

Chapter 3

ALCOHOLIC BEVERAGES

ARTICLE I

In General

Section 3-1. Sale or Consumption in Certain Places. [Ord. No. 243, §39.; Ord. No. 1495 §1, 11-21-2000]

- (a) No person shall sell or consume, either in a vehicle or otherwise, any intoxicating liquors or nonintoxicating beer upon any public street, highway or thoroughfare, sidewalk or alley, except for special events which receive City authority.
- (b) No person shall sell or consume any intoxicating liquors or nonintoxicating beer outdoors within fifteen (15) feet of a public street, highway or thoroughfare, sidewalk or alley unless same is sold or consumed at a location properly authorized under Outdoor Eating Place/Beer Garden regulations set forth in Chapter 3, Article IV, except for special events which receive City authority.

Section 3-1.1. Temporary Caterer's Permit. [Ord. No. 1004 §§1 — 4, 10-1-1991; Ord. No. 1544 §1, 8-7-2001]

- (a) The City Clerk is hereby authorized to issue a temporary permit to caterers, and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises, pursuant to the provisions of this Chapter, who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a "festival" as described in RSMo. Chapter 316.
- (b) Such temporary caterer's permit shall be effective for a period not to exceed one hundred twenty (120) consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption in the incorporated City where such function, occasion or event is held.
- (c) For every permit issued pursuant to the provisions of this Section, the permittee shall pay to the City Clerk the sum of fifteen dollars (\$15.00) for each calendar day, or fraction thereof, for which the permit is issued.
- (d) All provisions of the liquor control law and the ordinances, rules and regulations of the incorporated City in which is located the premises in which such function, occasion or event is held, shall extend to such premises and shall be in force and

enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises.

- (e) Except for Missouri-produced wines in the original package, this Section shall not include the sale of packaged goods covered by this temporary permit.

ARTICLE II

Nonintoxicating Beer

Division 1

Generally

Section 3-2. Definitions. [Ord. No. 17, §7.]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

INTOXICATING LIQUOR — Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of three and two-tenths percent of alcohol by weight.

NONINTOXICATING BEER — Any beer manufactured from pure hops, or pure abstract of hops, and pure barley, malt and 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 percent by volume, and not exceeding three and two-tenths percent by weight.

ORIGINAL PACKAGE — Any package containing three, six, twelve, or twenty four small standard beer bottles, and any package containing three, six or twelve large standard beer bottles, when such bottles contain nonintoxicating beer, as defined by this section.

PREMISES — The entire building in which the licensee hereunder has his place of business, and any additional building used in connection therewith, and the entire lot, or parcels of land on which the buildings are situated, or which is used in connection with the building.

TRANSPORTATION COMPANY — Any individual or incorporated or unincorporated company engaged in the business of transportation for hire of goods and merchandise by use or means of any vessel, railroad car, motor vehicle, airplane or other means of conveyance whatsoever, to whom or to which any of the provisions of this article apply or may apply.

Section 3-3. Keeping Intoxicating Liquor on Licensed Premises Prohibited; Sale of Intoxicating Liquor to Nonintoxicating Beer Licensee Prohibited. [Ord. No. 17, §8.]

No person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer at retail, either in the original package or for consumption on the premises, shall have or keep, or secrete, on or about the premises described and covered by such license, any intoxicating liquor of any kind or character; nor shall any

manufacturer or wholesale distributor sell any intoxicating liquor of any character containing alcohol in excess of three and two-tenths percent by weight to any person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer only, either in the original package or to be consumed upon the premises where sold.

Section 3-4. Sales to be from Labeled Kegs, Bottles, Etc. [Ord. No. 17, §9.]

It shall be unlawful for any person to sell or offer for sale in the City any nonintoxicating beer unless the same is sold or offered for sale in the original bottle or in the original package containing bottles bearing the original label and full name of the brewer or manufacturer thereof, both upon the label, upon the bottle and upon the cap or cork of such bottle, or, in the case of the sale of nonintoxicating beer on draft, unless the same is to be drawn from the original keg or barrel having stamped on the ends thereof the full name of the manufacturer or brewer of the nonintoxicating beer contained therein.

Section 3-5. Monthly Reports of Manufacturers and Wholesalers. [Ord. No. 17, §10.]

It shall be the duty of each holder of a license authorizing the manufacture and sale, or sale, at wholesale, of nonintoxicating beer on or before the fifth day of each calendar month, to file in the office of the City Collector a sworn statement showing the amount of nonintoxicating beer manufactured and sold, or sold, and to whom sold, during the next preceding calendar month.

Section 3-6. Duplicate Bills of Lading to be Furnished City Collector. [Ord. No. 17, §11.]

Every railroad company, express company, airline, motor transportation or other transportation company, and every person who shall transport any nonintoxicating beer into the City and deliver the same to any person therein, shall, when requested, furnish the City Collector a duplicate bill of lading or receipt for such nonintoxicating beer, showing the name of the consignor and consignee, date, place received and quantity of nonintoxicating beer.

Section 3-7. Consumption, Etc., on Premises Licensed for Package Sales Prohibited. [Ord. No. 17, §13.]

It shall be unlawful for any person authorized to sell nonintoxicating beer in the original package to allow such original package to be broken, or to allow any of such nonintoxicating beer to be consumed, in or upon the premises where sold.

Section 3-8. Duty of Licensee to Prevent Customer from Increasing Alcoholic Content. [Ord. No. 17, §14.]

It shall be the duty of every holder of a license to manufacture and sell, or to sell, nonintoxicating beer to use every precaution to prevent any person on the premises described in such license from pouring into, mixing with or adding to, such nonintoxicating beer any alcohol, or other liquid, or any alcohol cube or other ingredient that will increase, or tend to increase, the alcoholic content of such nonintoxicating beer.

Section 3-9. Manufacturers not to be Interested in Retail Sales. [Ord. No. 17, §15.]

Brewers or manufacturers of nonintoxicating beer, or the employees, officers, agents, subsidiaries or affiliates thereof, shall not, under any circumstances, directly or indirectly, have any financial interest in the retail business for the sale of such nonintoxicating beer, nor shall they, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit, for such nonintoxicating beer sold to such retailers. All contracts entered into between such brewers or manufacturers, or their officers or employees, directors or agents, in any way concerning any of their products, obligating any retail dealer or dealers to buy or sell only the products of any such brewer or manufacturer, or obligating any such retail dealer to buy or sell the major part of such products required by such retail dealer from any such brewer or manufacturer, shall be void, and proof of the execution of such contract shall be grounds for revoking the license of both the vendor and the vendee.

Section 3-10. Possession of Beer Purchased from Unlicensed Person Prohibited. [Ord. No. 17, §16.]

No person shall possess nonintoxicating beer within the City unless the same has been acquired from some person duly authorized to sell the same, and the package in which such nonintoxicating beer is contained and from which it is taken for consumption has, while containing such nonintoxicating beer, been labeled and sealed as provided by this article.

Section 3-11. Bottles, Kegs, Etc., to be Labeled by Manufacturer or Wholesaler. [Ord. No. 17, §18.]

It shall be the duty of every manufacturer or brewer manufacturing or brewing nonintoxicating beer in the City, and of every manufacturer or brewer, distributor or wholesaler outside of the City shipping any nonintoxicating beer into the City for sale at wholesale or retail, to cause every bottle, barrel, keg and other container to such nonintoxicating beer to have on the label thereon, in plain letters and figures, "Alcoholic content not in excess of 3.2% by weight," or "Alcoholic content not in excess of 4% by volume." Any beer not so labeled shall be deemed to have an alcoholic content in excess of three and two-tenths percent by weight, and the sale thereof in the City shall be subject to all the regulations and penalties provided by this article for the sale of beer having an alcoholic content in excess of three and two-tenths percent by weight.

Section 3-12. Hours of Sale. [Ord. No. 17, §19.]

No person having a license under this article shall sell, give away or otherwise dispose of or suffer the same to be done on his premises, any nonintoxicating beer in any quantity between the hours of 1:30 A.M. and 6:00 A.M.

Section 3-13. Sales to Certain Persons Restricted. [Ord. No. 17, §20.]

No person or his employee shall sell or supply nonintoxicating beer or permit same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of alcoholic beverages. Nonintoxicating beer shall not be given, sold or

otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of nonintoxicating beer to a person under such age for medicinal purposes only, or by the parent or guardian of such person or to the administering of the nonintoxicating beer to such person by a physician.

Section 3-14. Restrictions on Type of Premises for Retail Sale by the Drink. [Ord. No. 17 §21.]

Every person obtaining a license under this article to sell nonintoxicating beer by the drink at retail, to be consumed at the place where sold, except hotels, clubs and restaurants, shall conduct such business in a single room located on the ground floor immediately abutting on the public street, and no such place shall be equipped with blinds, screens, swinging doors or any other thing in such room that will obstruct or obscure the interior of such room from public view from the street; provided, that the licensee may maintain, in connection with and adjoining the room in which nonintoxicating beer is sold at retail by the drink, an open air space, commonly called a summer garden, for serving such nonintoxicating beer whenever one boundary, at least, of such open air space is a public street or highway; and provided further, that such open air space shall be so fenced and equipped as to permit an unobstructed view of the whole of such open air space from the public street or highway.

Section 3-15. Gambling Devices and Concealing of Tables Prohibited. [Ord. No. 17, §22.]

No place wherein nonintoxicating beer is sold at retail by the drink shall have any gambling or gaming device whatsoever, and no place where nonintoxicating beer is sold therein at retail shall have therein any tables concealed or enclosed in private rooms or by partitions or rooms.

Section 3-16. Employment of Persons Under Sixteen. [Ord. No. 17, §22.]

Any person holding a license to sell nonintoxicating beer by the drink at retail who shall suffer or permit any child under the age of sixteen years to be employed or work in, or in connection with, any entertainment or cabaret conducted in any place wherein nonintoxicating beer is sold by the drink at retail shall thereby suffer the revocation of his license to sell nonintoxicating beer by the drink at retail.

Section 3-17. Enforcement of Article. [Ord. No. 17, §25.]

It shall be the duty of the police of the City to see that the provisions of this article are obeyed, and it shall be their duty to report to the chief of police, the names of the persons and their addresses, of all places where nonintoxicating beer is sold at retail, where such places are not kept in an orderly manner and the same shall, by the chief of police, be transmitted to the Board of Aldermen.

Division 2
License

Section 3-18. Required Generally. [Ord. No. 17, §2.]

It shall be unlawful for any person to manufacture or brew or sell, either at wholesale or at retail, in the original package, or by the drink to be consumed on the premises where sold, except as otherwise provided, without having first applied for, and obtained, a license as required in this article, authorizing such brewing, manufacture and sale, or sale, thereof.

Section 3-19. Fees — Schedule. [Ord. No. 17, §5; Ord. No. 346, §1.]

Annual fees for licenses authorized by this article, pursuant to authority granted under section 311.220, the Revised Statutes of Missouri, 1969, shall at all times be one and one-half times the amount required by law to be paid into the state treasury for such state permit or license as of the date of application therefor. The schedule of fees currently in effect shall be as follows:

- (a) For a permit authorizing the manufacture or brewing of nonintoxicating beer brewed or manufactured in the City, three hundred seventy-five dollars.
- (b) For a license authorizing the sale in the City by any distributor or wholesaler other than the manufacturer or brewer thereof, seventy-five dollars.
- (c) For a license authorizing the sale at retail for consumption on the premises where sold, thirty-seven dollars and fifty cents.
- (d) For a license authorizing the sale by grocers and other merchants and dealers for sale in the original package direct to the consumer, but not for resale, and not to be consumed on the premises where sold, twenty-two dollars and fifty cents.

Section 3-20. Same — to be in Addition to Other Fees and ad Valorem Taxes. [Ord. No. 17, §30.]

The fees to be charged under this article shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for stock and sales of nonintoxicating beer under other provisions of this Code. The value of stocks of nonintoxicating beer, and the aggregate amount of sales thereof made by any licensee shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock or sales be included in the computation of any merchant's license or ad valorem tax.

Section 3-21. Same — When Due and Payable; Proration. [Ord. No. 17, §31.]

The annual fees payable under this article shall be due and payable in advance on the first day of August; provided, that licensees who shall commence business after August 1st for any year shall apply for and be granted license for part of a year to the August 1st following, and shall pay therefor one-twelfth of the annual fee for every month or part thereof from date of issuance to August 1st thereafter.

Section 3-22. Issuance; License not Required for Sales by Intoxicating Liquor Licensee. [Ord. No. 17, §3.]

All licenses issued pursuant to the provisions of this division shall be issued by the City Collector, but no license shall be issued by the City Collector except with the approval of

the Board of Aldermen given at a regular or special meeting of the board, and no license for which license fees are fixed in this division shall be issued, except upon the payment of the license fee prescribed in this division; provided, that any person holding a license to sell intoxicating liquors at retail, either in the original package or by the drink to be consumed on the premises where sold, pursuant to the provisions of this chapter regulating the sale of such intoxicating liquors, may sell on the premises described in such license nonintoxicating beer without obtaining the license required by this article.

Section 3-23. Issuance Prohibited for Premises Used for Immoral Purposes. [Ord. No. 17, §23.]

No license shall be granted for the sale of nonintoxicating beer at retail by the drink for consumption at the place where sold in a building occupied or used for an immoral or unlawful purpose, nor in any room or portion of a building connected by any entrance or exit, or other means of communication, with any room or place used for an immoral or unlawful purpose.

Section 3-24. Separate License Required for each Place of Business. [Ord. No. 17, §4.]

A separate license shall be issued for each place of business, and no person, nor the agent or employee of any person in any capacity, shall sell nonintoxicating beer in any other place than that designated in the license.

Section 3-25. Construction of Licenses. [Ord. No. 17, §§6,12.]

A license to brew or manufacture nonintoxicating beer in the City shall be construed to authorize the sale by the holder of such license of such nonintoxicating beer to distributors or wholesalers for resale to retailers only, or direct to retailers. A license authorizing any distributor or wholesaler to sell nonintoxicating beer in the City shall be construed to authorize the sale thereof only to persons authorized to sell nonintoxicating beer to consumers not for resale; but no such license, either to manufacture, brew or sell at wholesale shall be construed to authorize the sale by the holder of any such license of nonintoxicating beer direct to consumers.

Any license issued under the provisions of this article authorizing the sale of nonintoxicating beer at retail for consumption on the premises described in such license shall be construed to authorize the sale of such nonintoxicating beer by the bottle, by the glass, on draft and in the original package.

Section 3-26. Nontransferable. [Ord. No. 17, §17.]

No license issued under this article shall be transferable or assignable.

Section 3-27. Sales Only Authorized at Place Described in License; Posting. [Ord. No. 17, §24.]

All licenses issued pursuant to the provisions of this article shall authorize the sale of nonintoxicating beer only at the place described in such license, and all such licenses shall be kept conspicuously posted in the place for which the license was issued.

Section 3-28. Revocation or Suspension. [Ord. No. 17, §§27 to 29.]

Any person holding a license issued pursuant to the provisions of this article and who violates any of the terms of this article, shall, in addition to the other penalties provided for in this Code, and in the discretion of the Board of Aldermen, suffer the revocation of the license, or the suspension of such license for not exceeding ten days. Whenever any license issued pursuant to the provisions of this article shall be revoked because of any violation of the provisions of this article no other or additional license shall be issued to the same person on any other premises for a period of one year from the date of the revocation of the license.

Whenever it shall be shown, or whenever the chief of police has knowledge, that a person licensed under this article has not at all times kept an orderly place or house, or has violated any of the provisions of this article, the chief of police shall report the same to the Board of Aldermen, who shall revoke, or in its discretion suspend, the license of such person.

Before revoking or suspending any license granted under this article, the Board of Aldermen shall give the licensee at least ten days' written notice of any complaint or charge against him, and the nature of such complaint or charge, and shall fix the date for the hearing on the complaint or charge, upon which hearing the licensee shall have the right to have counsel, and to produce witnesses in his behalf. If the Board of Aldermen shall, after such hearing, revoke or suspend the license of such licensee, its decision and action shall be final.

Section 3-28.1. (Reserved) ¹

ARTICLE III
Intoxicating Liquors

Division 1
Generally

Section 3-29. Definitions. [Ord. No. 16, §§1,28; Ord. No. 60, §3; Ord. No. 346, §2; Ord. No. 651, §1; Ord. No. 705, §1; Ord. No. 2235 §1, 8-7-2012]

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AMUSEMENT PLACE — Any establishment whose business building contains a square footage of at least ten thousand square feet, and where games of skill commonly known as bowling are usually played, and which has annual gross receipts of at least two hundred thousand dollars, of which no more than fifty percent may be derived from the sale of alcoholic beverages.

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

¹. Editor's Note — Ord. no. 1980 §1, adopted June 19, 2007, repealed section 3-28.1 "special limited issuance" in its entirety. Former section 3-28.1 derived from ord. no. 385 §1; ord. no. 616 §1.

INTOXICATING LIQUOR — Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths percent of alcohol by weight.

PREMISES — That portion of any building in which a licensee under this article has his place of business and any additional building or portion thereof used in connection therewith, and the entire lot or parcel of land on which the buildings are situated, or which is used in connection with the buildings.

RESTAURANT — Any place of business, the main purpose and activity of which is to serve meals, sandwiches, short orders and other food to be eaten by its customers on the premises, and which does not provide or furnish to the public lodging or sleeping rooms.

RESTAURANT-BAR — Any establishment having a restaurant or similar facility on the premises, at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises.

SALE BY DRINK — The sale of intoxicating liquor by the drink at retail for consumption on the premises where sold. The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than one-half pint shall be deemed "sale by the drink" and may be made only by a holder of a retail liquor dealer's license as hereinafter provided, and when such sale is so made, the container in every instance shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

WHOLESALE — A person who exposes for sale or makes one or more sales for resale of intoxicating liquor within the City, or who conducts a business of exposing for sale or selling intoxicating liquor for resale from an established place of business within the City.

Section 3-30. Time Fixed for Opening and Closing Premises — Closed Place Defined — Penalty. [Ord. No. 884, §1]

- (a) No person having a license under this law, nor any employee of such person, except as provided in subsection (b) of this section, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in

this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 of the Revised Statutes of the State of Missouri, which section is incorporated herein by reference, to a person licensed to sell the intoxicating liquor at retail.

- (b) Any person licensed pursuant to section 311.200 shall not be permitted to sell, give away, or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.

Section 3-31. Applicability of Article to Druggist. [Ord. No. 16 §4.]

This article shall not apply to the possession by a druggist of intoxicating liquor purchased by him from a licensed vendor under the Liquor Control Act of the state, or intoxicating liquor lawfully acquired and transported into the state by him pursuant to such act, such liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative, nor shall this article apply to the sale of intoxicating liquors by druggists on prescription from a regularly licensed physician.

Section 3-32. Restrictions on Type of Sales Premises. [Ord. No. 16, §9.]

Except in hotels, clubs and restaurants, it shall be unlawful for any licensee to sell intoxicating liquors in a place, building or room where there are blinds, screens, swinging doors, curtains or any other thing in such building or room that will obstruct or obscure the interior of such room from public view from the street, or in any room not located on the ground floor or level immediately abutting on a public street.

Section 3-33. Keeping of Liquor by Malt Liquor Licensee Prohibited. [Ord. No. 16, §15]

It shall be unlawful for any person holding a malt liquor license or the same time holding a retail liquor dealer's license covering the premises described in the malt liquor dealer's license or permit to have or keep in or on such premises any intoxicating liquor of any kind or character, other than malt liquor brewed or manufactured by the method, in the manner and of the ingredients required by the laws of the state; or to sell, or offer for sale, in or upon such premises, any intoxicating liquor other than malt liquors.

Section 3-34. Selling, Vending and Supplying Intoxicating Liquors to Minors or Intoxicating Persons Prohibited. [Ord. No. 1865 §1, 10-18-2005²]

- (a) Any licensee under this Section or his employee or any other person, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years or to any person intoxicated or appearing to be in a state of intoxication or to a habitual drunkard and any person whomsoever, except his parent or guardian, who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one (21) years or to any intoxicated person or any person appearing to be in a state of intoxication or to a habitual drunkard shall be deemed guilty of a misdemeanor, except that this Section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.
- (b) It shall be unlawful for any owner, occupant or other person or legal entity with a lawful right to the use and enjoyment of any property, except for a parent or guardian, who knowingly allows any person under the age of twenty-one (21) years to consume intoxicating liquor on such property or knowingly fails to stop any person under the age of twenty-one (21) years from consuming intoxicating liquor on such property.
- (c) It shall be a defense to prosecution under this Section if:
 - (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit or an employee thereof;
 - (2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and
 - (3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

Section 3-34.1. Purchase, Possession or Consumption by Minor is Prohibited. [Ord. No. 382, §1.; Ord. No. 1865 §2, 10-18-2005; Ord. No. 2098 §§1 — 2, 9-1-2009]

- (a) It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase or have in his or her possession any intoxicating liquor as defined in Section 311.020, RSMo., or who is visibly intoxicated as defined in Section 577.001, RSMo., or has a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in

². Editor's Note — Ord. no. 1865 §1, adopted October 18, 2005, repealed section 3-34 "consumption by minor" and enacted new provisions set out herein. Former section 3-34 derived from ord. no. 16 §16.

such person's blood. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one (21) years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor. Visibly intoxicated includes when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

- (b) For purposes of determining violations of any provision of this Section or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.
- (c) *Open house parties — allowing minors to drink.* Any owner, occupant or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his or her parent or guardian, is deemed to be in violation of the Eureka Municipal Code.
- (c) It shall be a defense to prosecution under this subsection if:
 - (i) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit or an employee thereof;
 - (ii) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and
 - (iii) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

Section 3-34.2. Expungement of Record. [Ord. No. 1865 §3, 10-18-2005]

After a period of not less than one (1) year or upon reaching the age of twenty-one (21), whichever occurs first, a person who has pleaded guilty to or has been found guilty of violating Section 3-34.1 for the first (1st) time and who since such conviction has not

been convicted of any other alcohol-related offense may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement and the person has had no other alcohol-related enforcement contacts as defined in this Chapter, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one (1) expungement pursuant to this Section. Nothing contained in this Section shall prevent courts from maintaining such records as are necessary to ensure that an individual receives only one (1) expungement pursuant to this Section.

Section 3-34.3. Use of Minors in Enforcement. [Ord. No. 1865 §4, 10-18-2005]

- (a) The supervisor of alcohol and tobacco control shall not use minors to enforce the laws of this Chapter or Chapter 312, RSMo., unless the supervisor promulgates rules and regulations that establish standards for the use of minors. The standards shall include those in Subsection (b) of this Section.
- (b) The supervisor shall establish, by July 1, 2006, permissive standards for the use of minors in investigations by any State, County, municipal or other local law enforcement authority and which shall, at a minimum, provide for the following:
 - (1) The minor shall be eighteen (18) or nineteen (19) years of age;
 - (2) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline;
 - (3) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating beer at the licensed establishment;
 - (4) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer.
- (c) The supervisor of alcohol and tobacco control shall not participate with any State, County, municipal or other local law enforcement agency, nor discipline any licensed establishment when any State, County, municipal or other law enforcement agency chooses not to follow the supervisor's permissive standards.
- (d) Any minors used in investigations under this Section shall be exempt from any violations under Chapter 311 and Chapter 312, RSMo., during the time they are

under direct control of the State, County, municipal or other law enforcement authorities.

Section 3-35. Presence of Person Under Twenty-One on Licensed Premises Prohibited. [Ord. No. 16 §17; Ord. No. 346, §4; Ord. No. 406, §1.]

It shall be unlawful for any minor under the age of twenty-one years to be and remain or to loiter in any tavern or place of business where intoxicating liquors are sold at retail by the drink for consumption on the premises, unless accompanied by the parent or legal guardian of such minor, and it shall be unlawful for any person licensed to sell intoxicating liquors at retail by the drink for consumption on the premises, or his employee, to allow any minor under the age of twenty-one years, unless accompanied by the parent or legal guardian of such minor, to be and remain or to loiter in the tavern or place of business of such person so licensed. Each such licensee shall keep at all times conspicuously posted in such tavern or place of business a printed sign displaying in black letters not less than one inch wide on a white background the words "Notice — Minors under the age of twenty-one years are not allowed here unless accompanied by parent or legal guardian." The maintenance of such sign, however, shall not excuse any licensee from a violation of this section.

Nothing herein contained shall be construed as prohibiting the presence of an unaccompanied minor in those areas of a place of business where intoxicating liquors are sold which are used primarily for other purposes, and where the sale and dispensing of intoxicating liquors is incidental to the primary purpose, as in a restaurant, bowling alley, theater, motel or the like as differentiated from cocktail lounges, taverns and bars, or areas within a place of business set aside for the primary purpose of selling intoxicating liquors, such as a cocktail room, a tavern or a pub.

No person holding a license to sell intoxicating liquor by the drink at retail shall suffer or permit any child under the age of sixteen years to be employed or work in or in connection with any entertainment or cabaret conducted in any place where intoxicating liquor is sold by the drink at retail.

Section 3-36. Sale to Certain Persons Restricted; Sales by Person Under Twenty-One Prohibited. [Ord. No. 16, §18.]

It shall be unlawful for any person or his employee to sell or supply intoxicating liquor or permit the same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor. Intoxicating liquor shall not be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to supplying intoxicating liquor to a person under said age for medicinal purposes only, or by the parent or guardian of such person or by a physician. No person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquors.

Section 3-37. Limitation on Size of Package Sale. [Ord. No. 16, §20.]

The sale of intoxicating liquor, except malt liquor, in the original package in any quantity less than one-half pint shall be deemed sale by the drink, and may be made only by the holder of a retail liquor dealer's license, and, when so made, the container in every case shall be emptied and the contents served as other intoxicating liquors sold by the drink are served.

Section 3-38. Window Displays Prohibited. [Ord. No. 16, §21.]

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.

Section 3-39. Sales by Wholesaler, Etc., to Unlicensed Retailer Prohibited. [Ord. No. 16, §32.]

It shall be unlawful for any manufacturer, distiller, brewer or wholesale dealer in intoxicating liquor, either directly or indirectly, to sell or deliver intoxicating liquor of any kind to any person in the City not licensed under the provisions of this article to sell intoxicating liquors at retail.

Section 3-40. Enforcement of Article. [Ord. No. 16, §5.]

It shall be the duty of the police of the City to see that the provisions of this article and of other ordinances of the City in regard to the sale of intoxicating liquor are obeyed, and to report to the chief of police any place where intoxicating liquor is sold at retail which is not kept in an orderly manner or in violation of any of the provisions of this article, or any person selling intoxicating liquor in the City without a license. It shall be the duty of the chief of police to report all such infractions immediately to the Board of Aldermen.

Division 2
Licenses

Section 3-41. Required for Retail Sales Generally; Classes of Licenses. [Ord. No. 16, §2; Ord. No. 346, §5; Ord. No. 651, §1; Ord. No. 705, §3.; Ord. No. 1061 §1, 6-15-1993; Ord. No. 1130 §1, 10-4-1994; Ord. No. 1719 §1, 9-16-2003; Ord. No. 1836 §§1-3, 7-5-2005]

It shall be unlawful for any person to sell or expose for sale in this City intoxicating liquor in any quantity without taking out a license from the City. A separate license shall be taken out for each of the following classes of sales of intoxicating liquors in which the licensee desires to engage:

- (a) Sales of all kinds of intoxicating liquors in the original package not to be consumed on the premises where sold.
- (b) Sales of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers for sale in the original package direct to consumers but not for resale and not for consumption on the premises where sold.

- (c) Sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight at retail by the drink for consumption on the premises where sold.
- (d) Sales of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, or light wines containing not in excess of fourteen percent of alcohol by weight exclusively from grapes, berries and other fruits and vegetables, or both such malt liquor and wine at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell nonintoxicating beer, as defined in state law.
- (e) Sale of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including the sale of intoxicating liquors in the original package.
- (f) Except as otherwise provided herein, it shall be unlawful for any person to sell or expose for sale any intoxicating liquor by the drink within the City limits without first having obtained from the City a license therefor.
- (f) It shall also be unlawful for any person to sell or expose for sale any intoxicating liquor at retail by the drink after 1:30 A.M. on Sunday without first having obtained from the City a license therefor.
- (g) *Sunday sales license.*
 - (1) For sales of intoxicating liquor in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.
 - (2) Sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water or light wines containing not in excess of fourteen percent (14%) of alcohol by weight exclusively from grapes, berries and other fruits and vegetables or both such malt liquor and wine at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell non-intoxicating beer, as defined in State law, between the hours of 9:00 A.M. and Midnight on Sundays.
- (h) Applications for licenses to sell intoxicating liquor at retail by the drink on Sundays from 9:00 A.M. to Midnight shall be filed with the City Collector on forms furnished by him. Each application shall be signed by the applicant. If the applicant is a joint venture, partnership or group other than a corporation, the application shall be made by all individuals who are members of such joint venture, partnership or group. If the applicant is a corporation, the application shall be made by a managing officer of the corporation. A corporate applicant shall state the names and addresses of its registered agents, officers and directors, the number of shares in the corporation owned by each and the percentage those shares bear to the total

outstanding shares of the corporation; the names and addresses of the ten (10) principal stockholders of the corporation, the number of shares in the corporation owned by each and the percentage those shares bear to the total outstanding shares of the corporation; and the names and addresses of each stockholder owning one percent (1%) or more of the total outstanding shares of the corporation. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for compliance with the provisions of this Code and the laws of the State regulating the sale of intoxicating liquor by the drink. Each license shall apply to the class for which issued, and it shall be unlawful to sell or expose for sale any intoxicating liquor except in the manner authorized in the license held by the licensee. [Ord. No. 2243 §1, 9-18-2012]

Section 3-42. Qualifications of Licensee. [Ord. No. 16, §3.]

No person shall be granted a license under this article unless such person is of good moral character and a qualified legal voter and taxpaying citizen of the state. No person shall be granted a license or permit whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of the violations of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs or has employed in his business, as such dealer, any person whose license has been revoked or who has been convicted of violating the provisions of any such law since the date aforesaid.

Section 3-43. Application. [Ord. No. 16, §6; Ord. No. 346, §6; Ord. No. 497 §1; Ord. No. 651 §1; Ord. No. 696, §1; Ord. No. 705, §4.; Ord. No. 2235 §§2-6, 8-7-2012]

- (a) Applications for licenses to sell intoxicating liquors under the provisions of this article shall be filed with the City Collector and shall be on forms to be furnished by the collector and signed and sworn to by the applicant.
- (b) Each application for a license to sell intoxicating liquor shall contain the following information which may be required, as provided for herein:
 - (1) The exact location and description of the premises to be covered by the license.
 - (2) The kind of business which the applicant proposes to conduct on such premises in addition to the sale of intoxicating liquor, and the hours which the applicant plans to keep his place open for such other business.
 - (3) Whether or not the applicant has ever been arrested for, charged with, indicted for or convicted of a violation of any federal law, law of the state of any other state or City or county ordinance involving moral turpitude or any violation of law regulating control or prohibiting the sale of intoxicating liquor.

- (c) The City Collector is authorized at any time before or after the issuance of a license to sell intoxicating liquor to require such additional information necessary to carry out the intent and purposes of this chapter.³

Section 3-44. Renewal. [Ord. No. 16, §6.]

Any license for the sale of all kinds of intoxicating liquors by the drink for consumption on the premises, may be renewed from year to year, unless a majority of the assessed taxpaying citizens owning property or occupying or doing business on the ground floor of buildings within three hundred feet of the applicant's place of business shall file a written protest against the renewal or further renewal of the license.

Section 3-45. Issuance. [Ord. No. 16, §7.]

Upon the filing of an application for a license under this article, the application shall be presented to the Board of Aldermen at its next regular or special meeting; and, upon approval of the application by a majority of the board, and upon payment of the license tax provided for in this division, the City Collector shall issue a license to the applicant to conduct business in the City until July 31st following its issuance.

Section 3-46. Separate License for Each Place of Business — Contents. [Ord. No. 16, §8.]

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

Section 3-47. Retail Sales by the Drink Generally. [Ord. No. 16, §10; Ord. No. 346, §7; Ord. No. 1022 §1, 5-5-1992]

No license shall be issued for the sale of intoxicating liquors, containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where the place of such sales is within one hundred (100) feet of any school, church, or other building regularly used as a place of religious worship, or public playground.

No person, while on premises licensed for the sale of alcoholic beverages by the drink, shall solicit, induce, entice or encourage in any manner any person, not previously known to or acquainted with him to purchase for himself or others any alcoholic or nonalcoholic beverage, drink, merchandise or other thing of value.

Section 3-48. Retail Sales of Malt Liquor and Wine — Fees. [Ord. No. 16, §11; Ord. No. 346, §8; Ord. No. 651, §1; Ord. No. 1022 §2; 5-5-1992; Ord. No. 1836 §4, 7-5-2005]

³ Editor's Note: Former Subsection (c), which contained requirements for applications for restaurant-bar licenses to sell liquor at retail by the drink, was repealed 9-18-2012 by §2 of Ord. No. 2243. Said ordinance also repealed former Subsection (e), which required books of account and records to be available for inspection, former Subsection (f), which contained requirements for persons granted Sunday restaurant-bar licenses to sell liquor at retail by the drink, and former Subsections (g), (h) and (i), which set forth requirements for applications for amusement places to sell liquor at retail by the drink. In addition, former Subsection (d) was redesignated as Subsection (c).

Malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water and/or light wines containing not in excess of fourteen percent (14%) of alcohol by weight exclusively from grapes, berries and other fruits and vegetables may be sold by the drink at retail for consumption on the premises where sold when the person desiring to sell the malt liquor or light wines or both by the drink at retail for consumption on the premises shall first have obtained a license to do so from the Board of Aldermen; provided, that no such license shall be issued where the place of such sale is within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship or public playground.

For every license issued for the sale of malt liquor or light wines, or both, of the alcoholic content defined in this Section, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the City Collector seventy-five dollars (\$75.00).

Malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight may be sold by grocers and other merchants and dealers in the original package direct to consumers, but not for resale and not for consumption on the premises where sold, when the person desiring to sell the malt liquor in the original package shall first have obtained a license from the Board of Aldermen. The phrase "*original package*" shall be construed and held to refer to any package containing three (3) or more standard bottles of beer.

For every license issued for the sale of five percent (5%) beer of the alcoholic content defined in this Section in the original package as herein defined, but not for resale and not for consumption on the premises where sold, the licensee shall pay to the City Collector seventy-five dollars (\$75.00). Said license shall include Sunday sales from 9:00 A.M. to Midnight.

For every license issued for the sale of intoxicating liquor by the drink, the licensee shall pay the City Collector four hundred fifty dollars (\$450.00). For the sale of intoxicating liquor by the drink on Sundays as herein provided for, an additional license costing three hundred dollars (\$300.00) shall be required.

Section 3-49. Original Package Sales. [Ord. No. 16, §12; Ord. No. 346, §9.]

Intoxicating liquor may be sold in the original package not to be consumed on the premises where sold upon a license granted by the Board of Aldermen. For every such license there shall be paid to the City Collector one hundred fifty dollars per year. No such license shall be issued except to a person engaged in and to be used in connection with one or more of the following businesses: Drugstore, cigar and tobacco store, grocery store, general merchandise store, confectionery or delicatessen store, nor to any person who does not have or keep in this store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors.

Section 3-49.1. Sale of Intoxicating Liquor in the Original Package on Sundays. [Ord. No. 1061 §§1-2, 6-15-1993; Ord. No. 1130, 10-4-1994; Ord. No. 1719 §2, 9-16-2003; Ord. No. 1836 §§5 — 6, 7-5-2005]

(a) Sunday Sales.

- (1) For sales of intoxicating liquor in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.
- (2) For sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight (5% beer license) and light wines containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and fruits and vegetables in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.

Such licenses may only be applied for by individuals licensed to sell the same class of product throughout the remainder of the calendar week in accordance with State law.

- (b) The annual fee for either Sunday sales license, intoxicating liquor in the original package or malt liquor in excess of three and two-tenths percent (3.2%) and not exceeding five percent (5%) in the original package (5% beer license) and light wines shall be three hundred dollars (\$300.00) and shall be paid at the office of the City Clerk.

Section 3-49.2. On-Premises Tasting of Alcoholic Beverages — License. [Ord. No. 1401 §1, 3-30-1999]

Notwithstanding any other provisions of this Chapter to the contrary, any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor in the original package at retail under Sections 311.200 and 311.293 of the Revised Statutes of Missouri and who is also licensed by the City of Eureka to sell intoxicating liquor in the original package at retail, may apply to the City of Eureka for a liquor license to conduct wine, malt beverage and distilled spirit tastings on the licensed premises. A licensee under this Section shall pay to the City of Eureka an additional thirty-seven dollars fifty cents (\$37.50) per year payable at the same time and manner as other license fees. Nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

Section 3-50. Term; Proration of Fees. [Ord. No. 16, §25.]

The annual licenses issued under this division shall be dated August 1, and shall expire July 31 of the following year, and the fees for such licenses shall be paid annually in advance. Licenses may be issued for part of a year for businesses commenced after August 1, and proportionate fees charged based on the months or fraction of a month the license is to run to the next July 31 following.

Section 3-51. Nontransferable. [Ord. No. 16, §13.]

No license issued under this division shall be transferable or assignable.

Section 3-52. Posting. [Ord. No. 16, §19.]

All licenses issued pursuant to the provisions of this division shall be kept conspicuously posted in the place for which such license was issued.

Section 3-53. Fees to be in Lieu of Other License Fees and Ad Valorem Taxes. [Ord. No. 16, §23.]

The fees to be charged under this division shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for stock and sales of intoxicating liquors under other ordinances, and the value of stocks of intoxicating liquors, and the aggregate amount of sales thereof made by any licensee shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock or sales be included in the computation of any merchant's license or ad valorem tax.

Section 3-54. Disposition of Fees. [Ord. No. 16, §22.]

All fees collected by the City Collector pursuant to the provision of this division shall be accounted for and paid into the City Treasury as other funds collected by the City Collector are accounted for and paid.

Section 3-55. Revocation. [Ord. No. 16, §24.]

Whenever it is shown to the Board of Aldermen that a dealer licensed under this division has not at all times kept an orderly place or house, or has violated any of the provisions of this article or of the Liquor Control Act of the State, or has no license from the state supervisor of liquor control, or has made a false affidavit in his application for a license, the Board of Aldermen, after a hearing thereon, shall revoke the license of such dealer, giving ten days notice, in writing, thereof prior to the hearing thereon to the dealer, or any person in charge of or employed in the place licensed, stating the time, place, purpose and grounds therefor, at which hearing the dealer may have counsel and produce witnesses in his behalf.

Section 3-56. Manufacturers, Wholesalers, Etc., License - Required. [Ord. No. 16, §27.]

Every manufacturer, distiller, brewer or wholesaler of intoxicating liquor within the City shall apply for and be licensed as such by the Board of Aldermen, and any such person who fails to obtain such license, or pay the fees, or who fails to comply with any of the provisions of this article or with the provisions of other ordinances or laws of the state relating to intoxicating liquor shall, on conviction, be deemed guilty of a misdemeanor.

Section 3-57. Same — When Manufacturer not Required to Obtain Wholesale License. [Ord. No. 16, §29.]

A manufacturer, distiller or brewer within this City shall not be required to take out a wholesaler's license for the sale of their products at wholesale at the place of manufacture, or in quantities of not less than one gallon.

Section 3-58. Same — Regulations to be Same as for Retail Licensee. [Ord. No. 16, §30.]

The qualifications of persons granted licenses mentioned in section 3-59, the application therefor, the officer to whom the same shall be made, the disposition of and action thereon, the payment and collection of fees, the license therefor and proceedings for revocation thereof and other regulations thereunder, shall in all respects be those provided for in this division in the case of retail liquor dealers.

Section 3-59. Same — Fees; Gallonage Charges. [Ord. No. 16 §31; Ord. No. 346 §10.]

For each of the following licenses, there shall be paid to the City Collector annual charges as follows: For a manufacturer, distiller or brewer of intoxicating liquor, six hundred seventy-five dollars; for a wholesaler or wholesale liquor dealing agent of intoxicating liquor, seven hundred fifty dollars; provided, that in addition to the license fees provided in this section, the licensee shall pay gallonage charges as required, and similar, to such requirements as those provided by law to be paid to the state, in amount one and one-half times that required by the state for such gallonage tax.

The annual fees for licenses authorized under Article III of Chapter 31, pursuant to the authority granted under Section 311.220, RSMo., 1969, at all times shall be one and one-half times the amount required by law to be paid into the state treasury for such state permit or license as of the date of application therefor.

Section 3-59.1. Temporary Liquor Permit to Certain Organizations. [Ord. No. 1143 §§1 — 4, 1-3-1995; Ord. No. 1980 §2, 6-19-2007]

- (a) A temporary permit for the sale of all classes of intoxicating liquor as defined in Section 311.020, RSMo., and non-intoxicating beer as defined in Section 312.010, RSMo., for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor or non-intoxicating beer at a picnic, bazaar, fair or similar gathering.
- (b) To secure the permit, the applicant shall complete and submit an application along with a permit fee of twenty-five dollars (\$25.00). This permit must state the location and date or dates of the intended sales. Such permit shall be reviewed and approved by the Eureka Police Department and be forwarded to the Board of Aldermen for consideration and approval at an open public meeting.
- (c) As a condition of approval and issuance of such a temporary permit from the City, the applicant must secure all necessary permits and authority from St. Louis County, the State of Missouri and any other agencies as applicable. The City of Eureka temporary permit is immediately null and void if any and all additional approvals, permits or licenses are not procured by the applicant prior to the subject event.
- (d) No club or organization may be authorized to obtain and operate under a temporary permit to allow the on premises sales and consumption of all classes of intoxicating liquor for a period exceeding seven (7) days per calendar year.

Section 3-59.2. Transfer Fee. [Ord. No. 1857 §1, 9-20-2005]

Licenses issued under this Chapter are issued for a specific business at a specific location. If during the course of the annual liquor license period for which a business has already paid for its license, it moves to another location within the City at which it will conduct the identical type of alcoholic beverage sales, there shall be a one dollar (\$1.00) transfer fee.

ARTICLE IV
Outdoor Eating Place/Beer Garden

Division 1
Generally

Section 3-60. Short Title. [Ord. No. 970 §1, 8-21-1990]

This Article shall be known and may be cited as the Outdoor Eating Place/Beer Garden Ordinance.

Section 3-61. Definitions. [Ord. No. 970 §2, 8-21-1990]

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them:

LICENSEE — Any person having a City license in full force and effect issued hereunder for an outdoor eating place/beer garden.

OUTDOOR EATING PLACE/BEER GARDEN — Any establishment where food, alcohol, or beverages are sold to the consumers, out-of-doors, in connection with a licensed restaurant or tavern, and where such food, alcohol, or beverages are intended to be consumed upon the premises or on the premises outside the building.

WASTE MATERIAL — Paper cups, straws, napkins, garbage, beverages, and all other waste matter intended for disposal which, if not placed in a proper receptacle, tends to create a public nuisance by rendering property unclean, unsafe and unsightly.

Section 3-62. Article Supplemental to Other Regulations. [Ord. No. 970 §3, 8-21-1990]

This Article is intended to supplement and not to supplant any existing laws, ordinances or regulations.

Section 3-63. Licensee to Maintain Quiet and Good Order. [Ord. No. 970 §4, 8-21-1990]

It shall be the duty of the licensee to maintain quiet and good order upon the premises of an outdoor eating place/beer garden and not permit disorderly or immoral conduct or loitering. The licensee shall not cause or create any noise or other nuisance in the outdoor area where the quiet and good order of the premises or of the neighborhood are disturbed.

Section 3-64. Disposal of Refuse by Licensee; Containers. [Ord. No. 970 §5, 8-21-1990]

At least once every twenty-four (24) hours the licensee shall dispose of waste materials which tend to create a public nuisance on the premises. The licensee shall keep the premises whereon the outdoor eating place/beer garden is located, free from waste

material and shall provide the outdoor eating place/beer garden with appropriate refuse containers.

Section 3-65. Sale From Windows and Other Openings. [Ord. No. 970 §6, 8-21-1990]

The sale of food, alcohol, or beverages or other products from a window or other opening in the building connected to the outdoor eating place/beer garden shall not be permitted unless such window or opening is approved by the Board of Aldermen.

Section 3-66. Serving Hours. [Ord. No. 970 §7, 8-21-1990]

Serving hours shall be no greater than permitted by law except the Board of Aldermen may impose reasonable restrictions based on neighborhood conditions.

Section 3-67. Littering. [Ord. No. 970 §8, 8-21-1990]

No person shall place, throw or deposit any case, bottle, paper, waste material or refuse upon the outside premises of any outdoor eating place/beer garden or in the vicinity of same except in adequate receptacles provided for that purpose nor shall the licensee permit such conduct.

Section 3-68. Illumination of Area. [Ord. No. 970 §9, 8-21-1990]

The outdoor eating place/beer garden operated after dark shall be adequately illuminated by electric lights; but such illumination shall be so arranged and shielded by the licensee so as to reflect away from any adjoining property and streets.

Section 3-69. Noise and Other Disturbances by Patrons. [Ord. No. 970 §10, 8-21-1990]

No person on the premises of an outdoor eating place/beer garden shall needlessly make or cause to be made any loud or unseemly noise, nuisance, or disturbance whereby the quiet and good order of the premises or the neighborhood is disturbed.

Section 3-70. Fence or Wall Required. [Ord. No. 970 §11, 8-21-1990; Ord. No. 2044 §1, 5-6-2008]

The licensee of an outdoor eating place/beer garden shall provide a wall or fence of adequate height to screen the patrons on the premises from the view of the surrounding property. Such fence or wall shall be of a design and structure approved by the Board of Aldermen. The perimeter of the fence or wall shall be landscaped by the licensee with suitable plants and shrubbery to preserve as far as possible harmony with the appearance of the surrounding property. The Board of Aldermen may give consideration to waiving this requirement on a site specific basis upon making a determination that such would not be detrimental to public health or the character of the area.

Section 3-71. Occupancy. [Ord. No. 970 §12, 8-21-1990]

The occupancy of the outside eating place/beer garden shall not be greater than the actual occupancy allowed by occupancy permit/license of the attached restaurant or tavern.

Division 2
License Requirements

Section 3-72. Special License Required. [Ord. No. 970 §13, 8-21-1990]

No person shall construct, operate, or maintain an outside eating place/beer garden within the City without first obtaining a license as hereinafter provided by the Board of Aldermen.

Section 3-73. Limited License. [Ord. No. 970 §14, 8-21-1990]

The Board may, at its discretion, issue a limited license for a period of not less than one (1) day nor more than ten (10) consecutive days, upon application. Application for such limited license shall conform to the requirements of this Article, except that the application fee shall be twenty-five dollars (\$25.00) for each day. The Board may waive or alter the fence or wall requirement (Section 3-70) for a limited license applicant. All other standards and requirements of this Article shall apply to limited license applicants.

Section 3-74. Application Procedures. [Ord. No. 970 §15, 8-21-1990]

Applications for licenses required by this Article shall be made upon blank forms prepared and made available by the Board of Aldermen and shall state:

- (1) The name, home address and proposed business address of the applicant.
- (2) The number of patrons which the proposed outdoor eating place/beer garden is designed to accommodate.
- (3) The hours of operation for the proposed outdoor eating place/beer garden.
- (4) Such other reasonable information as the Board of Aldermen shall find reasonably necessary to effectuate the purpose of this Article and to arrive at a fair determination of whether the terms of this Article have been complied with.

Section 3-75. Plat or Drawing to Accompany Application; Exception. [Ord. No. 970 §16, 8-21-1990]

Every application for a license required by this Article shall be accompanied by a plat or drawing of the proposed outdoor eating place/beer garden:

- (1) The location, size and capacity of the facility.
- (2) The location and size of the entrances and exits.
- (3) The kind of ground surface.
- (4) The location, size and construction of all structures.
- (5) The location, size and construction of surrounding walls, fences or barriers.

Section 3-76. Application Fee. [Ord. No. 970 §17, 8-21-1990]

Initial applications and applications after revocation for a license required by this Article shall be accompanied by an application fee of one hundred dollars (\$100.00).

Section 3-77. Bond or Liability Insurance Required. [Ord. No. 970 §18, 8-21-1990]

Every application for a license required by this Article shall be accompanied by a bond, approved as to form by the City Attorney, executed by a bonding or surety company authorized to do business in the State, in the sum of five thousand dollars (\$5,000.00) conditioned upon the payment by the licensee of any and all final judgements for injuries or damages resulting to persons or property arising out of the operation or maintenance of any outdoor eating place/beer garden. Such bond shall run to the City for the benefit of any person who may receive injuries and for the benefit of any person who may claim redress for property damage resulting from the operation or maintenance of an outdoor eating place/beer garden. Such bond shall remain in full force and effect for the full period of time for which the license is effective. In lieu of a bond, a liability insurance policy, issued by an insurance company authorized to do business in the State, which conforms to the requirements of this Section may be accepted.

Section 3-78. Standards for Issuance. [Ord. No. 970 §19, 8-21-1990]

The Board of Aldermen may issue or refuse to issue a license under the provisions of this Article after examining and considering:

- (1) Any danger to the health, morals and safety of the people of the City.
- (2) The reputation of the applicant, his officers or agents, if any, and their ability to operate the outdoor eating place/beer garden in a manner consistent with the maintenance and preservation of good order, public health, safety, good morals and welfare.
- (3) The effect upon the peace and quiet of the neighborhood of conducting an outdoor eating place/beer garden at the location designated between the hours for which a license is required.
- (4) The insurance companies or sureties utilized by this licensee in complying with the provisions of this Article.
- (5) Whether the requirements of this Article and all other governing laws and ordinances have been met.

Section 3-79. License Fee. [Ord. No. 970 §20, 8-21-1990; Ord. No. 1496 §1, 11-21-2000]

Upon approval by the Board of Aldermen of an application for a license required by this Article, a license shall be issued by the City Clerk or the City Collector after payment of the license fee prescribed for an outdoor eating place/beer garden in Section 3-76.

Section 3-80. (Reserved) ⁴

Section 3-81. Revocation of License. [Ord. No. 970 §22, 8-21-1990]

In addition to any other reason specified in any other ordinance of the City, a license issued under the provisions of this Article may be revoked or suspended by the Board of Aldermen when the Board of Aldermen finds that:

- (1) The licensee is operating in violation of this Article or of any other governing law, ordinance or regulation; or
- (2) The licensee is operating so as to constitute a nuisance by reason of noise, disorderly or illegal conduct or immoral activity on the premises.

Section 3-82. Exemptions. [Ord. No. 970 §23, 8-21-1990]

Amusement parks of one hundred (100) acres or more and beer gardens in effect prior to August 21, 1990, are exempt from the requirements of this Article.

ARTICLE V
Sidewalk Cafe — Standards And Procedures

Division 1
Generally

Section 3-83. Short Title. [Ord. No. 1608 §1, 5-7-2002]

This Article shall be known and may be cited as the Sidewalk Cafe': Standards and Procedures Ordinance.

Section 3-84. Definitions. [Ord. No. 1608 §1, 5-7-2002]

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

SIDEWALK — A public or private pedestrian walkway with permanent surfacing.

SIDEWALK CAFE — An outdoor eating place on a public or private sidewalk where patrons may consume food and/or beverages provided by a food service establishment. Such establishments may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor eating place. [Ord. No. 2306 §1, 7-1-2014]

Section 3-85. Article Supplemental to Other Regulations. [Ord. No. 1608 §1, 5-7-2002]

This Article is intended to supplement and not to supplant any existing laws, ordinances or regulations.

Section 3-86. Maintenance of Quiet and Good Order. [Ord. No. 1608 §1, 5-7-2002]

⁴. Editor's Note — Ord. no. 1496 §2, adopted on November 21, 2000, repealed §3-80. Former section 3-80 derived from ord. no. 970 §21, 8-21-1990.

It shall be the duty of the licensee to maintain quiet and good order upon the premises of a sidewalk cafe', and not permit disorderly or immoral conduct or loitering. The licensee shall not cause or create any noise or other nuisance in the outdoor area where the quiet and good order of the premises or the neighborhood are disturbed. No outdoor speakers or music shall be allowed.

No patron on the premises of a sidewalk cafe' shall needlessly make or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood is disturbed.

Section 3-87. Disposal of Refuse and Littering. [Ord. No. 1608 §1, 5-7-2002]

At least once every twenty-four (24) hours the licensee shall dispose of waste materials which tend to create a public nuisance on the premises. The licensee shall keep the premises whereon the sidewalk is located free from waste material and shall provide the sidewalk cafe' with appropriate refuse containers. The sidewalk cafe' shall be kept clean and free of debris at all times.

No patron shall place, throw or deposit any case, bottle, paper, waste material or refuse upon the outside premises of any sidewalk cafe' or in the vicinity of same except in adequate receptacles provided for that purpose nor shall the licensee permit such conduct.

Section 3-88. Sale from Windows and Other Openings. [Ord. No. 1608 §1, 5-7-2002]

The sale of food, alcohol, beverages or other products from a window or other opening in the building connected to the sidewalk cafe' shall not be permitted unless such window or opening is approved by the Board of Aldermen.

Section 3-89. Serving Hours. [Ord. No. 1608 §1, 5-7-2002]

Serving hours shall be no longer than permitted by law except the Board of Aldermen may impose reasonable restrictions based on neighborhood conditions.

Section 3-90. Illumination of Area. [Ord. No. 1608 §1, 5-7-2002]

A sidewalk cafe' operated after dark shall be adequately illuminated by electric lights; but such illumination shall be so arranged and shielded by the licensee so as to reflect away from any adjoining property and streets.

Section 3-91. Occupancy. [Ord. No. 1608 §1, 5-7-2002]

Restaurants in commercial or planned commercial districts may provide a sidewalk cafe', contiguous to their restaurant facility, under the following additional conditions:

- (1) No permanent structures or paving are installed.
- (2) Outdoor tables, chairs, furniture and decorative items shall be of uniform design and shall be removed from public property November first (1st) through March thirty-first (31st).

- (3) Restaurant service equipment shall not be permitted outdoors.
- (4) An unobstructed pedestrian walkway shall be maintained on the public sidewalk between the tables, umbrellas and the vehicle traffic way.
- (5) The seating shall not obstruct any entry or exit way of the building or adjacent buildings.
- (6) Adequate parking shall exist for the increased restaurant use. A determination of inadequate parking shall be grounds for denial of the permit.
- (7) *Other allowable uses.* A sidewalk cafe' may incorporate potted street plants or street furniture, provided that the required pedestrian path is maintained in the area.
- (8) *Other Conditions.* Any other conditions or provisions regarding public safety or health as determined by the Board of Aldermen.

Division 2

License Requirements

Section 3-92. Sidewalk Cafe' License Required. [Ord. No. 1608 §1, 5-7-2002]

No person shall construct, operate or maintain a sidewalk cafe' within the City without first obtaining a sidewalk cafe' license as hereinafter provided by the Board of Aldermen.

Section 3-93. Application Procedures. [Ord. No. 1608 §1, 5-7-2002]

Applications for licenses required by this Article shall be made upon blank forms prepared and made available by the Board of Aldermen and shall state:

- (1) The name, home address and proposed business address of the applicant. For a sidewalk cafe' to be located on a private sidewalk, the property owner's signature shall be required.
- (2) The number of patrons which the proposed sidewalk cafe' is designed to accommodate.
- (3) The proposed hours of operation.
- (4) Such other reasonable information as the Board of Aldermen shall find reasonably necessary to effectuate the purpose of this Article and to arrive at a fair determination of compliance with the terms of this Article.

Section 3-94. Plat or Drawing to Accompany Application. [Ord. No. 1608 §1, 5-7-2002; Ord. No. 2306 §2, 7-1-2014]

Every application for a license required by this Article shall be accompanied by a plat or drawing showing the sidewalk in relation to the business, street lights, planters, curbing, on-street parking or any other public appurtenances, and the proposed location of any tables and chairs.

Section 3-95. Application Fee. [Ord. No. 1608 §1, 5-7-2002]

There shall be no application or permit fee for a sidewalk cafe'.

Section 3-96. Liability Insurance for Public Sidewalk Use. [Ord. No. 1608 §1, 5-7-2002]

At the time of application, the following shall be required for a sidewalk cafe' to be located on a public sidewalk:

- (1) *Indemnification.* Prior to the issuance of any permit, the applicant shall execute and deliver to the City upon a form supplied by the City an agreement in writing and acknowledged by the applicant forever to defend, indemnify and hold harmless the City and its employees and agents from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of a sidewalk cafe' located on a public sidewalk. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature and that it vests no permanent right whatsoever.
- (2) *Liability insurance required.* The permit applicant shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000.00) covering the permit applicant's operations on the sidewalk. Such insurance shall name, on a special endorsement form, the City, its elected and appointed boards, officers, agents and employees as additional insureds. A certificate of insurance shall contain provisions that prohibit cancellations, modifications or lapse without thirty (30) days' prior written notice to the City.

Section 3-97. Standards for Issuance. [Ord. No. 1608 §1, 5-7-2002]

The Board of Aldermen may issue or refuse to issue a license under the provisions of this Article after examining and considering:

- (1) Any danger to the health, morals and safety of the people of the City.
- (2) The reputation of the applicant, his officers or agents, if any, and their ability to operate the sidewalk cafe' in a manner consistent with the maintenance and preservation of good order, public health, safety, good morals and welfare.
- (3) The effect upon the peace and quiet of the neighborhood of conducting a sidewalk cafe' at the location designated between the hours for which a license is required.
- (4) The insurance companies or sureties utilized by this licensee in complying with the provisions of this Article.
- (5) Whether the requirements of this Article and all other governing laws and ordinances have been met.

Section 3-98. Revocation of License. [Ord. No. 1608 §1, 5-7-2002]

In addition to any other reason specified in any other ordinance of the City, a license issued under the provisions of this Article may be revoked or suspended by the Board of Aldermen when the Board of Aldermen finds that:

- (1) The licensee is operating in violation of this Article or of any other governing law, ordinance or regulation; or
- (2) The licensee is operating so as to constitute a nuisance by reason of noise, disorderly or illegal conduct or immoral activity on the premises.

Section 3-99. Exemptions. [Ord. No. 1608 §1, 5-7-2002]

Amusement parks of one hundred (100) acres or more are exempt from the requirements of this Article as they pertain to location of sidewalk cafe's on private sidewalks.