

ALCOHOLIC BEVERAGES

Article IX. Annexation Of Property And Procedures For Licensing

- Sec. 10-90. Duty to obtain license upon annexation of property by city.
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ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

As used in this chapter, the following words and phrases shall be construed as defined in this section, unless from the context, a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

Where a word or term is not defined in this chapter but is defined elsewhere in the Municipal Code, such definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

Where a word or term is defined in this chapter and also defined elsewhere within the Municipal Code, the definition contained in this chapter shall be deemed operative.

Where a word or term is neither defined in this chapter nor defined elsewhere within the Municipal Code, the definition found in Chapters 311 and 312 of the Revised Statutes of the State of Missouri and the Rules and Regulations of the Supervisor of Alcohol and Tobacco Control, 11 CSR 70-1 and 11 CSR 70-2 shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

Alcohol beverage vaporizer means any device which, by means of heat, a vibrating element or any method, is capable of producing a breathable mixture containing any one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose and/or mouth.

Alcoholic beverages means intoxicating liquor, malt liquor or nonintoxicating beer.

Annual gross sales means the gross sales shown on the prior year's state sales tax return.

Church means any building or structure regularly and primarily used as a place of worship by any organized religious society, organization or congregation, regardless of whether or not the building or structure was originally designed and constructed for that purpose.

Customer means any person not an employee who enters or remains upon a licensed premises

with actual or implied permission of the licensee or a person who purchases or otherwise partakes of any merchandise, goods, entertainment or other services offered upon the premises.

Dancer means any person performing a semi-nude dance, or who performs a dance for any customers upon the premises of an establishment that allows semi-nude dancing.

Director unless otherwise described means the director of finance, who with the approval of the city administrator, shall designate an liquor control specialist, or other individuals to perform duties as set forth in this chapter. Duties may be performed by the named officer or any city officer or employee under their direction or supervision, if that individual has been assigned to perform the duties in question. Duties concerning administrative appeals are not to be delegated.

Domestic wine means wine containing not in excess of 14 percent of alcohol by weight and manufactured exclusively from grapes, berries, and other fruits and vegetables grown in Missouri.

Employee means and includes an agent or servant, and shall be construed to mean every person working for or performing services on behalf of the licensee during actual or scheduled work hours.

Intoxicating liquor or 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 preparation or mixtures for beverage purposes containing in excess of one-half of one percent (.5) of the alcohol by volume except for nonintoxicating beer as defined in Section 312.010, RSMo.

Licensee means the holder of any licenses issued under the provisions of this chapter.

Light wine is wine containing not in excess of 14 percent of alcohol by weight, manufactured exclusively from grapes, berries and other fruits and vegetables.

Liquor control specialist means those individual city officers or city employees designated to perform duties and responsibilities as may be

required by this chapter, including but not limited to the processing of applications for licenses, preliminary approval or denial of license applications, collection of fees as set forth in this chapter, recommendation of suspension or denial of a license, and such other actions as are necessary to give full force an effect to the provisions found in this chapter.

Liquor license is any license issued under the provisions of this chapter.

Location means the property parcel upon which a licensed premises is situated.

Malt liquor means any beer or other malt beverage 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 having an alcoholic content in excess of three and two-tenths (3.2) percent by weight, but not in excess of five percent by weight.

Managing officer means the person designated by the licensee who is either a person employed or retained for a specific purpose relating to the licensing of the premises or in actual management and control of a business licensed under this chapter, and who would be eligible as an individual to receive a license for the sale of alcoholic beverages, and who is a qualified voter of the state.

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

Minors shall be those persons under the age of 21 years.

Nonintoxicating beer means any beer manufactured from pure hops or pure extracts of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one (.5) percent by volume, and not exceeding three and two-tenths (3.2) percent of alcohol by weight.

Original license means any license issued under this chapter on an application for a new

license whether or not the proposed premises was previously licensed under this chapter but shall not mean a renewal license.

Original package means any package containing three or more standard bottles or cans of malt liquor or nonintoxicating beer, a package containing 50 milliliters (1.7 ounces) or more of spirituous liquor and a package containing 100 milliliters (2.4 ounces) or more of vinous liquor in the manufacturer's original container. A standard bottle or can is any bottle or can containing 12 ounces or less of malt liquor or nonintoxicating beer.

Person means an individual, association, joint stock company, syndicate, partnership, limited liability company or corporation, receiver, conservator, or other officer appointed by any state or federal court, or such other entity as may exist by law, unless the context requires a contrary interpretation. Clubs are also included within the meaning of this term.

Premises means the bounds of the enclosure where alcoholic beverages are permitted to be sold, stored or consumed under the authority of this chapter.

Resort is any licensee who possesses the qualifications required by this article, and who now or hereafter meets the requirements of and complies with the provisions of this article, who may apply for, and the director or their designated liquor control specialist, may issue, a license to sell intoxicating liquor, as defined in this article, by the drink at retail on a daily basis, as a resort, for consumption on the premises of any resort as described in the application. As used in this section the term "resort" means any establishment having at least 30 rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least 60 percent of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than \$75,000.00 per year with at least \$50,000.00 of such gross

receipts from nonalcoholic sales, or means a seasonal resort restaurant with food sales as determined in the following paragraph. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink, as a resort, for consumption on the premises of such facility and, for the purpose of meeting the annual gross receipts requirements of this subsection, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

Restaurant-bar is, for purposes of this chapter, defined any establishment having a restaurant or similar facility on the premises which derives 50 percent or more of its annual gross sales from the sale of prepared meals and food made and consumed on the premises, or which has an annual gross sales of at least \$200,000.00 from the sale of prepared meals and food consumed on the premises. For the purposes of determining whether an establishment qualifies as a restaurant-bar under the provisions of this chapter and calculating the amount and percentage of annual gross sales from the sale of prepared meals and food, any nonalcoholic components mixed or served in any alcoholic beverage shall be considered to be part of the alcoholic beverage and shall not be considered to be prepared meals and food.

Retail five percent beer by the drink dealer means any person who may be engaged in the sale of beer that contains alcohol in excess of three and two-tenths percent of alcohol by weight and not more than five percent by weight.

Retail package dealer means any person engaged in the sale of liquor in the original packages only.

Retailer means a person holding a license to sell or to offer to sell intoxicating liquor or non-intoxicating beer to a consumer only.

School means any building which is regularly used as a public, private or parochial school, elementary school or high school, college, university, professional school, business or secretarial school.

Seasonal resort restaurant is a restaurant which is not a new restaurant establishment and which

is open for business eight or fewer consecutive months in any calendar year. Fifty percent of all gross sales of such restaurant shall be sales of prepared meals. Any new seasonal resort restaurant establishment having been in operation for less than 12 weeks may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed 90 days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which 50 percent shall be sales of prepared meals. The temporary license fee and the annual license fee shall be prorated to reflect the period of operation of the seasonal resort restaurant. The license shall be valid only during the period for which application was made and for which the fee was paid. Any seasonal resort restaurant upon resuming business for its season of operation shall not be considered a new establishment for purposes of issuing a temporary license. Nothing in this subsection shall prohibit a seasonal resort restaurant from becoming a resort restaurant upon application, payment of fees, and compliance with the requirements of this chapter.

Semi-nude dance means any live exhibition, performance or dance by a person or persons in a state of dress in which opaque clothing covers no more than the areola of the female breast, the genitals or pubic region and anus, as well as portions of the body covered by straps or strings supporting that clothing.

Spirituous liquor includes brandy, rum, whiskey, gin, and all preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented, or malt liquors.

Tavern means any licensed premises that sells liquor by the drink which derives the majority of its annual gross sales from alcoholic beverages and does not qualify to be categorized as a resort, restaurant-bar, amusement place or place of entertainment as defined in this chapter.

Wholesaler is a person holding a license to sell intoxicating liquor or non-intoxicating beer to wholesalers or to retailers.

Wholesale dealer means any person engaged in the sale and distribution of intoxicating liquor

either directly or through an agent or agency soliciting orders therefore in quantities of one gallon or more.

Wine is a vinous liquor produced by fermentation of juices of grapes, berries or other fruits or a preparation of certain vegetables by fermentation and containing alcohol not in excess of 22 percent by volume.

Wine or brandy manufacturer—Domestic wine. A license issued pursuant to this chapter for the privilege of manufacturing wine or brandy shall be issued consistent with provisions of Section 311.190 RSMo and the definitions and provisions contained therein shall control.
(Ord. No. 2008-100, § 1, 10-14-2008)

ARTICLE II. CLASSIFICATION OF LICENSES AND LICENSE FEES

Sec. 10-2. License required; license categories; number of licenses; fees.

(a) *License required.* It shall be unlawful, without first obtaining a license therefore from the director or their designated liquor control specialist, for any person to:

- (1) Manufacture, sell, solicit orders for the sale of, or deliver, at wholesale or retail, alcoholic beverages; or
- (2) Permit the drinking of or consumption of alcoholic beverages in, on or at any premises where food, beverage, or entertainment is sold or provided for compensation and where the premises do not have a license issued by the state division of alcohol and tobacco control.

(b) *License categories, number of licenses, and fees.* The following categories of licenses are available, subject to the indicated restrictions on the total number of licenses which may be issued in each category, upon payment of the indicated fee and upon meeting all other requirements under this chapter for the issuance of such license:

- (1) Sale of nonintoxicating beer by the drink and on the premises: Three such licenses and a fee equal to one and one-half (1.5)

times the fee charged by the state division of alcohol and tobacco control per license.

- (2) Sale of nonintoxicating beer in the original package and not for consumption on the premises: Five such licenses and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (3) Sale of five percent malt liquor in the original package: Three such licenses and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (4) Sale of five percent malt liquor by the drink on the premises: Four such licenses and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (5) a. Sale of intoxicating liquor in the original package: 26 such licenses and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license, three of which shall be reserved exclusively for convenience stores with retail sales of gasoline, groceries, and food for consumption on the premises, with a minimum of 600 square feet dedicated solely to restaurant seating, and which display all intoxicating liquor for sale in the section of the store which is farthest from the main entrance as possible.
- b. Notwithstanding any foregoing provision of this section limiting the number of authorized licenses to the contrary, the director or their designated liquor control specialist, may also authorize the issuance of any license to sell five percent malt liquor in the original package, or intoxicating liquor in the original package, whenever the director or their designated liquor control specialist, finds and determines that the premises at which the liquor sales will take place contain a minimum of 20,000 square feet of retail floor space, of which not more than ten

percent will be devoted to the sale of alcoholic beverages in their original package. No establishment shall be licensed unless it conforms to the 300-foot separation requirement of this chapter, from any church or school.

- (6) Sale of liquor by the drink: Such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (7) Sale of Sunday liquor by the drink: Such number and type, including resort and seasonal resort licenses, as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (8) The sale of intoxicating liquor, on Sunday between the hours of 9:00 a.m. and 12:00 midnight, in the original package and not for consumption on the premises: 26 such licenses and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (9) Wine manufacturer's license: Such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (10) Caterer's license: Such number and type as may be licensed by the state department of alcohol and tobacco control, and licensed to sell liquor by the drink in the city, and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control for each calendar day or fraction thereof.
- (11) Six-day, five (5) percent beer, and light wine restaurant license: Sale of five percent malt liquor, or light wines containing not in excess of 14 percent alcohol by

weight, by the drink at retail for consumption on the premises, by any business licensed by the state division of alcohol and tobacco control for such sales. A fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control shall be charged for such license.

- (12) Microbrewery license, such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license authorizing the licensee to manufacture or brew malt liquor containing alcohol not in excess of five percent by weight or non-intoxicating beer, and in quantities not to exceed 10,000 barrels per year.
- (13) Railroad license, such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (14) Boat or vessel liquor by drink, such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.
- (15) Other licenses permitted by state law, including but not limited to wholesaler, solicitor, manufacturer, and caterer's licenses of such number and type as may be licensed by the state division of alcohol and tobacco control and a fee equal to a fee equal to one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-3. Wine manufacturer's license.

(a) Any applicant for a license to manufacture, sell or distribute wine or wine products shall certify in writing, to the director or their desig-

nated liquor control specialist, that the applicant is in full compliance with sections 311.190(1), (2), and (3) RSMo.

(b) Any manufacturer licensed under this section may purchase and sell bulk or packaged wines or brandies received from other manufacturers licensed under this section and may also purchase in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any day except Sunday, and a manufacturer licensed under this section may offer samples of wine, may sell wine and brandy in its original package, directly to consumers at the winery and may open wine so purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and midnight and on Sunday between 11:00 a.m. and 10:00 p.m.

(c) The violation of this chapter shall result in an automatic revocation of any license issued pursuant to this section.

(Ord. No. 2008-075, § 1, 7-28-2008; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-4. Microbrewery license.

The holder of a microbrewery license may apply to the director or their designated liquor control specialist for, and the director or their designated liquor control specialist may issue, licenses to sell intoxicating liquor by the drink in a restaurant where substantial quantities of food are sold on the brewery premises and in the original package for off-premises consumption. Every holder of a microbrewery license who applies for any sales-by-drink license shall furnish the director or their designated liquor control specialist, in addition to the application, a notarized statement signed by the applicant showing that at least 50 percent of the gross income for the year immediately preceding was derived from the sale of prepared meals or food consumed on the premises. An applicant who has not been in business one year but has been in business at least 90 days immediately preceding the application and shall furnish to the director or their designated liquor control specialist, a notarized statement signed by the applicant showing that at least 50 percent of the gross income during the

90-day period was derived from the sale of prepared meals or food consumed on the premises; provided, however, that the director or their designated liquor control specialist, may waive the 90-day period for a new business if a request for a waiver is filed with the director or their designated liquor control specialist, by the applicant and the request is supported by documentation that the business will produce 50 percent or more of its gross income from prepared meals or food consumed on the premises. If this waiver is granted, the applicant, after 90 days of operation, shall produce proof to the director or their designated liquor control specialist, that the sales percentage required has been satisfied, and, if not, any retail sales-by-drink license will be canceled by the director or their designated liquor control specialist, without refund. All other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold shall apply to the holder of a license issued under the provisions of this section, as they apply to establishments licensed under this code.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-5. Boat or vessel, liquor sale by drink, requirements, fee; boat defined.

(a) Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter and who meets the requirements of and complies with the provisions of this chapter may apply for and the director or their designated liquor control specialist, may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises of any boat, or other vessel licensed by the United States Coast Guard to carry one hundred or more passengers for hire on navigable waters in this state, which has a regular place of mooring in a location in this city or within two hundred yards of a location which would otherwise be licensable under this chapter. The license shall be valid even though the boat, or other vessel, leaves its regular place of mooring during the course of its operation. Gambling shall not be permitted on any such boat or vessel licensed under these provisions.

(b) For every license for sale of liquor by the drink at retail for consumption on the premises of any boat or other vessel issued under the provisions of this section, the licensee shall pay to the City of Branson the sum of one and one-half (1.5) times the fee charged by the state division of alcohol and tobacco control per license.

(c) No person holding a license under this section may sell or deliver intoxicating liquor or any other alcoholic beverage except during the period of time beginning one hour prior to the boat or vessel leaves its regular place of mooring during the course of its operation and continuing thereafter until a time ending one hour after the boat or vessel returns to its regular place of mooring.

(d) No person holding a license under this section shall be permitted to engage in the sale or delivery of liquor or any other alcoholic beverage on Sunday unless otherwise permitted by law. (Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 10-6—10-9. Reserved.

ARTICLE III. APPLICATIONS

Sec. 10-10. Application fee.

An application fee of \$250.00 shall accompany each application for an original license issued under this chapter. An application fee of \$50.00 shall accompany each application for a Sunday license issued under this chapter. The application fee is to cover the various costs incurred by the city in investigating and processing the applications. The application fee is not refundable. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-11. Forms and process.

(a) *Contents.* Any person desiring to obtain a license or permit under the terms of this chapter shall make application therefore to the director or their designated liquor control specialist, in writing, and under oath. Each question in the application blank shall be considered material to the

issuance of the license, and each question in the application shall be answered in full by the applicant. The applicant shall provide:

- (1) The name and residential address of the applicant managing officer, and if the application is on behalf of a partnership, the names and residential addresses of all partners or any person who has a financial interest in the partnership, as defined in section 311.060(4) RSMo. If the application is on behalf of a corporation, the date of incorporation, the state in which incorporated, the amount of paid-in capital, the amount of authorized capital, the names and residential addresses of the officers and directors, the name and address of the registered agent for the corporation and the names and addresses of all stockholders who hold ten percent or more of the capital stock shall be provided. If the application is on behalf of a limited liability company, the date of organization, the state in which organized, a copy of the operating agreement required by the state to qualify as a limited liability company, the amount of paid-in capital, the amount of authorized capital, the names and residential addresses of all the members and the name and address of the registered agent for the company shall be provided.
- (2) The place of birth of the applicant, and, if the applicant is a naturalized citizen, the date and place of naturalization.
- (3) The names and business addresses of the applicant's employers for a period of five years prior to the application.
- (4) A statement of whether or not the applicant has been convicted of a felony and whether or not the person is prohibited from holding a license under the provisions of RSMo 311.060.
- (5) A description and address of the proposed premises for which a license is sought.
- (6) A statement of whether or not the proposed premises are within 300 feet of a school or church.

- (7) The class of the license for which application is made.
- (8) A statement of whether or not any distiller, wholesaler, winemaker, brewer, or supplier of coin-operated, commercial, manual or mechanical gambling devices, or the employees, officers or agents thereof, has any financial interest in the retail business of the applicant for the sale of alcoholic beverages, and whether or not the applicant, either directly or indirectly, will borrow or accept from any person equipment, money, credit or property of any kind, except ordinary commercial credit for liquor sold.
- (9) A complete description of the plans, specifications and fixtures in the applicant's proposed place of business, if the application is for a retail license; provided, however, that this shall apply only when application is for a new location or a change in the plans for specifications within a previously established location.
- (10) A statement that the applicant will not violate any of the ordinances of the city, the laws of the state or the laws of the United States in the conduct of the business.
- (11) A comprehensive and informative statement, as the director or their designated liquor control specialist, may deem necessary, to disclose the true ownership and management of the business.
- (12) A statement from the finance division of the city that the applicant has paid all taxes due the city, including all penalties and interest, or does not owe any taxes to the city.
- (13) A certificate from the fire chief, director of planning and development and Taney County Health Department or their designee stating that with respect to the application the applicant is in compliance with the respective codes.
- (14) An affidavit disclosing the name and residential address of any person(s) who may take part in the management and control of the business, whether directly or indirectly.
- (15) Any additional information which the director or their designated liquor control specialist, may reasonably require to be fully informed for consideration of the issuance of a license or permit.
- (a) *Criminal history reports and photographs.* Every applicant for a license under this chapter shall furnish to the director or their designated liquor control specialist, two recent photographs, passport size, together with the application. If the applicant is a partnership, each partner that is an individual shall furnish a recent photograph. If the applicant is a limited liability company, each member that is an individual shall furnish a photograph. If the applicant is a corporation, the director or their designated liquor control specialist, in their discretion, may make similar requirements of the officers, directors and shareholders holding more than a ten percent interest in the corporation. The director or their designated liquor control specialist, or the police department shall obtain criminal history reports for each individual and shall charge each individual a fee in such amounts as shall be necessary to defray the cost of the city in obtaining criminal history reports for each individual.
- (b) *Execution by applicant.* Application for a license under this chapter shall be made by the individual who is to be, in fact, actively engaged in the actual control and management of the particular beverage or establishment for which the license is sought.
- (c) *Additional information for caterer's permit.* Applications for caterer's permits shall be filed with the director or their designated liquor control specialist, at least ten calendar days

prior to the scheduled function and the following shall accompany the application:

- (1) Description of location, with specific defined areas set forth.
 - (2) Copies of contracts between the applicant and sponsor of the function, occasion or event and the contract between the applicant and the person controlling the premises upon which the function, occasion or event is to take place.
 - (3) Any other information pertinent to the application.
- (d) *Priorities for issuance to new applicants.* Priority shall be given to new applicants for licenses under this chapter on the basis of the time the application is made. Any application which is incomplete for a period of 90 days after the date of filing with the director or their designated liquor control specialist may be disapproved by the director or their designated liquor control specialist. If an application is complete in all respects except for providing the director or their designated liquor control specialist, with certificates of compliance with building, fire, health and neighborhood codes, then the director or their designated liquor control specialist, may issue a letter notifying the applicant that the issuance of the license or permit will be approved contingent on providing the certificates to the director or their designated liquor control specialist. The director or their designated liquor control specialist may withdraw the letter if the director or their designated liquor control specialist determines that the delay in obtaining the certificates is a direct result of the applicant's action or inaction. An aggrieved applicant may

file a written request for a hearing before the board of aldermen as outlined in this chapter.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-12. Investigations.

(a) *Director's investigation.* The director or their designated liquor control specialist, shall immediately investigate the statements contained in each application for an original license or permit. In the case of any renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, the director or their designated liquor control specialist, may investigate the statements contained in such renewal application or other request made by an applicant, as well as the character, background, associates, and source of loans for the business to be licensed. The suitability of the location and surrounding conditions of the proposed premises shall also be investigated. Notwithstanding any other provision of this chapter, the director or their designated liquor control specialist, may convene a meeting to receive information from the applicant and citizens on any application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, as well as the character, background, associates, financial investments and indebtedness of the applicant.

(b) *Police investigation.* Upon receipt of an original application, The director or their designated liquor control specialist or the police department shall obtain criminal history reports for each individual and shall charge each individual a fee in such amounts as shall be necessary to defray the cost of the city in obtaining criminal history reports for each individual.

(c) *Investigations by fire, health, planning and building.* The director or their designated liquor control specialist may, at any reasonable time request the fire chief, director of planning and development and Taney County Health Department, through their duly authorized employees, to make investigations of licensed premises and the equipment and furnishings therein to deter-

mine if the premises are in compliance with all the requirements of the ordinances under the jurisdiction of these departments.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-13. False or incomplete information in applications.

(a) *False statements.* It shall be unlawful for any person, in obtaining or attempting to obtain a license under this chapter, to make any materially false statements in the application for a license.

(b) *Incomplete information.* It shall be unlawful for any person to fail to make a complete disclosure of all pertinent and material information required in the application for a license.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-14. Existing licensed locations.

(a) Application procedure. Whenever a license to sell alcoholic beverages subject to numerical limitation by this chapter shall be relinquished, abandoned, forfeited, revoked, or otherwise lost for any reason, except in the instance of the sale of an existing licensed business for the sale of alcoholic beverages, the provision for which license upon sale is provided in subsection (f) of this section, notice that such license is available for issuance shall be posted at city hall and advertised no less than once in a local newspaper of daily circulation. The notice shall state that applicants must apply in person at the office of the director on or before a date and time certain, and the newspaper publication shall be no more than 30 days nor less than 15 days prior to the last day upon which applications will be received. Applicants must be qualified to receive a city liquor license in all respects, except that no applicant will be required in advance to possess a liquor license issued by the state division of alcohol and tobacco control. No more than one application per business will be accepted.

(b) Applications will be date-stamped when received by the director or their designated liquor control specialist.

(c) At the advertised date and time, the city clerk shall select one applicant by a procedure of random selection for the opportunity to complete the application process. The remaining applicants will be likewise assigned a conditional order of priority of random selection in the event the first-selected applicant fails for any reason to obtain the necessary license from the state division of alcohol and tobacco control.

(d) The selected applicant shall have 90 days to apply for the requisite license from the state division of alcohol and tobacco control. Upon the granting of a license by the state and presentation of a copy of the license to the director or their designated liquor control specialist, the city shall thereafter issue its license to the selected applicant and the selected applicant shall immediately engage in business activities at the business location and remain open for the duration of the license period under the terms and provisions of this chapter.

(e) Upon issuance of the city license, the conditional priority list of applicants shall expire, and unsuccessful applicants shall have no vested right or priority to receive a liquor license in the future.

(f) Whenever an existing business selling alcoholic beverages licensed subject to the numerical limitation of this chapter shall be contracted for sale or sold, the purchaser of the existing business shall be given priority consideration to be issued the liquor licenses held by the seller, subject to the following:

- (1) The seller as current licensee will remain in active ownership and management control of the business and will remain responsible for the licensed premises until a license is issued to the buyer of the business by the director or their designated liquor control specialist and the state division of alcohol and tobacco control.
- (2) Any proposed sale must be contingent upon city and state approval of the proposed buyer's application for licensing.
- (3) The seller must notify in writing the director or their designated liquor control specialist of the sale of the existing busi-

ness. The notice must include the date of sale or closing on the transaction, and the identity of the purchaser in advance of the actual sale or closing of the transaction.

- (4) The purchaser must apply to the director or their designated liquor control specialist for consideration of the subject liquor license no later than ten days after the purchase of the seller's licensed business.
- (5) The purchaser must provide within 30 days after purchase of the seller's existing business proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes.
- (6) Upon proof of ownership of the seller's business and compliance with the requirements of subsection (f)(5) of this section, the director or their designated liquor control specialist, shall issue the liquor license previously held by the seller for the existing business to the purchaser as the new licensee.

(g) If either the seller or purchaser of an existing liquor business whose license is subject to the numerical limitation of this chapter fails to comply with any of the requirements of subsections (f)(1) through (6) of this section, then the director or their designated liquor control specialist, shall issue the subject liquor license surrendered by the seller upon the sale of the business in accordance with the procedures provided in subsections (a) through (e) of this section.

(h) No purchaser may operate the business purchased pursuant to subsection (f) of this section without all of the permits or licenses required pursuant to this chapter, this Code, and the requirements and regulations of the state division of alcohol and tobacco control.

(i) In the event of the failure of the seller and purchaser to actually consummate the proposed sale or close on the transaction on the date provided to the director or their designated liquor

control specialist, pursuant to this section, then the licenses surrendered by the seller shall be reissued to the seller by the director or their designated liquor control specialist.

(j) In the event of a default of the sales transaction by the purchaser, or if the business or transfer reverts for any reason to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed, then the director or their designated liquor control specialist, shall reissue the license surrendered by the seller pursuant to subsection (f) of this section to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed upon written application to the director or their designated liquor control specialist, within ten days of the date of the default or reversion of the transfer to the seller. The seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed shall have 30 days within which to provide proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed fail to file the written application or proof of compliance with the director or their designated liquor control specialist, as required, then the director or their designated liquor control specialist, shall reissue the licenses in accordance with the provisions of subsections (a) through (e) of this section.

(k) In the event of default by the purchaser or foreclosure of the mortgage lender or primary secured creditor pursuant to a security agreement, or if the business reverts for any reason to the mortgage lender or primary secured lender for the sales transaction of the business for which the liquor license was issued to the purchaser pursuant to subsection (f) of this section, then the director or their designated liquor control specialist, shall reissue the license surrendered by the seller pursuant to subsection (f) of this section to the mortgage lender or primary secured creditor pursuant to a security agreement upon written

application to the director or their designated liquor control specialist, within ten days of the date of the default, foreclosure, or reversion of the business or transfer to the mortgage lender or primary secured creditor. The mortgage lender or primary secured creditor shall have 30 days within which to provide proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the mortgage lender or primary secured creditor fail to file the written application or proof of compliance with the director or their designated liquor control specialist, as required, then the director or their designated liquor control specialist, shall re-issue the licenses in accordance with the provisions of subsections (a) through (e) of this section.

(1) In the event of assignment to a third party by the purchaser of the purchaser's rights, title, and interest to the business, or the sale, mortgage or transaction to the business for which the liquor license was issued to the purchaser pursuant to subsection (f) of this section, then the director or their designated liquor control specialist, shall reissue the licenses surrendered by the seller pursuant to subsection (f) of this section to the third-party assignee upon written application to the director or their designated liquor control specialist, within ten days of the date of the assignment. The third-party assignee shall have 30 days within which to provide proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the third-party assignee fail to file the written application or proof of compliance to the director or their designated liquor control specialist, as required, then the director or their designated liquor control specialist, shall reissue the license in accordance with the provisions of subsections (a) through (e) of this section.
(Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 10-15—10-19. Reserved.

ARTICLE IV. QUALIFICATIONS, ISSUANCE AND TERM

Sec. 10-20. Issuance and term.

The director or their designated liquor control specialist, is authorized to issue a license, as described in this article, to persons qualified by the state division of alcohol and tobacco control, provided such person shall comply with the following requirements:

- (1) *Compliance with applicable regulations.* No license shall be issued by the director or their designated liquor control specialist, unless the applicant has complied with all city codes, including but not limited to, those set forth by this chapter and state regulations and has paid the liquor license fees. No license shall be issued by the director or their designated liquor control specialist, unless the applicant has been issued a license by the state division of alcohol and tobacco control authorizing sales of liquor under provisions consistent with or substantially similar to those found within this code.
- (2) *Term.* All licenses issued pursuant to this article shall be for one year and shall expire, unless otherwise renewed, on June 30 of each year.
- (3) *Transfer to different location.* All such licenses issued by the director or their designated liquor control specialist, shall be issued to a specific business location and address and shall not be transferable to a different location without proof of compliance with all city codes and state regulations applicable to new liquor license applications.
- (4) *Nonactive businesses.* All such licenses shall be issued for purposes of a business as defined in this article, and shall not be issued to a nonactive business, or, if issued, shall be automatically revoked if the business shall fail to be opened to the public within 90 days or shall be closed for

a continuous period of 90 days. However, the director or their designated liquor control specialist, may extend such license for purposes of initial construction of building premises, or in the event of reconstruction, rebuilding, or repair of an existing business, for a reasonable amount of time.

- (5) *Lost or destroyed licenses.* If a license is lost or destroyed, the license will be replaced upon application therefore and payment of a replacement fee of five dollars to the city by the licensee. The director or their designated liquor control specialist may require information as to:
- (a) The date upon which the license was lost or destroyed.
 - (b) The circumstances under which the license was lost or destroyed.
 - (c) A request that a duplicate license be issued.
- (6) Pursuant to the provisions of RSMo 311.220, the director or their designated liquor control specialist, shall not fix an amount to be charged for any license issued under this chapter in excess of one and one-half (1.5) times the amount by law required to be paid into the state treasury for the issuance of a state permit or license.
- (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-21. Ineligibility.

No license or permit shall be issued to any applicant under this chapter that has failed to:

- (1) Pay any obligation due the city, including sales tax, real or personal property tax, or water/sewer bill; or any license tax, fee or assessment owed to the city; and/or
 - (2) Comply with any lawfully imposed building, health, safety or zoning code and/or ordinance.
- (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-22. Certain individuals prohibited.

No license provided for by this chapter shall be issued to any individual except in conformity with the following:

- (1) That the individual is to be in fact employed or actively engaged in the actual control and management of the particular alcoholic beverage or licensed establishment for which a license is sought.
- (2) That the individual is 21 years of age or over and a qualified voter of the state.
- (3) That the individual is of good moral character, and is qualified to hold an alcoholic beverage license in the state, and that the person has never been the holder of an alcoholic beverage license or permit which has been revoked by the city or the state.
- (4) That the individual is not disqualified under the provisions of the statutes of the state of Missouri.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-23. Certain partnerships prohibited.

No license provided for in this chapter shall be issued to any partnership unless all members of the partnership are persons who would be eligible for licenses as individuals under the provisions of this chapter, and no license shall be issued to any partnership, any partner of which, has been the holder of a license or permit which has been revoked by the city or the state.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-24. Certain corporations prohibited.

No license provided for in this chapter shall be issued to any corporation except in conformity with the following:

- (1) That all the officers and directors of the corporation are persons of good moral character.
- (2) That the managing officer of the corporation is a person who is eligible for a license as an individual under the provisions of this chapter.

- (3) That the corporation has not been the holder of a license or permit which has been revoked by the city or the state.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-25. Certain limited liability companies prohibited.

No license provided for in this chapter shall be issued to any limited liability company except in conformity with the following:

- (1) That all the members of the company are persons of good moral character.
- (2) That the managing officer of the company is a person who is eligible for a license as an individual under the provisions of this chapter.
- (3) That the company has not been the holder of a license or permit which has been revoked by the city or the state.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-26. Prohibited interest in license prohibited.

No license for the sale of alcoholic beverages at retail or no other license shall be issued to any individual, partnership, limited liability company or corporation in which any distiller, wholesaler, winemaker, brewer or supplier of coin-operated commercial, manual or mechanical gambling devices, or employees, officers or agents thereof, or any felon, has any financial interest or has furnished, directly or indirectly, equipment, money, credit or property of any kind except ordinary commercial credit for alcoholic beverages.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-27. State permit and license required prior to issuance of city license.

Before the issuance of a license under the provisions of this chapter, the applicant shall furnish satisfactory proof to the director or their designated liquor control specialist, that a permit and license has been issued by the state, under the provisions of RSMo Chapters 311 and 312, provided that the city may issue a temporary catering permit authorized under this chapter to a qualified eligible applicant before the state has

issued a state catering permit, same which shall not be valid for usage until such time as the state division of alcohol and tobacco control has issued and delivered its catering license to the licensee. If the privileges authorized under any license issued by the state division of alcohol and tobacco control to a licensee holding a similar city license are terminated, all the privileges authorized under the city license shall also immediately terminate; and it shall be unlawful for the licensee to fail, neglect or refuse to surrender the city license to the director or their designated liquor control specialist, upon proper notice by director or their designated liquor control specialist, to the licensee. If the license surrendered to the director or their designated liquor control specialist, is related to the sale of liquor on Sunday, it may be returned to the licensee if the privileges under the state license have been restored to the licensee prior to the expiration of the city license, and provided that no other cause exists not to return the city license.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-28. License required for consumption on premises.

It is unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor or non-intoxicating beer to permit the drinking or consumption of intoxicating liquor or non-intoxicating beer at the premises.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-29. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 10-30. Records of licenses and permits.

It shall be the duty of the director or their designated liquor control specialist, to keep a record of all licenses and permits issued to appli-

cants under this chapter, and of the suspension, revocation or other administrative actions taken with respect to said licenses and permits.
(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-31. Forms of applications, licenses and permits.

The director or their designated liquor control specialist, shall prescribe all forms of applications, licenses and permits in compliance with the provisions of this chapter, and all other forms as are necessary to carry out the provisions of this chapter.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-32. Authority of director to issue licenses and permits and make rules, regulations and orders.

The director or their designated liquor control specialist, is hereby authorized and empowered to issue licenses and permits provided for by this chapter for the manufacture or sale of alcoholic beverages, at wholesale or retail, and may issue the licenses to applicants who have complied with the terms of this chapter and have paid the necessary license or permit fees. The director or their designated liquor control specialist, shall have power to make reasonable policies and procedures as may be necessary and feasible, consistent with the provisions of this chapter.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-33. Inspection of licensed premises; impoundment of unlawful articles.

(a) The director, their designated liquor control specialist or any member of the police department, shall have the right, at any reasonable time, to inspect, and the licensee shall allow inspection, of any licensed premises and all portions of the buildings thereof, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards and attics and all buildings used in connection with the operations carried on under the license and which are in the possession, or control of the licensee, and all places where licensee may keep or store liquor, and to seize any and all objects which may appear to be in violation of any

provisions of this chapter and hold in custody the objects as evidence until any matter pertaining thereto is finally adjudicated. The adjudication of a violation will include the determination of whether the object seized under this chapter is contraband. Upon the seizure, a receipt shall be given and, upon demand, if not forfeited, objects shall be returned to their lawful owner after the matter is finally adjudicated unless the objects are found to be contraband. Other than contraband, objects not claimed by their lawful owner within 90 days after final adjudication shall be deemed forfeited.

(b) If the objects seized are forfeited or found to be contraband, they shall be delivered to the police department for storage or disposal. All contraband and unclaimed objects that have not been delivered to the police department for disposal, to the extent allowed by law, shall be sold by the director or their designated liquor control specialist, at public or private auction semiannually. All funds derived from the sales shall be deposited into the city's general fund to be expended as directed by the board of aldermen. The director or their designated liquor control specialist, shall have power to pay any fees required by the state or federal government as a result of the sale.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-34. Examination of books and records of licensees.

The director or their designated liquor control specialist, shall have the right to examine books, records and papers of each licensee or applicant for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, or for the purpose of confirming food and liquor sales and to hear and determine complaints against any licensee or applicant for a license. For these purposes, the director or their designated liquor control specialist, shall have the power to issue subpoenas and all necessary processes to subpoena witnesses; to compel by subpoena duces tecum the production of books, records, papers and other evidence; to administer oaths and to take testimony; and to make findings of fact

thereon and to report to the state supervisor of alcohol and tobacco control the results thereof; and may recommend to the state supervisor the suspension, revocation or cancellation of any license issued under the laws of the state. The director or their designated liquor control specialist, may request a hearing before the board of aldermen to suspend or revoke any license granted under the terms of this chapter, for the failure of the licensee to comply with the provisions of this section.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-35. Denial, suspension or revocation of license or permit.

(a) *Grounds.* Whenever it shall be shown or whenever the director or their designated liquor control specialist, has knowledge that:

- (1) A licensee or permittee under this chapter has not at all times maintained an orderly place;
- (2) The licensee or any employee, agent or servant of the licensee has violated any of the provisions of this chapter;
- (3) The license or permit issued under this chapter was obtained through materially false statements in the application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business;
- (4) The licensee or permittee failed to make a complete disclosure of all pertinent information in the application for original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter;
- (5) The licensee, since the issuance of the license, has ceased to be the person actually engaged in the active control and management of the particular establishment for which the license was issued;
- (6) Anything has occurred which would render the licensee or permittee or licensed premises ineligible or unsuitable for a

license or permit under the provisions of this chapter; then the director or their designated liquor control specialist shall, in the case of an application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, disapprove the application, or may, in the case of an existing license or permit issued under this chapter, request a hearing before the board of aldermen to consider whether to suspend for a period not to exceed 90 days, or revoke, the license or permit. The failure of any employee to secure a proper permit, as required by this chapter, shall be grounds for suspension or revocation of the retail license unless it can be shown by the retail licensee that the retail licensee had no knowledge of the violation and did not contribute thereto.

(b) *Effect of revocation.* Whenever any license or permit shall be revoked under the terms and provisions of this chapter, the licensee shall not thereafter be eligible for any license issued under this chapter. In addition, no license will be issued to the spouse, child (ren), step-child(ren), parent(s), step-parent(s), son-in-law or daughter-in-law, employee or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-36. Refusal to obey subpoena.

No person shall fail or refuse to obey all the terms and conditions of a subpoena issued by the director or their designated liquor control specialist or board of aldermen under this chapter and, upon conviction thereof, the person shall be punished as provided in this chapter.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-37. Temporary closing of premises.

Notwithstanding any other provision of this chapter, the director or their designated liquor

control specialist, shall have power to close for a period not to exceed 24 hours any premises which may be in the immediate area of a mob, riot, strike or any type of violence, actual or probable; provided, however, that he may not close a place under these circumstances without advising at the earliest possible time the city administrator or the mayor and board of aldermen; and provided, further, that the director or their designated liquor control specialist, may not close the place for two or more consecutive 24-hour periods, under the emergency police powers of the director or their designated liquor control specialist, without approval of the city administrator or the mayor.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-38. Failure to close premises during suspension of license or closing order.

Licensee shall maintain a closed place during the time of any license suspension, either by city or state action, or closing order. In addition, the licensee shall also be subject to further suspension or revocation of their license as provided in this chapter for failure to remain closed.

(Ord. No. 2008-100, § 1, 10-14-2008)

DIVISION 2. REVIEW BY BOARD OF
ALDERMEN

Sec. 10-39. Required hearings and review of director's actions by board of aldermen.

(a) If an application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter is disapproved by the director or their designated liquor control specialist, or the location of premises proposed to be used for the sale of alcoholic beverages is disapproved, then the applicant may file with the city clerk, a written request for a hearing before the board of aldermen on the denial or decision touching location, the request to be made by the applicant, within ten days after notice of the director's or their designated liquor control specialist's final

decision. The applicant, as the case may be, shall also serve a copy of said request on the director or their designated liquor control specialist.

(b) In the case of action by the director or their designated liquor control specialist, seeking to suspend or revoke a license or permit issued under this chapter, the director or their designated liquor control specialist shall:

- (1) File with the city clerk, a written complaint setting forth the reasons for suspension or revocation of the license or permit, and requesting a hearing before the board of aldermen to consider the action.
- (2) Serve a copy, leave a copy or by mailing by certified mail return receipt requested a copy of said request on the licensee or permittee personally or by leaving a copy at the licensed premises or by mailing a copy of the request to the licensee or permittee at his last known address.

(c) Upon the filing of a written complaint or request for a hearing before the board of aldermen as provided in this chapter, made within the time specified in this article, the board of aldermen shall, within 20 days after the receipt of the request, notify the director or their designated liquor control specialist and all other parties of the date, time and place for the hearing. The date of the hearing shall not be less than 20 days from the date the request was filed.

(d) Hearing procedures shall include but not be limited to the following:

- (1) The applicant or licensee shall have full right to have counsel, to produce witnesses and to cross examine all witnesses who may appear. All proceedings in the hearings shall be taken down stenographically, or recorded mechanically or electronically, or by a combination thereof, and shall be transcribed whenever required by law. Subpoenas shall be issued by the director or their designated liquor control specialist or board of aldermen for any witness whose presence is desired at any hearing or proceeding before the board of aldermen to suspend or revoke a license

or permit, or to issue or refuse a license or permit or renewal thereof, and the subpoena may be served by any person designated by the director or their designated liquor control specialist or board of aldermen, or by any member of the city police department. The subpoenas shall be served and return thereon shall be made in the same manner as is provided by law in civil suits in the circuit court of this state.

- (2) Witnesses may also appear voluntarily at the hearings and testify. Before testifying in any hearing or proceeding before the board of aldermen, all witnesses shall be sworn or affirmed to tell the truth and nothing but the truth.
- (3) With respect to a hearing before the board of aldermen in connection with the director's or their designated liquor control specialist's action on an application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of ownership or change in management or control of the business under this chapter or a hearing before the board of aldermen in connection with the director's or their designated liquor control specialist's action to seek suspension or revocation of a license or permit issued under this chapter, the board of aldermen shall issue its decision in writing within 30 days following the conclusion of the hearing unless the parties agree to an extension which shall not exceed an additional 30 days.
- (4) The decision of the board of aldermen shall include findings of facts and conclusions of law, wherein the board of aldermen may dismiss the complaint, or suspend or revoke a license or permit previously issued, or affirm or reverse the director's or their designated liquor control specialist, issuance or denial of an application for an original license, or renewal or transfer of an existing license or permit or remand the matter to the director or their designated liquor control specialist, for further administrative review

or action. The board of aldermen's decision shall be served upon all the parties in person or by registered or certified mail to the party's last known address. If the board of aldermen is not able to serve the decision notice upon a party in person or if any notice sent by mail is returned by the U.S. Postal Service, then the board of aldermen shall cause the notice to be posted at the principal entrance of the business or facility, and the posting shall constitute valid service. No suspension, revocation, or denial shall become effective until ten days after the decision has been issued by the board of aldermen. The board of aldermen may stay enforcement of its decision for a period of time not to exceed 30 days to allow for the filing of an appeal of the decision.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-40. Bond.

The person filing a request for a hearing before the board of aldermen, other than the director or their designated liquor control specialist, shall post at the time the request for hearing is filed, a cash bond in the amount of \$500.00 with the director to secure the costs of the review. A request for a hearing before the board of aldermen without the required bond, shall not perfect an appeal. The board of aldermen shall not have jurisdiction to conduct any hearing provided under this chapter unless a request for a hearing and the required cash bond are filed with the director or their designated liquor control specialist, within ten days after notice of the director's or their designated liquor control specialist's, final decision. The director or their designated liquor control specialist, shall forward the bond to the director of finance who shall deposit the cash bond in a separate fund known as "special deposits."

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-41. Liability for costs.

In determining liability for payment of costs in any hearing before the board of aldermen, the board of aldermen shall charge all costs to the city if the decision of the director or their designated

liquor control specialist, is reversed by the board of aldermen. If, however, the board of aldermen sustains any part of the director's or their designated liquor control specialist's decision, then the board of aldermen shall determine what part shall be paid by the city. If the board of aldermen shall sustain the decision of the director or their designated liquor control specialist in toto, then the entire cost of the hearing shall be paid by the applicant. The director of finance shall withdraw the amounts of the costs assessed to the person filing the request for the hearing, if any, from the \$500.00 deposited in the special deposits fund, and transfer that amount to the general fund. If after costs assessed to the person filing the request for the hearing, if any, are paid, the remaining amount, if any, of the \$500.00 deposit shall be refunded to the person filing the request for the hearing. The cost of a transcript of a hearing before the board of aldermen shall be paid by the party requesting the transcript.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-42. Judicial review of board decisions.

Following the issuance of a decision by the board of aldermen including but not limited to suspending or revoking a license or permit, or approving or disapproving an application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of ownership or change in management or control of the business under this chapter, the licensee or applicant, or the director or their designated liquor control specialist, may seek judicial review in a manner provided by law. The method of judicial review of any decision of the board of aldermen shall be as provided in RSMo Chapter 536.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-43. Informal disposition of contested cases.

Nothing contained in this chapter shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

(Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 10-44—10-49. Reserved.

ARTICLE VI. CONDUCT OF BUSINESS

Sec. 10-50. General requirements for all licensees.

(a) *Responsibility of licensee.* Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the provisions of this chapter or the regulations of the director or their designated liquor control specialist.

(b) *Duty to report.* In the event that any licensee or an employee of the licensee knows or should have known that an unlawful or violent act has been committed upon or about the licensed premises, the licensee, or the employee, shall immediately report the occurrence to the police department. The licensee and his employees shall cooperate with any law enforcement authority, agents of the state division of alcohol and tobacco control, and the director or their designated liquor control specialist, during the course of any investigation into the occurrence.

(c) *Licenses posted on premises.*

- (1) While doing any business during the time for which a city alcoholic beverage license has been granted, all licensees shall post and keep displayed the city, state, and federal licenses in a conspicuous place on the licensed premises so that any person visiting the premises may readily see the license, while the license is in effect. No licensee shall post the license or allow the license to be posted upon premises other than the premises licensed, or knowingly deface, destroy, or alter any the license in any respect.
- (2) A licensee shall also keep prominently displayed on the licensed premises, at all times while the city alcoholic beverage license is in effect, all federal tax stamps and state sales tax licenses, and county licenses, if applicable, issued to the licensee or to the licensed premises.

- (3) For purposes of this chapter, if alcoholic beverages are sold, stored, distributed or consumed on the premises, and a city alcoholic beverage license is not posted in the manner as provided by this section, it shall be prima facie evidence that the premises is not licensed.

(d) *Condition of premises.* All licensees shall at all times keep the licensed premises safe, clean and sanitary and in accordance with the applicable rules, regulations and ordinances of the city.

(e) *Telephone.* All licensees shall provide the number, including unlisted numbers, of any telephone of the business and for the managing officer used upon the licensed premises to the director or their designated liquor control specialist, which number(s) shall remain a part of the licensee's record. The licensee shall notify the director or their designated liquor control specialist, within five days, of the change of any telephone number upon the licensed premises.

(f) *Books and records.*

- (1) All licensees shall keep complete and accurate records pertaining to the business. The records shall include a complete and accurate record of all purchases and gross sales of alcoholic beverages, prepared meals and food. The records shall include the names and addresses of all persons from whom alcoholic beverages are purchased, the dates, kinds and quantities of the purchases, and the dates and amounts of payments on account.
- (2) All retail sales-by drink, restaurant or resort and sales-by-package licensees shall maintain on the licensed premises at all times a current record of licensee's employees, which shall list the name, address, social security number, job title or classification and date of employment for each employee, and which shall be made available for immediate inspection upon request of the director or their designated liquor control specialist or any member of the police department.
- (3) A licensee shall also keep all files, books, records, papers, state, county or city li-

censes, federal tax stamps, accounts and memoranda pertaining to the business conducted by the licensee, and shall also keep all records required by the director or their designated liquor control specialist. Upon request of the director, their designated liquor control specialist and auditors, a licensee shall, within 48 hours, allow an inspection and audit to be made by the director or their designated liquor control specialist, of the files, books, records, papers, state, county or city licenses, federal tax stamps and accounts and memoranda, and shall allow copies to be made and taken of them. All records required to be kept by law or by regulation of the director or their designated liquor control specialist, shall be kept and preserved for a period of two years from the date the record was made. A licensee shall establish and maintain a uniform system of bookkeeping and accounts, according to generally accepted accounting practices.

(g) *Distribution of earnings or assets.* Any licensee, upon request of the director or their designated liquor control specialist and for good cause, shall file within 30 days, an affidavit showing the payment, or other distribution of all earnings or assets and the name and address of all persons to whom distribution or payment was made. Information furnished pursuant to this provision shall be confidential, except that it may be used for the purpose of administration and enforcement of liquor control laws and ordinances.

(h) All licensees shall require any employee involved in the direct participation in retail sales of intoxicating liquor to participate in an alcohol education program, approved by the director or their designated liquor control specialist, offered by the city, any organization, or by any business, prior to or within three months of employment of the employee and the licensee shall maintain a record of the employee's participation in such program. For purposes of this section, the phrase "direct participation in retail sales" includes the duties of accepting payment, taking orders, delivering, mixing, or assisting in mixing or serving

intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, server, cashier, and sales clerk.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-51. Prohibited acts by all retail licensees.

(a) *Sales to minors or intoxicated persons.* No retail licensee, nor employee of the licensee, shall allow any alcoholic beverages to be sold, given or otherwise supplied upon the licensed premises to any person who is under of 21 years of age, or to a habitual drunkard, or to any person who is intoxicated or who is actually or apparently under the influence of alcoholic beverage.

(b) *Consumption by minors.* No retail licensee, nor employee of the licensee, shall allow any person under 21 years of age to consume alcoholic beverages upon the licensed premises.

(c) *Sale for off-premise consumption.* No retail licensee, nor employee of the licensee shall sell for off-premise consumption any glass bottle containing more than 30 ounces of malt liquor or nonintoxicating beer that is chilled or refrigerated to a temperature that is below room temperature of the licensed premises, except as otherwise permitted by state law. No sale or purchase of product shall be permitted off the licensed premises.

(d) *Serving or delivering in vehicles.* No retail licensee, nor employee of the licensee, shall sell or serve any alcoholic beverage to any person while the person is operating or is a passenger in or on any motor vehicle. It shall be unlawful for the holder of any license authorized by this chapter to permit the sale of intoxicating liquor at retail, either in the original package or for consumption on the premises where sold, to supply, sell or permit to be sold any intoxicating liquor through any drive up or walk up window or facility where the customer or person receiving the intoxicating liquor is not required to enter the premises of the licensee.

(e) *Prostitution.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any act of prostitution as defined

in the prostitution chapter of the Missouri Criminal Code, including the solicitation for prostitution.

(f) *Unauthorized sale of property.* No retail licensee, nor employee of the licensee, shall allow any person to offer for sale or sell any personal property upon the licensed premises unless the sale of the property has been authorized by the licensee or the manager or person in charge of the licensed premises.

(g) *Disorderliness, indecency or obscenity.* Upon the licensed premises, no retail licensee, nor employee of the licensee, shall:

- (1) Fail to immediately prevent or suppress any violent quarrel or disorder, brawl, fight or any other act or conduct prohibited or declared to be unlawful by this chapter.
- (2) Allow language, conduct or songs calculated to provoke a breach of the peace, or obscene literature, entertainment or advertising material.
- (3) It shall be unlawful for any entertainer or performer to perform an obscene, indecent, immoral, lewd or lascivious dance in any establishment where a license has been issued under this chapter. Any entertainer or performer who shall perform any dance in any such establishment which does not conceal the genitals, pubic region, anus, or areola shall be presumed to have performed such a dance in violation of this section and the owner or operator shall be presumed to have permitted the violation, said presumption which may be rebuttable.
- (4) Allow any person to be unclothed, or in less-than-opaque attire, costume or clothing, so as to expose to view human genitals, pubic region or pubic hair, or anus, areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered, except as otherwise provided by this chapter.
- (5) Allow the performance of any acts of sexual conduct, including actual, normal or

perversed acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact in an act of sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of the female; or any sadomasochistic abuse or acts including animals or latent objects in an act of apparent sexual stimulation or gratification, as the terms are defined in the pornography and related offenses chapter of the Missouri Criminal Code.

- (6) Allow the display of films or videotapes showing persons unclothed as described in subsection (g)(4) of this section, or allow the display of pictures, films, videotapes or other material depicting acts prohibited by subsection (g)(5) of this section.

(h) *Storing off-licensed premises.* No retail licensee shall store any alcoholic beverage off or outside of the licensed premises unless written request therefore is filed with the director or their designated liquor control specialist, and written approval is issued by the director or their designated liquor control specialist; except that a licensee may store alcoholic beverages in a bonded warehouse or central warehouse, if he or she has first notified the director or their designated liquor control specialist in writing of his intention to do so.

(i) *Unlicensed beverages on premises.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any alcoholic beverages except the types the licensee is licensed to sell upon those premises, provided however a consumer may bring upon the premises such quantities of the intoxicating liquor as may be consumed by the consumer and their guests, so long as the licensee does not take charge of the intoxicating liquor nor retain any of said intoxicating liquor upon the premises and during which time the licensee may charge a fee for uncorking or allowing the patron to consume their intoxicating liquor on the licensed premises.

(j) *Illegal drugs.* No retail licensee, nor employee of the licensee, shall possess, store, sell or offer for sale, give away, distribute or deliver any

controlled substance or illegal drug or narcotic, as defined in the Missouri Comprehensive Drug Control Act, or similar statutes, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

(k) *Illegal gambling.* No retail licensee, nor employee of the licensee, shall participate or engage in illegal gambling or violate any federal or state laws in connection with gambling, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises. The operation or possession of any unlawful gambling device in or upon the premises where intoxicating liquor is sold, either in the original package or for consumption on the premises, shall be grounds for the revocation or suspension of the license and no licensee shall permit any illegal gambling device to be set up or used in or about such premises.

(l) *Illegally purchased alcoholic beverages.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any alcoholic beverage which he has purchased or secured in violation of any city ordinance, or local, state or federal law.

(m) *Entertainment on premises.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any form of entertainment unless written application therefore is filed with the director or their designated liquor control specialist and written approval, which shall be liberally construed, is issued by the director or their designated liquor control specialist. The term "entertainment," as used in this chapter, shall include but shall not be limited to jukeboxes, pool tables, video and pinball machines, live musicians, semi nude dancing, and stage shows or contests.

(n) *Drink specials prohibited.* No licensee or employee of the licensee shall:

- (1) Offer for sale beer or intoxicating liquor of any type at less than the cost of the beer or liquor to the licensee; or
- (2) Sell, offer to sell or deliver to any person an unlimited number of drinks containing

beer or intoxicating liquor of any time during a set period of time for a fixed price; or

- (3) Encourage or permit on the licensed premises any game or contest which involves drinking or awarding any drinks containing beer or intoxicating liquor of any type during any 24 hour period.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-52. Hours, days of sale for all retail licensees.

(a) *Hours, days of sales.* No retail licensee, nor employee of the licensee, shall sell, give away or otherwise dispose of any alcoholic beverages or suffer the same to be done on or about the licensed premises:

- (1) Between the hours of 12:00 midnight Monday morning and 6:00 a.m. Monday morning;
- (2) Between the hours of 1:30 a.m. and 6:00 a.m. Tuesday through Saturday.
- (3) Between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday unless the licensee shall possess a license authorizing sales on Sunday and in that event, no licensee shall sell, give away or otherwise dispose of alcoholic beverages on the licensed premises between the hours of 1:30 a.m. Sunday and 11:00 a.m. Sunday.

(b) When January 1, March 17, July 4 or December 31 falls on a Sunday, and on the Sundays prior to Memorial Day, Labor Day and on the Sunday on which the national championship game of the national football league is played, commonly known as "Super Bowl Sunday," any person having a license to sell alcoholic beverages by the drink may be open for business and sell alcoholic beverages by the drink under the provisions of their current license starting at 9:00 a.m. until 1:30 a.m. Monday morning.

(c) Whenever hours of time are set forth in this chapter, they shall be interpreted to mean clock time which shall be either Central Standard Time or Central Daylight Time, whichever is then being observed.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-53. Closed place.

The premises of any licensee shall be a closed place with all doors locked and no persons upon the premises, on all days and at all times during which the sale of alcoholic beverages is prohibited by this chapter, or not permitted by the license, except under the following conditions:

- (1) If the license authorizing the sale of alcoholic beverages is held by a club, hotel or motel, the licensee may remain open if all alcoholic beverages previously dispensed to customers are removed from the customers, and all refrigerators, cabinets, cases, boxes and taps from which alcoholic beverages may be dispensed are and remain securely locked. The removal of alcoholic beverages from customers shall not apply to alcoholic beverages sold or served to guests in private guest rooms.
- (2) If the license authorizing the sale of alcoholic beverages is held by a restaurant where substantial quantities of food are served, the licensee may remain open for the purpose of serving food if all alcoholic beverages previously dispensed to customers are removed from all customers, and all refrigerators, cabinets, cases, boxes and taps from which alcoholic beverages may be dispensed are and remain securely locked, and the director or their designated liquor control specialist, has been notified in writing of the extended opening at least 30 days in advance of the extension.
- (3) The licensee, or any employee of the licensee, may enter or remain upon the premises for a reasonable time period while actually engaged in cleaning, maintenance, or routine closing or opening activities.
- (4) The licensee, or any employee of or other person authorized by the licensee, may enter or remain upon the premises pursuant to and for the purposes of temporary work or construction upon a written request filed with the director or their designated liquor control specialist and a permit granted by the director or their

designated liquor control specialist. The permit shall state the nature of the work or construction to be performed, the name of each person authorized to perform the work or construction and the days and hours for which the permit shall be valid.

- (5) The licensee, or any employee of or other person authorized by the licensee, may enter or remain upon the premises for purposes of providing security, upon a written request filed with the director or their designated liquor control specialist, and a permit granted by the director or their designated liquor control specialist. The permit shall state the name of each person authorized to enter or remain upon the licensed premises for that purpose.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-54. Prohibited acts on sales-by-drink premises.

(a) Upon the licensed premises of a sales-by-drink licensee, no licensee, nor any employee of the licensee, shall:

- (1) Allow alcoholic beverages to be brought into or upon the premises by customers, provided however a consumer may bring upon the premises such quantities of intoxicating liquor as may be consumed by the consumer and their guests, so long as the licensee does not take charge of the intoxicating liquor nor retain any of said intoxicating liquor upon the premises and during which time the licensee may charge a fee for uncorking or allowing the patron to consume their intoxicating liquor on the licensed premises;
- (2) Allow any person to remove from the premises any alcoholic beverage provided for consumption on the premises except as provided for in subsection (b) below;
- (3) Sell, give away or serve water, soda water, phosphates or any other kind of liquid to be used for the purpose of mixing intoxicating drinks, commonly referred to as "setups;"

- (4) Allow any customer, while in or upon the premises, to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer, malt, phosphates or any other kind of liquid or other liquor;
- (5) Allow any person to drink or consume any alcoholic beverage directly out of any bottle, if the volume size of the bottle exceeds 16 ounces, or if the alcohol content of the beverage exceeds 15 percent, by volume;
- (6) Allow any employee directly participating in the sale of alcoholic beverages to consume any alcoholic beverage;
- (7) Allow any employee directly participating in the sale of alcoholic beverages to sit at any bar or table with any customer except for a reasonable period of time while actually engaged in taking a food or drink order;
- (8) Give away alcoholic beverage to any intoxicated customer;
- (9) Sell any alcoholic beverage at retail for less than the price paid at wholesale;
- (10) No persons licensed pursuant to this chapter shall permit a public nuisance to exist on the licensed premises.
- (11) No person shall offer for sale any malt liquor or other intoxicating liquor brewed by one manufacturer in substitution for another such brewer or manufacturer.
- (12) It shall be unlawful to display in any street window or show window any intoxicating liquor, or any package, bottle, or container bearing the label or brand of any intoxicating liquor or non-intoxicating beer.
- (13) No person shall misrepresent any fact, material or otherwise, in the process of obtaining a license from the city.
- (14) No person shall violate any rule or regulation of the state division of alcohol and tobacco control.

(15) No person shall fail to close any business licensed during those hours for which sales are prohibited except as provided within this chapter.

(b) Unfinished bottles of wine may be carried out of a licensed establishment, when—transportation permitted—wineries, unfinished bottles of wine may be removed, when—transportation permitted—definition of winery.

- (1) Notwithstanding any other provision of law, it shall not be unlawful for the owner, operator, or employees of a restaurant, bar or resort licensed under this chapter, to allow patrons to carry out one or more bottles of unfinished wine, nor shall it be unlawful for patrons of such restaurant bar to carry out one or more bottles of unfinished wine under the following conditions:
- a. The patron must have ordered a meal;
 - b. The bottle or bottles of wine must have been at least partially consumed during the meal;
 - c. The restaurant, bar or resort licensed under this chapter must provide a dated receipt for the unfinished bottle or bottles of wine; and
 - d. The restaurant, bar or resort licensed under this chapter must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.
- (2) Notwithstanding any other provision of law, including but not limited to, section 10-86, no person who transports one or more bottles of unfinished wine which came from a restaurant, bar or resort licensed under this chapter under the circumstances described in subsection (1) 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, tamperproof, transparent bags with the seals intact.

- (3) 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 or more bottles of unfinished wine and it shall be lawful for patrons of such winery to carry out one or more bottles of unfinished wine under the following conditions:
- a. The bottle or bottles of wine must have been at least partially consumed at the winery;
 - b. The winery must provide a dated receipt for the unfinished bottle or bottles of wine; and
 - c. The winery must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.
- (4) Notwithstanding any other provision of law, including but not limited to, section 10-86, no person who transports one or more bottles of unfinished wine which came from a winery under the circumstances described under subsection (3) 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, tamperproof, transparent bags with the seals intact.
- (5) As used in this section "winery" means any establishment at which wine is made.
- (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-55. Semi-nude dancing.

(a) *Application.* No licensee shall allow semi-nude dancing upon the licensed premises unless the premises are properly zoned for such activity and written approval is issued by the director or their designated liquor control specialist.

(b) *Standards of conduct—Licensee.* No licensee, nor employee of the licensee, shall allow any person to perform any semi-nude dance upon the licensed premises unless the following conditions are met:

- (1) Any semi-nude dance must be performed upon a stage that is separated at every point by at least three feet from the nearest seated customer;
- (2) The stage must contain no less than 50 square feet of surface and be at least 18 inches above the immediately adjacent floor level;
- (3) The stage must be located at a place upon the licensed premises where any semi-nude dance is not visible from outside the premises;

(c) *Semi-nude dancer.* No person shall perform any semi-nude dance upon the licensed premises unless the following standards of conduct are met:

- (1) While performing a semi-nude dance, the dancer shall not display pubic hair, the anus, genitals or a pubic region, or any portion of the areola of the female breast;
- (2) The dancer may perform a dance for a customer or customers while not present upon the stage described by subsection (c) of this section, but shall not intentionally touch any customer while performing a dance, and when not present upon the stage, the dancer shall not be unclothed, or in a less-than-opaque attire, costume or clothing, so as to expose to view human genitals, pubic region or pubic hair, or anus, female breast or breasts below a point immediately above the top of the areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered;
- (3) The dancer shall not receive any payment or gratuity from any customer unless the payment or gratuity is placed into the dancer's hand, under a leg garter worn by the dancer located at least four inches below the bottom of the pubic region, or on the stage;

- (4) No dancer shall dance with any customer;
- (5) No dancer shall knowingly touch any specified anatomical area of another person, or allow another person to touch any specified anatomical area of the dancer; or no dancer shall knowingly fondle or caress any specified anatomical area of another person, whether the area is clothed, unclothed, covered or exposed, or allow another person to fondle or caress any specified anatomical area of the dancer, whether the area is clothed, unclothed, covered or exposed.

(d) *Responsibility of licensee and dancer.* Any person performing as a semi-nude dancer on the licensed premises shall be construed to be an employee of the licensee for purposes of this section.

(e) *Standards of conduct; customer.* No customer shall knowingly or intentionally touch, fondle or caress any specified anatomical area of any dancer, whether the area is clothed, unclothed, covered or exposed.

(f) For purposes of this section, specified anatomical areas shall be defined as human genitals, pubic region or pubic hair, or anus, female breast or breasts below a point immediately above the top of the areola.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-56. Package sales licenses; prohibitions and requirements.

(a) No package sales licensee, nor employee of the licensee, shall permit any person to consume alcoholic beverages upon the licensed premises, provided that the licensee may allow wine malt beverage and distilled spirit tasting on the licensed premises on the dates and at the times set forth in the state permit and city permit allowing the licensee to do so on the licensed premises and provided that the licensee display the state and city permit on the premises in the same manner required for other licenses and permits issued under this chapter. The annual fee for the city testing is one and one-half (1.5) times that amount of the fee charged by the state division of alcohol and tobacco control for such a license.

(b) No package sales licensee, nor employee of the licensee, shall sell, dispense or give away any alcoholic beverages upon the licensed premises except in the original package.

(c) No malt liquor or nonintoxicating beer package sales licensee, nor employee of the licensee, shall possess or permit alcoholic beverages, other than those allowed for sale by the license, upon the licensed premises.

(d) A package sales licensee whose place of business remains open on days or during the hours when the sale of alcoholic beverages is prohibited shall, during the times as sale is prohibited, segregate alcoholic beverages in a storage space inaccessible to the public, or cover or enclose alcoholic beverages by means of a slip cover constructed from substantial material and secured in a manner whereby the public shall not have access.

(e) No package sales licensee, nor employee of the licensee, shall sell or give away any drug, or controlled substance to any person, provided that nothing in this section shall prohibit the licensee, any of its employees or any other person from possessing or using a drug, medicine or controlled substance in a lawful manner, provided that this shall not apply to a licensee lawfully doing business as a pharmacy duly licensed under state or federal law or a licensee with an average of 80 percent or more of its total gross receipts from nonalcohol and nondrug sales.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-57. Prohibited acts by customers or other persons upon the licensed premises.

(a) No customer or other person shall bring any alcoholic beverage upon the licensed premises of any licensee, except as otherwise authorized by this chapter. This subsection shall not be construed to prohibit any of the acts described in section 10-54(a) and (b) in any private guest or dining room of a licensed hotel, motel, resort or club.

(b) No customer or other person shall remove from the licensed premises of a sales-by-drink licensee any alcoholic beverage provided for consumption on the premises, except as provided in section 10-54 (b).

(c) No customer or other person shall consume any alcoholic beverage upon the premises licensed for package sales, unless a tasting license exists for the premises.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-58. Orders or sales off licensed premises.

(a) No retail licensee, nor employee of the licensee, shall sell alcoholic beverages in any place other than that designated on or otherwise authorized by the license.

(b) No retail licensee, nor employee of the licensee, shall take any order off the licensed premises for the sale of alcoholic beverages at retail even though the orders are filled and delivery thereof made on the licensed premises.

(c) Exceptions.

- (1) Nothing in this provision shall be construed to prevent any hotel, motel or club from serving any alcoholic beverage to any guest in any private guest room, if the alcoholic beverage is served from a licensed premises within the hotel, motel or club, or from selling alcoholic beverages in a private guest room from a controlled access liquor cabinet system.
- (2) Nothing in this provision shall be construed so as to prevent a licensee who has been issued a temporary catering permit under the provisions of this chapter from furnishing alcoholic beverages and services at a location other than the licensed premises, pursuant to the permit.
- (3) Nothing in this provision shall be construed so as to prevent a retail licensee from delivering alcoholic beverages in the original package or container to a location off or outside of the licensed premises, if:
 - a. The delivery is received by a person to whom alcoholic beverages may be sold, as provided by section 10-57(a);
 - b. If the alcoholic beverages are ordered and paid for, in person, on the licensed premises;

- c. The delivery is made during the hours and days of sale allowed for the licensee, as provided by section 10-52; and
- d. The licensee has filed a written request with the director or their designated liquor control specialist and received prior written permission from the director or their designated liquor control specialist.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-59. Contents of bottles, cans, containers; prima facie evidence.

(a) No retail licensee shall possess, give away or sell, upon the licensed premises, any alcoholic beverage that is not contained in or originally poured from any bottle or other container unless there is a manufacturer's label showing the existence of an alcoholic beverage or alcoholic content on the bottle or container.

(b) No retail licensee may bottle any alcoholic beverage from any barrel or other container nor may he refill or add any substance to the contents of any alcoholic beverage bottle from any barrel or other container, unless the licensee holds and is acting under the provisions of a microbrewery license.

(c) It shall be prima facie evidence, for purposes of this chapter, that any container on which the manufacturer's label sets forth an alcoholic beverage, or an alcoholic content, and on which the original seal is not broken, shall contain the alcoholic beverage or the alcoholic content set forth on the manufacturer's label.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-60. Wholesaler's sales and deliveries to retail alcoholic beverage licensees.

No wholesaler licensed under this chapter, nor employee of the licensee, shall sell to any person in the city or deliver alcoholic beverages of any kind to any premises in the city unless there is displayed prominently on the premises a city alcoholic beverage license for the current license year.

(Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 10-61—10-69. Reserved.

ARTICLE VII. MINORS

Sec. 10-70. Employment of minors and sales by minors.

Pursuant to RSMo 311.300, 11 CFR 70-2.140 and this chapter, licensees approved by the state supervisor of alcohol and tobacco control may employ minors under the following conditions:

- (1) Sales-by-drink. Persons 18 through 20 years of age may be employed to work on the premises if they do not sell, assist in the sale of, dispense, serve or deliver alcoholic beverages to any person.
- (2) Resort sales-by-drink and restaurant-bar licensees.
 - (a) Sales-by-drink and resort licenses without substantial quantities of food. Such licensee may employ persons 18 through 20 years of age to work on the premises if the persons do not sell, assist in the sale, dispense, serve or deliver alcoholic beverages to any person.
 - (b) Persons 18 through 20 years of age may be employed by such licensees whose premises qualify as a restaurant-bar or resort restaurant, to work on the premises as waiters or waitresses. Minors so employed may serve and accept payment for alcoholic beverages, but may not mix or serve alcoholic beverages across the bar.
 - (c) Persons 16 and 17 years of age may be employed by such licensees to work on the premises if they do not sell, assist in the sale of, dispense, serve or deliver alcoholic beverages to any person. Licensees employing persons 16 or 17 years of age under this subsection shall, prior to employing the minor, require his or her parents or legal guardian to give their written consent to the employment, in a manner and form approved by the director or their des-

ignated liquor control specialist. In addition to placing the minor's name in the register of employees, the consent and proof of the minor's age shall be maintained on file by the licensee and shall be available for inspection, at any time, by the director, their designated liquor control specialist or the police department during the minor's term of employment. An authentic birth certificate, hospital birth record, religious record or public school record shall be adequate proof of the minor's age. In an emergency, a minor may be employed, without the required consent, for a period not to exceed 48 hours.

- (3) Original package sales licensees without 50 percent gross sales of other merchandise. Persons 18 through 20 years of age may be employed by original package licensees without 50 percent gross sales of other merchandise to work on the premises to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages, so long as there is an employee of licensee, not less than 21 years of age, upon the licensed premises during all hours of operation. Minors employed under this subsection may not deliver alcoholic beverages away from the licensed premises.
- (4) Original package sales licensees with 50 percent of gross sales other merchandise. Persons 18 through 20 years of age may be employed by original package sales licensees to work on the premises to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages if at least 50 percent of the gross sales made consists of goods, merchandise or commodities other than alcoholic beverages. Minors employed under this subsection may not deliver alcoholic beverages away from the licensed premises.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-71. Sales-by-drink premises; minors on premises.

No sales-by-drink licensee, nor employee of the licensee, shall permit a person under 21 years of age to enter or remain upon the licensed premises, except that this prohibition shall not apply to:

- (1) A sales-by-drink licensed premises which qualifies as a restaurant-bar or resort as defined by section 10-1, so long as no person is semi-nude or performs semi-nude dance on the premises, provided however that such establishment shall not permit any person under the age of 21 years of age to be on the licensed premises after 12:00 midnight unless accompanied by a parent or lawful guardian; or
- (2) A person between 18 and 21 years of age providing or assisting in providing entertainment upon the licensed premises; or
- (3) A person accompanied by parent or lawful guardian, so long as no person is semi-nude or performs semi-nude dance on the premises; or
- (4) A sales-by-drink licensed premises whose total alcohol sales is no greater than 50 percent of total gross sales for the establishment, such as golf courses, bowling alleys, and theaters, so long as no person is semi-nude or performs semi-nude on the premises.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-72. Purchase or possession by minors.

- (a) (1) It shall be unlawful for any person under 21 years of age to purchase alcoholic beverages.
- (2) No person under 21 years of age shall have either in his possession or on his person any alcoholic beverages, except for medical purposes only, administered by a duly licensed physician as provided under RSMo Chapter 311.
- (3) No person under 21 years of age shall operate, ride or sit in any vehicle that

contains any alcoholic beverages except when the minor is accompanied by a parent or lawful guardian.

- (4) No person under the age of 21 years shall purchase or attempt to purchase or have in their possession any intoxicating liquor or non-intoxicating beer

(b) For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor or non-intoxicating beer to a person under the age of 21 years of age, a manufacturer - sealed container describing there is intoxicating liquor or non-intoxicating beer contained therein, need not be opened or the contents tested to verify that there is intoxicating liquor or non-intoxicating beer in such container.

(c) The alleged violator may allege that there was not intoxicating liquor or non-intoxicating beer 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 or non-intoxicating beer therein contains intoxicating liquor or non-intoxicating beer.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-73. Entrance on licensed premises.

No person under 21 years of age shall enter or remain on the licensed premises of any licensee issued under this chapter, except as otherwise provided by this chapter.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-74. Misrepresentation of age for purpose of obtaining alcoholic beverages.

It shall be unlawful for any person under 21 years of age to misrepresent his age or make a use statement willfully about his age to anyone for the purpose of purchasing or in any way obtaining alcoholic beverages. Except as permitted by law, any person between 17 and 21 years of age violating the provisions of this section and upon conviction thereof shall be punished by a fine of not less than \$100.00. Any person under the age of 17 who shall represent that they have attained the age of 21 years of age for the purpose of

purchasing, asking for in any way, or receiving any intoxicating liquor or non-intoxicating beer, except as authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of RSMo Chapter 211. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-75. Acquisition for minors.

It shall be unlawful for any person to obtain, convey, supply, make available or deposit alcoholic beverages in any place where the person knows, or by the exercise of reasonable care should know, that a person under 21 years of age is likely to come into possession of the alcoholic beverages, except that a parent, a legal guardian, or a duly licensed physician may obtain and supply alcoholic beverages to a person under 21 years of age for medical purposes only. Any person violating the provisions of this section and upon conviction thereof shall be punished by a fine of not less than \$100.00.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-76. Knowingly allowing minors to consume intoxicating liquor.

It shall be unlawful for any owner, occupant or other person or legal entity with the right to permit use and enjoyment of any property, except for a parent or guardian, to knowingly allow any person under the age of 21 years to consume intoxicating liquor on such property or to knowingly fail to stop any person under the age of 21 years from consuming intoxicating liquor on such property.

(Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 10-77—10-79. Reserved.

ARTICLE VIII. GENERAL PROVISIONS

Sec. 10-80. Possession of illegal liquor.

No person shall possess intoxicating liquor within the city unless the same has been acquired from some person holding a duly authorized license to sell same or unless the intoxicating liquor is had or kept with the permission of the state supervisor of alcohol and tobacco control and the package in which the intoxicating liquor

is contained and from which it is taken from consumption has, while containing intoxicating liquor, been labeled and sealed prepared and manufactured under the state law and regulations made there under. Nothing in this section shall be so construed as to prohibit the natural fermentation of fruit juices or to manufacture non-intoxicating beer or intoxicating liquor in the home for the exclusive use of occupants of the home and their guests, not to exceed quantities set forth by RSMo 311.055.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-81. Drinking in public.

(a) Except at the location of a special event authorized pursuant to Appendix A to this Code (the zoning regulations), or where specifically authorized pursuant to a state division of alcohol and tobacco control liquor license or permit, the consumption by any person, either in a vehicle or otherwise, of any intoxicating beverages, including beer, whether it is three and two-tenths (3.2) percent alcohol or otherwise, wines or intoxicating liquors, upon any public street, highway, thoroughfare, sidewalk, alley, or public or private parking lot, or upon any private property without the permission of the owner or occupant of such property other than an establishment specifically licensed to sell beer or intoxicating liquors is hereby declared to be unlawful.

(b) No owner or occupant of property shall permit a person to consume any intoxicating beverages, including beer, whether it is three and two-tenths (3.2) percent alcohol or otherwise, wines or intoxicating liquors upon their property open to the public, or upon a private parking lot by a person without permission, except at the location of a special event authorized pursuant to Appendix A to this Code (the zoning regulations), or where specifically authorized pursuant to a state division of alcohol and tobacco control liquor license or permit

(c) This section 10-81 shall not apply to the City of Branson Lakeside RV Park, and the consumption of alcoholic beverages by those persons who rent camping spaces from the City of Branson Lakeside Park, nor to their family or guests.
(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-82. Public nuisances prohibited.

No person shall permit a public nuisance to exist involving intoxicating liquor, beer or wine on their property.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-83. Enforcement of nuisance regulations.

The city attorney is directed to file injunctions in the event of a nuisance on the premises of a licensed person or unlicensed property owner. With respect to a licensee, a finding that such condition is a nuisance shall result in the revocation of the license.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-84. Renting premises for illegal sale.

No person shall knowingly let or lease to another any room, house or other building or premises for the purpose of being used and kept as a place for the illegal sale of intoxicating liquors, and every person, after having been informed by the law enforcement agency of the city that such room, house, building or premises let or leased by him is being used for any of such purposes by the lessee or by any other person, shall immediately evict or oust lessees or other persons so using such room, house or building.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-85. Proximity to church or school.

No license under this chapter shall be issued to any person for any establishment located within 300 feet of a school or church or other building primarily used as a place for religious worship, measured from the nearest point of the enclosing wall of the premises to be licensed to the nearest point of the exterior wall of the church, school or building, provided however that once a license has been issued, when a school, church or place of worship is established within the prohibited distance from the place of business licensed, the license shall not be thereafter denied for this reason.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-86. Open containers of alcoholic beverages in motor vehicles.

No person shall consume any alcoholic beverages or have, possess, carry or transport any such alcoholic beverages within the passenger area of any motor vehicle. This provision shall not apply to liquor in the original container with the seal unopened or container unopened. Furthermore, this section shall not apply to the exclusive possession by a passenger in a limousine, chartered bus, or similar motor vehicle licensed to transport passengers for hire, provided however that the driver of such vehicle is prohibited from consuming or having alcoholic beverages within his reach. Further, this section shall not apply to a recreational vehicle used for purposes of temporary housing quarters or when the alcoholic beverage is kept in a container located outside the reach of the driver of the vehicle. The provisions of this section do not allow for the consumption, possession or transporting of alcoholic beverages in the passenger area of a taxicab, except as may be authorized under the provisions of section 10-54(b).

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-87. Sale of wood alcohol or denatured alcohol.

No person shall sell to any person any wood alcohol or denatured alcohol, or any alcohol so adulterated by poisonous chemicals as to make it poisonous, where the seller shall have grounds to believe that it is to be used for beverage purposes. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-88. Use of alcoholic beverage vaporizer.

No licensee or employee shall sell, deliver or give away any alcoholic beverage for dispensation by means of an alcoholic beverage vaporizer. No licensee or employee shall purchase, possess or use an alcoholic beverage vaporizer on the licensed premises, or any area related to the licensed business over which the licensee exercises control or for which the licensee is responsible. No licensee or employee shall allow or permit any customer or person to bring, keep, maintain, or use an alcoholic beverage vaporizer on the li-

censed premises, or any area related to the licensed business over which the licensee exercises control or for which the licensee is responsible. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-89. Reserved.

ARTICLE IX. ANNEXATION OF PROPERTY AND PROCEDURES FOR LICENSING

Sec. 10-90. Duty to obtain license upon annexation of property by city.

The director or their designated liquor control specialist is authorized to issue to persons qualified under this chapter and who hold a license issued by the state division of alcohol and tobacco control a license for any business which is annexed into the city after the passage of the ordinance from which this chapter is derived. Any and all such businesses so annexed shall, within ten days after notification by the city clerk of the effective date of the annexation, apply for such needed licenses from the director or their designated liquor control specialist, for the period of the year remaining until expiration of all licenses. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-91. Procedure for obtaining license upon annexation of property by city.

(a) If there is a retailer of intoxicating liquor, not in excess of five percent alcohol by weight, by the drink or in the original package for consumption on or off the premises, present in any area annexed by the city, at a date after November 3, 2007 such establishment, if properly licensed immediately prior to the annexation, and notwithstanding the numerical limitation set forth in section 10-2, will be issued a license, upon proper application and compliance with this chapter and as provided for in this article, and the license will be good and valid as long as the licensee complies with this chapter to the expiration date of the license or until the licensee at the time of the annexation ceases to operate the establishment in substantially the same manner as of the date of annexation, whichever might first occur, and such

license may be renewed in the manner provided by this article. However, whenever such establishment located in an area annexed by the city shall be sold, the purchaser of the existing establishment shall be given consideration to be issued the liquor license held by the seller, subject to the following:

- (1) The seller as current licensee will remain in active ownership and management control of the business and will remain responsible for the licensed premises until a license is issued to the buyer of the business by the director or their designated liquor control specialist and the state division of alcohol and tobacco control.
- (2) Any proposed sale must be contingent upon city and state approval of the proposed buyer's application for licensing.
- (3) The seller must notify in writing the director or their designated liquor control specialist, of the sale of the existing business. The notice must include the date of sale or closing on the transaction, and the identity of the purchaser in advance of the actual sale or closing of the transaction.
- (4) The purchaser must apply to the director or their designated liquor control specialist, for consideration of the subject liquor license no later than ten days after the purchase of the seller's licensed business.
- (5) The purchaser must provide within 30 days after purchase of the seller's existing business proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes.
- (6) Upon proof of ownership of the seller's business and compliance with the requirements of subsection (3) of this section, the director or their designated liquor control specialist, shall issue the liquor license

previously held by the seller for the existing business to the purchaser as the new licensee.

(b) If either the seller or purchaser of a business licensed pursuant to this section fails to comply with any of the requirements of this section, then the license shall be surrendered and shall not be reissued.

(c) No purchaser may operate the business purchased pursuant to this section without all the permits or licenses required pursuant to this chapter, this Code, and the requirements and regulations of the state division of alcohol and tobacco control.

(d) In the event of the failure of the seller and purchaser to actually consummate the proposed sale or close the transaction on the date provided to the director or their designated liquor control specialist, pursuant to subsection (a)1 of this section, then the license surrendered by the seller shall be reissued to the seller by the director or their designated liquor control specialist.

(e) In the event of a default of the sales transaction by the purchaser, or if the business or transfer reverts for any reason to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed, then the director or their designated liquor control specialist, shall reissue the license surrendered by the seller pursuant to this section to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed upon written application to the director or their designated liquor control specialist, within ten days of the date of the default or reversion of the transfer to the seller. The seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed shall have 30 days within which to provide proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed fail to file the written application or proof

of compliance to the director or their designated liquor control specialist, as required, then such license shall be deemed to be surrendered and shall not be reissued.

(f) In the event of default by the purchaser or foreclosure of the mortgage lender or primary secured creditor pursuant to a security agreement, or if the business reverts for any reason to the mortgage lender or primary secured lender for the sales transaction of the business for which the liquor licenses were issued to the purchaser pursuant to this section, then the director or their designated liquor control specialist, shall reissue the license surrendered by the seller pursuant to this section to the mortgage lender or primary secured creditor pursuant to a security agreement upon written application to the director or their designated liquor control specialist, within ten days of the date of the default, foreclosure, or reversion of the business or transfer to the mortgage lender or primary secured creditor. The mortgage lender or primary secured creditor shall have 30 days within which to provide proof to the director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the mortgage lender or primary secured creditor fail to file the written application of proof of compliance to the director or their designated liquor control specialist, as required, then the director or their designated liquor control specialist, shall deem the license to be surrendered and shall not reissue such license.

(g) In the event of assignment to a third party by the purchaser of the purchaser's rights, title, and interest to the business, or the sale, mortgage or transfer of the business for which the liquor license was issued to the purchaser pursuant to this section, then the director or their designated liquor control specialist, shall reissue the license surrendered by the seller pursuant to this section to the third-party assignee upon written application to the director or their designated liquor control specialist, within ten days of the date of the assignment. The third-party assignee shall have 30 days within which to provide proof to the

director or their designated liquor control specialist, that he/she has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the third-party assignee fail to file the written application or proof of compliance with the director or their designated liquor control specialist, as required, then the director or their designated liquor control specialist, shall deem such license to be surrendered.

(h) The director or their designated liquor control specialist, upon good cause shown by a seller, purchaser, secured creditor, mortgage lender or third-party assignee, may enlarge any of the time periods set forth in subsections (a) through (g) of this section. Good cause shall be deemed to mean that the inability to comply with time frames set forth in this section is not the result of careless, reckless or intentional actions on the part of the party seeking the enlargement of time.
(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-92. Provisions for additional licenses.

(1) The provisions of Section 10-2 notwithstanding, the director or their designated liquor control specialist, may issue such additional licenses permitting sale of intoxicating liquor in the original package so long as the director or their designated liquor control specialist, determines, based upon data provided to him annually that the population, lodging rooms and/or water/sewer meters of the city have increased in such sufficient numbers so as to warrant additional licenses to be issued. In reaching a decision, the director or their designated liquor control specialist, shall further consider the criteria for the issuance of a license consistent with the provisions of Section 10-93, as well as the provisions of section (2) below.

(2) (a) As of the effective date of this section, the limitation on the numbers of licenses set forth in Section 10-2(b)(5) and (8) is based upon a determination that as of January 1, 2008, there were 18,784 lodging rooms within the city limits of Branson, Missouri and 5,363 water/sewer meters and 26 package liquor licenses within the city limits of the City of Branson. The

director or their designated liquor control specialist, may issue such additional original package liquor licenses or Sunday original package liquor licenses in excess of the number of licenses authorized elsewhere within this code based upon the criteria set forth in Subsection (b) below.

- (b) The director or their designated liquor control specialist, shall determine on January 1 of each year hereafter the number of lodging rooms and water/sewer meters found within the city limits of the City of Branson. One new package liquor license will be authorized for an applicant within the city limits of the City of Branson for each annual increase in the number of lodging rooms or water/sewer meters in an aggregate total of 929, and one additional license shall be authorized for each additional increase in the aggregate total of 929. Any existing licensee who is eligible to possess a package liquor license and who, during the prior calendar year, became a business annexed within the corporate city limits shall not be counted in the determination of licenses issued by the director or their designated liquor control specialist.

(3) Notwithstanding any foregoing provision of this chapter limiting the number of authorized licenses to the contrary, the director or their designated liquor control specialist, may also authorize the issuance of any license to sell five percent malt liquor in the original package, or intoxicating liquor in the original package, whenever the director or their designated liquor control specialist, finds and determines that the premises at which the liquor sales will take place contain a minimum of 20,000 square feet of retail floor space, of which not more than ten percent will be devoted to the sale of alcoholic beverages in their original package.

(4) No establishment shall be licensed unless it conforms to the 300-foot separation requirement of this chapter, from any church or school. (Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-93. Criteria for issuance of license.

(a) In considering whether to approve or disapprove an application for any license or sales permit under this chapter, including those set forth and provided for in section 10-92 above, the director or their designated liquor control specialist, shall determine whether the applicant is qualified and meets all requirements for the license and the director or their designated liquor control specialist, shall determine whether the approval of the license will be in the best interests of the locality involved.

(b) In making the determination of whether the approval of the license will be in the best interests of the locality involved, the director or their designated liquor control specialist:

- (1) a. Whether the proposed premises are within 250 feet of any residentially zoned district, and, if so, whether the proposed licensed or permitted operation would cause a nuisance to or change in character of the residential area. In this context the director or their designated liquor control specialist, shall consider exterior lighting, noise, traffic and parking associated with the proposed premises or its patrons, as well as any other relevant characteristic of the proposed facility.
- b. The type of entertainment, if any, proposed for the licensed premises, and whether the entertainment would be compatible with or detrimental to the locality involved.
- c. Other factors which, due to the character of the licensed premises or of the locality involved, would be relevant to whether issuance of the license or permit would be in the best interest of the locality involved.

(c) The director or their designated liquor control specialist, may request any department or agency of the city to provide data, information, opinions or recommendations which will assist them in reviewing any application for a license. By way of example, and not as a limitation, the director or their designated liquor control special-

ist, may request city departments to provide him with the following information concerning the proposed premises:

- (1) Traffic flow, location of curb cuts for parking lots, and parking availability surveys.
- (2) Impact upon the community, neighborhood, surrounding environs, adopted area plans and comprehensive plans or development projects in the area.
- (3) Access for emergency vehicles and safety of the proposed location.
- (4) Potential impact of crime, disturbances and traffic related to density or location of licensed establishments upon nearby residential or commercial neighborhoods.
- (5) Adverse impact upon the health, safety and general welfare.
- (6) Impact upon parks, boulevards or community centers within the vicinity.
- (7) Applicable building codes, parking requirements and zoning restrictions.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 10-94. Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-11 of this Code.

(Ord. No. 2008-100, § 1, 10-14-2008)