

## CHAPTER 113: ALCOHOL SALES

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### Section

- 113.01 Definitions
- 113.02 Retail sale of beer to on-premises consumption
- 113.03 Sale of beer for off-premises consumption permitted
- 113.04 Possession or consumption of alcoholic beverages prohibited in public places
- 113.05 Fees
  
- 113.99 Penalty

### § 113.01 DEFINITIONS.

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

**CAFÉ or RESTAURANT.** Any retail business establishment principally, at all times, engaged in offering to the public and selling on the premises retail food prepared for immediate consumption and where the sale and consumption of beer is only incidental to the operation of such café or restaurant. In any action tried in the municipal court or any other court of competent jurisdiction, proof that more than 50% of the gross sales of any such business during any calendar quarter is derived from the sale of beer alone shall be prima facie proof that such business is not a café or restaurant, and proof that more than 50% of the gross sales of food by such business in any calendar quarter is derived from the sale of food on such premises to be consumed off such premises shall likewise be prima facie proof that such business is not a café or restaurant; however, any such prima facie evidence may be rebutted by any party to such action.

**LICENSE.** Any beer license granted by the state to any person pursuant to V.T.C.A., Alcoholic Beverage Code.

**PERMIT.** Any liquor permit granted by the state to any person pursuant to V.T.C.A., Alcoholic Beverage Code.

(Ord. 109-08, passed 9-23-08)

### § 113.02 RETAIL SALE OF BEER TO ON-PREMISES CONSUMPTION.

(A) *Prohibited.* The sale of beer for consumption on the premises where sold is prohibited within the corporate limits of the city.

(B) *Exception.* The sale of beer shall be permitted during the hours set by the general laws of the state at any premises if:

(1) Such premises is used exclusively to conduct a café or restaurant business; and

(2) The owner or operator of such premises files with the City Secretary on or before January 15, April 15, July 15, and October 15 of each calendar year a written report prepared by a certified public accountant licensed to do business in the state certifying that less than 50% of the gross sales of such business during the preceding three calendar months was derived from the sale of beer and further certifying that less than 50% of gross sales of food by such business during the preceding three calendar months was derived from the sale of food on such premises that is not immediately consumed on such premises.

(Ord. 109-08, passed 9-23-08) Penalty, see § 113.99

### § 113.03 SALE OF BEER FOR OFF-PREMISES CONSUMPTION PERMITTED.

The sale of beer by retailers, manufacturers, or distributors not for consumption on the premises where sold shall be permitted within the corporate limits of the city when done in accordance with the general laws of the state.

(Ord. 109-08, passed 9-23-08)

### § 113.04 POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED IN PUBLIC PLACES.

(A) It shall be unlawful for any person to possess or consume any alcoholic beverage upon any portion of any public playground or park or inside any enclosure, field or stadium where athletic events or practices are being conducted or upon any portion of the campus of any public school in the city, or upon any other property owned or controlled by the city.

(B) It is an exception to the application of division (A) above if: Alcohol shall be allowed on city- owned or controlled property if and only if the City Council has granted a variance for the specific use being proposed or has adopted a written policy which otherwise regulates the possession or consumption of alcohol on the city-owned or controlled property.

(Ord. 109-08, passed 9-23-08; Am. Ord. 106-11, passed 9-20-11) Penalty, see § 113.99

### § 113.05 FEES.

(A) There is hereby levied an annual fee as set in the city's fee schedule for each alcoholic beverage permit issued for any premises located within the incorporated limits of the city.

(B) There is levied an annual fee as set in the city's fee schedule for each alcoholic beverage license issued for any premises located within the incorporated limits of the city.

(C) The provisions of division (A) above shall not apply to the following:

(1) Agent's airline beverage, passenger train beverage, industrial carrier's, private carrier's, private club registration, local cartage, storage and temporary wine and beer retailer's permits;

(2) A wine and beer retailer's permit issued for a dining, buffet or club car; and

(3) A mixed beverage permit during the three-year period following the issuance of the permit.

(D) The provisions of division (B) above shall not apply to a temporary or agent's beer license.

(E) The annual fee authorized by divisions (A) and (B) above shall be paid by any person to whom such permit or license, or both, is issued or reissued by the state Alcoholic Beverage Commission within ten days after the issuance or re-issuance of such permit or license, or both. All such payments shall be made to the city Tax Assessor and Collector in cash or by cashier's check only. The city Tax Assessor and Collector shall issue an official receipt for such fees and deposit the same in the General Fund of the city.

(F) The city Tax Assessor and Collector shall have the power to make such additional rules and regulations as are reasonable and necessary to effectively collect the fees levied by this chapter. However, no such rules and regulations, or any amendments thereto, shall be effective until approved by the affirmative vote of a majority of the members of City Council present and voting at any regular or special meeting. Further, upon reasonable notice, the city Tax Assessor and Collector shall have access to all books, records, permits, and licenses necessary to determine the nature of every license or permit issued or any person and the amount of fees due under the provisions of this chapter.

(Ord. 109-08, passed 9-23-08; Ord. 101-21, passed 3-16-21)

**Cross-reference:**

*Fee schedule, see § 38.01*

**§ 113.99 PENALTY.**

(A) Any person, firm, or corporation who commits any of the following shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500:

(1) Any violation of this chapter; or

(2) Providing false information to a city official concerning licensing or permitting under this chapter or compliance with this chapter.

(B) Each day or portion of a day during which any violation occurs or continues shall be a separate offense.

(Ord. 109-08, passed 9-23-08)