Submittal.* All applications for licenses under the provisions of this chapter shall be made in writing on the proper form to the city clerk and shall state specifically whether the license is for a distiller, brewer, or

²Cross reference(s)—Licenses generally, Ch. 37.

State law reference(s)—Qualifications for state license, RSMo 311.060, 312.040.

wholesale distributor and in the case of a retailer's license shall state the alcoholic content of the intoxicating liquor to be sold under the license and whether the license is issued for consumption on the premises, not for consumption on the premises, or for both sale in the original package and for consumption on the premises where sold.

Applications shall be considered in order of receipt thereof. Failure of an applicant to qualify for license issuance within forty-five (45) days shall result in said applicant's application being rejected at which time same must be resubmitted as a new application.

- (b) *Contents.* All such applications shall state the name and address of the applicant, or if the applicant is a firm, partnership or association, the names and addresses of each member of the firm, partnership or association, or if the applicant is a corporation, the names and addresses of all officers, the board of directors, and all stockholders of the corporation, and shall describe the premises which the license applied for shall cover. Said application shall be completed under oath and shall contain any information reasonably required to administer this chapter.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 2, 9-16-19)

Sec. 5-23. Investigation of application by police department.

Upon receipt by the city clerk of an application, the city clerk shall refer it to the police department for investigation. The police department shall make a report as soon as possible to the city clerk which report shall set forth the criminal record of the applicant, including the Federal Bureau of Investigation record of the applicant, a copy of which shall be attached to the police report. The police department shall in its report also verify that it has investigated all of the facts in the applicant's application and has made a general character check of the applicant. If the applicant is a corporation, such report shall be made on the managing agent of the corporation as well as the corporation itself.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 3, 9-16-19)

Sec. 5-24. Action on application.

Upon the receipt of the report of the police department and other necessary information obtained by the city clerk, the city clerk shall grant said license unless the city clerk determines that the applicant is not qualified to receive the license. In the event the license is refused, the applicant shall be notified as soon as possible of the denial of the license.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 4, 9-16-19)

Sec. 5-25. Qualifications of applicant.

- (a) No person shall be granted a license whose license has previously been revoked or who has been convicted of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or any employees in his business or any person whose license has been revoked or who has been convicted of violating the provisions of any such law; nor shall any corporation be granted a license or permit hereunder unless the managing officer of such corporation qualifies as would an individual under the above applicable requirements.
- (b) No license shall be issued to a person who is not twenty-one (21) years of age, who is not a citizen of the United States, who has been convicted of a felony, who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality, whose license under this article has been revoked for cause, or any law enforcement officer.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 5, 9-16-19)

Sec. 5-26. Procedure upon denial of license.

An applicant who is denied a license by the city clerk may appeal that decision to the board of aldermen within thirty (30) days of the date of denial. Upon finding by a majority of the members of the board of aldermen that the applicant is qualified and has complied with all applicable provisions of this Code of Ordinances and the state law, the board of aldermen shall direct the issuance of the license to such applicant.

Upon acting on the appeal, the mayor and board of aldermen shall have the right to examine or cause to be examined under oath any applicant for a license hereunder or any licensee upon whom notice of revocation or suspension has been served as herein provided. The mayor and board of aldermen may examine or cause to be examined the books and records of such applicant or licensee.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 6, 9-16-19)

Editor's note(s)—Ord. No. 19-65, § 6, adopted Sept. 16, 2019, changed the title of § 5-26 from "Examination of applicant" to read as herein set out.

Sec. 5-27. Issuance; contents of license; conduct.

- (a) *Issuance.* On approval of the application by the city clerk and the payment of the license taxes herein provided, the city clerk shall grant the applicant a license to conduct business at the specified location in the city for a period set forth in section 5-21.
- (b) *Content.* Every license issued under this chapter shall set forth the type of license granted.
- (c) *Requirements, restrictions:* Failure to commence operations within thirty (30) days of issuance shall result in automatic revocation of license.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, §§ 7, 8, 9-16-19)

Sec. 5-28. Transferability; termination.

- (a) *License not transferable.* No license under this chapter shall be transferable from one person to another, nor shall the license be used at any place except the premises for which the license is issued; and proper license shall be procured for each place of business for which a state license is required.
- (b) *Cause for termination; notice required.* Whenever a license holder under this chapter shall be closed for business for over thirty (30) consecutive calendar days, the license holder's license shall be subject to termination upon notification by the city clerk that the license shall be voided and the licensee ordered to turn in his license unless the licensee, within fifteen (15) days of the notification by the city, shall, in writing, state the reasons why this should not be done. If the licensee makes the written return within fifteen (15) days, his license shall not be terminated or voided unless upon action by the board of aldermen. The board of aldermen shall make its decision on the basis of the qualifications, duties, and obligations of the license holder listed in this chapter and the reasons for which operation ceased.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 9, 9-16-19)

Sec. 5-29. Fees.

A separate license is required for each place of business, and the following license fees shall be paid annually:

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- (1) Retailers of intoxicating liquor, light wines, malt liquor (beer) and nonintoxicating beer whether by drink, original package, and location to be consumed, except Sale on Sunday, twenty-five (\$25.00).
 - (2) Retailers of intoxicating liquor, light wines, malt liquor (beer), and nonintoxicating beer in the original package, not to be consumed upon the premises where sold, and sold on Sundays, in addition to all other fees required by law of such retailer, two hundred dollars (\$200.00).
 - (3) Manufacturers or distillers of intoxicating liquors containing alcohol in excess of five (5) percent by weight or malt liquor (beer) containing not more than five (5) percent of alcohol by weight, five hundred dollars (\$500.00).

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 3212, § 1, 6-7-93; Ord. No. 3837, § 1, 5-3-99; Ord. No. 03-107, § 1, 9-15-03; Ord. No. 11-40, § 2, 5-16-11)

State law reference(s)—Similar provisions, RSMo 311.200.

Sec. 5-30. Temporary permit.

Notwithstanding the other provisions of this chapter, a permit for the sale of intoxicating liquor, light wines, malt liquor (beer), and nonintoxicating beer for consumption on premises where sold may be issued by the city clerk to any retailer, club, church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of the aforesaid items at a picnic, bazaar, fair, or similar gathering. Said permit shall be issued only for the day or days named therein and it shall not authorize the sale of the aforesaid items for more than seven (7) days by any said organization as described in any fiscal year. For such a permit issued, the licensee shall pay to the city the sum of ten dollars (\$10.00). No provision of law or rule or regulation of the city shall prevent any wholesaler or distributor from providing customary storage, cooling, or dispensing equipment for use by the holder of the license at such picnic, bazaar, fair, or similar gathering.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 10, 9-16-19)

Sec. 5-31. Reserved.

Editor's note(s)—Ord. No. 16-124, § 1, adopted Dec. 19, 2016, repealed former § 5-31 which pertained to limitation on number of licenses held by one person (package intoxicating liquor), and derived from Ord. No. 2981, § 2, adopted March 5, 1990.

Sec. 5-32. Reserved.

Editor's note(s)—Ord. No. 16-124, § 2, adopted Dec. 19, 2016, repealed former § 5-32 which pertained to limitation on number of licenses to be issued, and derived from Ord. No. 2981, § 2, adopted March 5, 1990.

Sec. 5-33. Real estate annexed to city.

In the event real estate is annexed to the city and the person is operating within such annexed area in accordance with the authority of the state as a manufacturer, distiller, wholesaler or retailer of alcohol, beer or nonintoxicating beer, such person shall be granted a license by the city to continue such operation provided that said person meets other requirements contained in this chapter.

(Ord. No. 2981, § 2, 3-5-90)

Sec. 5-34. Authority of city to inspect premises of licensee.

The board of aldermen, the city administrator, the chief of police or their designated agents and employees have the right at any time to inspect the premises wherein alcoholic beverages are being sold under a license issued under the provisions of this chapter. Upon the request of any such persons, the person or persons to whom a license is issued under the provisions of this chapter or those in their employ shall, at all times, allow said persons to inspect the premises and shall show them the stock of goods in any room or place in the premises that they desire to inspect. If a violation of the Code of Ordinances or State law is discovered, there shall be made a report to the board of aldermen of their findings upon their inspection, and the board of aldermen shall have the authority to act thereon as a result of such findings in accordance with the provisions of this chapter which shall include, but not be limited to, the revocation of the license.

(Ord. No. 2981, § 2, 3-5-90)

Sec. 5-35. Renewal.

A license granted under the provisions of this chapter shall be deemed to be automatically renewed by the city clerk each year unless an objection to renewal is filed with the city clerk by the police department or the city administrator. In the event that an objection to the renewal is filed with the city clerk, then the application for renewal shall be treated on the same basis as if an original application except that an FBI report shall not be required for renewals and the application for renewal must be submitted to the city clerk at least sixty (60) days before the license expires in order to give the city clerk adequate time to process such application for renewal. In the event the managing agent for a corporation is discontinued during the time for which a license has been issued to such managing agent of a corporation, the corporation shall, within seven (7) days thereafter, appoint a new managing agent and notify the city clerk of such appointment. Upon receipt of notification by the city clerk of such new appointment, the license issued to such corporation will remain in full force and effect for sixty (60) days from the date of receipt of the notice of appointment of the new managing agent. Within seven (7) days after the receipt of notice of the appointment of the new managing agent, such new agent shall apply for an application for and on behalf of the corporation for the remaining period for which the original license was issued and submit said application to the city clerk as if it were an original application and the same procedure shall be followed by the city clerk in processing such application for the new managing agent as if it were an original application. In the event the application is approved, the license will continue for the balance of the term for which it was originally issued.

(Ord. No. 2981, § 2, 3-5-90; Ord. No. 19-65, § 11, 9-16-19)

Sec. 5-36. Grounds for suspension and revocation.

The board of aldermen may, on hearing, suspend or revoke any license issued under the provisions of this chapter whenever a person licensed hereunder has not at all times kept a clean and orderly place or house or has violated any of the provisions of this chapter, first having given such licensee not less than ten (10) days' notice, in writing, of the application to suspend or revoke his license prior to the order of suspension or revocation. The notice shall contain the ground or grounds for such suspension or revocation set out therein and shall command the licensee to be present at the regular meeting or called meeting of the board of aldermen and show cause, if any, why such license should not be suspended or revoked. The licensee shall have the right to be represented by counsel at said hearing. Such notice of suspension or revocation hearing shall be served by a police officer and may be served upon the licensee by leaving a copy thereof with the licensee, or any person or employee in charge of the place of business of said licensee. Upon the suspension or revocation of any license, no license fee paid shall be refunded to the licensee.

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