

Chapter 3

ALCOHOLIC BEVERAGES*

Art. I. In General, §§ 3-1 - 3-30

Art. II Licenses and Permits, §§ 3-31 – 3-47

***Editor's note** – Ord. No. 3610, § 1. adopted April 9, 2001, repealed in its entirety Chapter 3. Ord. No. 3610, § 2, adopted April 9, 2001, enacted similar provisions to read as herein set out. Former Ch.3 derived from the 1970 Code §§ 3-1 – 3-3, 3-5 – 3-7, 3-9, 3-12, 3-12.1, 3-14, 3-15(a)1, and 3-15(b), and the following amendatory legislation:

Ord. No.	Date	Ord. No.	Date
2061	5-10-82	2851	6-14-93
2066	6-14-82	2856	6-28-93
2068	6-14-82	3052	6-26-95
2154	3-12-84	3070	8-28-95
2155	3-12-84	3237	4- 8-96
2172	5-14-84	3185	10-14-96
2254	11-12-85	3208A	3-10-97
2288	6- 9-86	3232	7-14-97
2289	6- 9-86	3419	3-22-99
2299	9- 8-86	3420	3-22-99
2384	12-14-87	3421	3-22-99
2535	10- 9-89	3425	4-12-99
2798	11- 9-92		

Cross references – Offenses against public safety, § 14-101 et seq.; police, Ch. 17; driving while intoxicated, driving with excessive blood alcohol content, § 23-121 et seq.

State law references – Liquor control law, RSMo Ch. 311; nonintoxicating beer, RSMo Ch. 312; municipal authority to regulate intoxicating liquor and nonintoxicating beer, RSMo 311.220(2), 312.140.

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

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

Amusement place shall be defined as set forth in the provisions of RSMo 311.098, as amended from time to time.

Catering business shall mean any business involving the provision and/or service of food and/or beverages for a private occasion, function or event whether prepared on the premises of the occasion, function or event or not.

Catering event shall mean any occasion, function or event which involves the provision and/or service of food and/or beverages for a period of time not to exceed one hundred twenty (120) consecutive hours.

Closed place shall mean a place where all doors are locked and where no patrons are in the place or about the premises.

Intoxicating liquor shall be defined as set forth in the provisions of RSMo 311.020, as amended from time to time.

Light wine shall mean any wine containing not in excess of fourteen (14) percent of alcohol by weight made exclusively from grapes, berries or other fruits and vegetables.

Malt liquor shall mean any liquor containing alcohol in excess of three and two-tenths (3.2) percent by weight and not in excess of five (5) percent by weight, manufactured from pure hops or pure extraction of hops or pure barley malt or wholesome grain or cereals and wholesome yeast or pure water.

New amusement place shall be defined as set forth in the provisions of RSMo 311.098(3), as amended from time to time.

New resort shall be defined as set forth in the provisions of RSMo 311.095(4), as amended from time to time.

New restaurant bar shall be defined as set forth in the provisions of RSMo 311.097(3), as amended from time to time.

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

Original package shall mean any package containing one-half (.5) pint or more of intoxicating liquor, excepting malt liquor or any package containing three (3) or more standard bottles of malt liquor or nonintoxicating beer.

Person shall mean and include any individual, association, partnership, entity, joint stock company, syndicate, co-partnership, corporation, receiver, trustee, limited-liability company, limited-liability partnership, conservator or other officer appointed by a state or federal court.

Public place for purposes of this chapter shall mean any public way, park, parking lot, cemetery, school yard or open space adjacent thereto; or any place open to access by the public including any business to which the general public has access, regardless of any age restriction which apply to that place, unless that location is licensed under the provisions of this Code.

Qualified legal voter shall mean a person who is legally registered to vote at the time an application for liquor license is made to the city.

Resort shall be defined as set forth in the provisions of RSMo 311.095, as amended from time to time.

Restaurant bar shall be defined as set forth in the provisions of RSMo 311.097, as amended from time to time.

Seasonal resort shall mean a restaurant which is not a new restaurant establishment and which is open for business eight (8) or fewer consecutive months in any calendar year. Fifty (50) 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 twelve (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 ninety (90) days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which fifty (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.

Taxpaying citizen shall mean a person who has paid all city, county state and federal taxes which are due at the time of application or renewal for a city liquor license whether or not the taxes due are related to the income or premises for which the liquor license has been requested.

Tavern shall mean an establishment licensed to sell malt liquor by the drink or light wine for consumption on the premises, but not licensed to sell intoxicating liquor by the drink.
(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3634, § 1, 6-11-01)

Sec. 3-2. Inspection by city.

The city officials shall have the authority to inspect all premises covered by licenses issued under this chapter to determine whether the provisions of this chapter are being obeyed.
(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-3. Hours of sale generally.

No license holder under this chapter, nor any employee of such person, shall sell, give away or otherwise dispose of or suffer the same to be done upon or about his premises, any intoxicating liquor or nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 9:00 a.m. Tuesday through Saturday and between the hours of 1:30 a.m. and 9:00 a.m. Sunday and between the hours of 12:00 a.m. and 6:00 a.m. Monday.
(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3856, § 1, 11-24-03)

Sec. 3-4. Reserved.

Sec. 3-5. Hours of sale – Holidays and special event days.

When January 1, March 17, July 4, or December 31 fall on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known a “Super Bowl Sunday,” a person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provision of his or her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any other provision of the Code to the contrary.
(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-6. Same – Clubs, hotels and restaurants.

Where licenses authorizing the sale of intoxicating liquor by the drink or nonintoxicating beer for on-premises consumption are held by clubs or hotels, sections 3-3 through 3-5 shall apply only to the room or rooms in which intoxicating liquor or nonintoxicating beer is dispensed. Where licenses are held by restaurants whose business is conducted in one (1) room only and substantial quantities of food and merchandise other than intoxicating liquors and nonintoxicating beer are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in sections 3-3 through 3-5 all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor or nonintoxicating beer are dispensed.

(Ord. No. 3610, § 2, 4-9-01)

Secs. 3-7 – 3-10. Reserved.

Sec. 3-11. Sales to minors, drunks and drunkards prohibited.

(a) It is prohibited for any licensee under this chapter, or his employee, to sell, vend, give away or otherwise supply any intoxicating liquor or nonintoxicating beer 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 whosoever, except such person's parent or guardian, who shall procure for, sell, give away or otherwise supply intoxicating liquor or nonintoxicating beer 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.

(b) This section shall not apply to the supplying of intoxicating liquor or nonintoxicating beer to a person under the age of twenty-one (21) years for medical purposes only, or to the administering of intoxicating liquor or nonintoxicating beer to any person by a duly licensed physician.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-12. Purchase or possession by minor prohibited.

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 possession, any intoxicating liquor or nonintoxicating beer.

(Ord. No. 3610, §2, 4-9-01)

Sec. 3-13. Misrepresentation of age by minors prohibited; use of altered identification.

(a) Any person under the age of twenty-one (21) years who shall represent that he has attained the age of twenty-one (21) years for the purpose of purchasing, asking for or in anyway receiving any intoxicating liquor, except in cases authorized by law, shall be guilty of an offense.

(b) In addition to the penalties established in subsection (a) of this section, any person who is less than twenty-one (21) years of age who uses a reproduced, modified, or altered chauffeur's license, motor vehicle operator's license, or state identification card, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, shall be guilty of an offense and shall be subject to a fine of five hundred dollars (\$500.00) for each separate offense.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-14. Drinking in public places prohibited; exception.

(a) It shall be unlawful for any person to drink from or have in his possession an open container of intoxicating liquor or nonintoxicating beer in any public place within the city, except when a liquor license has been issued and is in effect for such public place.

(b) The city council shall have the power to suspend the provisions of section 3-14 only upon the written application of an organization as defined in section 3-34. City council's authority to suspend shall be by vote of the city council for an ordinance suspending the provisions of section 3-14. City council shall be required to pass a new ordinance suspending the provisions of section 3-14 for each application it deems sufficient to warrant a suspension. The exception to this section 3-14 set forth in subsection 3-14(e) shall not be considered a suspension of this section, but instead an exception to its applicability.

(c) An organization making a request to suspend the provisions of section 3-14 must designate the specific public place by street address, street description or legal description and the date and duration desired for the suspension. The application must be made not less than seven (7) days in advance of the council meeting at which the council will consider the application. An organization shall not have more than one (1) application approved in any calendar year.

(d) After consideration of an organization's application, the city council may, in its discretion, suspend the provisions of section 3-14. The city council shall suspend the provisions of section 3-14 for only a specified public place and a specific date and duration not exceeding three (3) calendar days.

(e) For any date upon which an intercollegiate athletic contest is held involving a team of Central Missouri State University, or any exhibition, scrimmage, or training camp of a professional athletic team within the city, the provision of this section shall not apply to the paved portions of designated parking lots belonging to Central Missouri State University upon the Central Missouri State campus for a maximum of six (6) hours. In order to be considered a designated parking lot, the lot must meet the following requirements:

(1) Temporary fencing at least four (4) feet in height must fully enclose the lot except entrances and exits;

(2) All entrances and exits must be controlled and supervised by Central Missouri State University personnel;

(3) At least seven (7) days prior to the scheduled event, the designated lot shall have been identified and its location communicated in writing to the chief of police of the city by the university director of facilities and conference services.

The provisions of this subsection (e) shall remain in force until December 31, 2005, at which time they shall expire.

(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3818, §§ 1,2, 8-18-03; Ord. No. 3921, § 1, 7-26-04)

Sec. 3-15. Procedures for handling intoxicated, incapacitated persons.

(a) A person who appears to be incapacitated or intoxicated may be taken by a police officer to the person's residence, to any available treatment service or to any other appropriate local facility, which may, if necessary, include a jail, for custody not to exceed twelve (12) hours.

(b) Any police officer detaining an incapacitated or intoxicated person shall be immune from prosecution for false arrest and shall not be responsible in damages for taking action pursuant to subsection (a) if the officer has reasonable grounds to believe the person is incapacitated or intoxicated by alcohol and he does not use unreasonable force to detain such person.

(c) Immunity from prosecution under subsection (b) includes the officer taking reasonable action to protect himself from harm by the intoxicated or incapacitated person.
(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-16. Possession, sales by druggist and physicians.

(a) Any druggist may have in his possession intoxicating liquor or nonintoxicating beer purchased by him from a licensed vendor under a license pursuant to this chapter, or intoxicating liquor or nonintoxicating beer lawfully acquired at the place of acquisition and legally transported into this state, and lawfully inspected, gauged and labeled as provided for by state law; such intoxicating liquor or nonintoxicating beer to be used in connection with the business of a druggist, in compounding medicines or as a solvent or preservative.

(b) Nothing in this section shall prevent a regularly licensed druggist, after he procures a license therefor in compliance with this chapter, from selling intoxicating liquor or nonintoxicating beer in the original packages, but not to be consumed or the packages opened on the premises where sold.

(c) Nothing in this chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor or nonintoxicating beer in accordance with his professional judgment for any patient at any time, or prevent a druggist from selling intoxicating liquor or nonintoxicating beer to a person on prescription from a regularly licensed physician as above provided.
(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-17. Effective date.

The new chapter 3 of the Code of Ordinances adopted by Ordinance Number 3610 and amended by Ordinance Number 3611 shall be in effect for all licenses to sell liquor by the drink in the City of Warrensburg for the period July 1, 2001, and thereafter. Any application presented for a license to be effective on or after July 1, 2001, shall be processed under the provisions of the new chapter 3 adopted by Ordinance Number 3610, and amended by Ordinance Number 3611 and said chapter 3 shall be in full force and effect immediately for all purposes for any license to go into effect on or after July 1, 2001.

(Ord. No. 3629, § 1, 5-29-01)

Secs. 3-18 – 3-30. Reserved.

ARTICLE II. LICENSES AND PERMITS

Sec. 3-31. License required; prohibitions.

(a) It shall be unlawful for any person to sell in this city, either at retail or at wholesale, malt liquor, light wine, intoxicating liquor or nonintoxicating beer unless such person shall have obtained a license therefor from the city, and the full license fee therefor is paid.

(b) It shall be unlawful for any person to sell or expose for sale intoxicating liquor or nonintoxicating beer by the drink on Sunday in the city, except as provided in sections 3-33 and 3-34(c) of the City Code.

(c) It shall be unlawful for any person holding a license, or who is operating on behalf of any person holding a license, for a resort, new resort, restaurant bar, new restaurant bar, tavern, amusement place, or new amusement place to permit to allow persons under the age of twenty-one (21) not accompanied by a parent or legal guardian to enter any part of the resort, new resort, restaurant bar, new restaurant bar, tavern, amusement place or new amusement place, unless a no age restrictions endorsement is in place on the establishment. For those licensed establishments which have during the previous year been under a twelve-month license under this chapter and whose gross liquor sales for the preceding twelve-month period total under two hundred thousand dollars (\$200,000.00), food sales over one hundred thousand dollars (\$100,000.00) and whose total occupancy limit is fifty (50) or less, any age restriction applicable under this paragraph shall be in force from 12:00 a.m. to 6:15 a.m. and from 3:00 p.m. to 12:00 a.m. each day.

(d) It shall be unlawful for any person under the age of twenty-one (21) not accompanied by a parent or legal guardian to enter any part or portion of any city licensed resort, new resort, restaurant bar, new restaurant bar, tavern, amusement place or new amusement place. For those licensed establishments which during the previous year have been under a twelve-month license under this chapter and whose gross liquor sales for the preceding twelve-month period total under two hundred thousand dollars (\$200,000.00), food sales over one hundred thousand dollars (\$100,000.00) and whose total occupancy limit is fifty (50) or less, any age restriction applicable under this paragraph shall be in force from 12:00 a.m. to 5:00 a.m. and from 3:00 p.m. to 12:00 a.m. each day.

(e) It shall not be unlawful for any person under the age of twenty-one (21) to enter upon the premises of an establishment licensed by the city as a resort, new resort, restaurant bar, new restaurant bar, amusement place, new amusement place, or tavern for the purpose of employment as permitted by state law.

(f) It shall not be unlawful for any person under the age of twenty-one (21) to enter upon the permanent or temporary premises of any licensee licensed under the provision of section 3-34 of this chapter, or the temporary premises of any catering event under subsection 3-32(h).

(g) Each establishment, including resorts, new resorts, restaurant bars, new restaurant bars, amusement places, new amusement places and taverns, shall be required to apply and receive its own separate city liquor license as required by this article if any one (1) of the following conditions are met:

(1) If the establishment has its own individual exterior entrance for patrons. This provision shall apply even if the establishment has an interior connection to another establishment or if the establishment has a common exterior side or rear entrance with another establishment.

(2) If the establishment has its own individual name. This provision shall apply even if the establishment is commonly owned by one (1) person who also owns other establishment(s) required to have a city liquor license under this article.

(3) If the establishment is required to have its own separate city business license, or

(4) For any other good cause which may exist as determined by city manager or his designee.

(h) The age restrictions contained in subsections (c) and (d) of this section shall not apply to any establishment holding an amusement license or new amusement license and whose nonalcoholic sales arise out of operation of any establishment containing one (1) of the following:

- (1) Three (3) or more bowling lanes.
- (2) A golf course of nine (9) or more holes.

Any applicant who shall demonstrate compliance with these requirements shall have an endorsement upon their license which reads "No age restrictions." Failure to establish these requirements and obtain the endorsement at the time of license issuance will exclude the licensee from this provision.

(i) The age restrictions listed in subsections (c) and (d) of this section shall not apply between the hours of 5:00 a.m. and 11:00 p.m. to any establishment holding a restaurant bar or new restaurant bar license and whose operations include all of the following:

- (1) Preparing and/or serving of food for consumption on the premises by the general public and whose operations are open to the general public.
- (2) Regularly scheduled hours of operation at least three (3) days per week for a total of at least twelve (12) hours per week at least thirty-six (36) weeks per year.
- (3) At least ten (10) hours of operation each week between the hours of 8:00 a.m. and 8:00 p.m.
- (4) The preparation and/or serving of food for consumption on the premises must take place during all hours the operation is open for business before 9:00 p.m. and after 8:00 a.m.
- (5) A commercial kitchen in operation, to include at least:
 - (1) a commercial stove,
 - (2) a refrigerator,
 - (3) a commercial sink or dishwashing equipment,
 - (4) at least two full time employees working exclusively in the kitchen.

Any applicant who shall demonstrate compliance with these requirements shall have an endorsement upon their license which reads "No age restrictions from 5:00 a.m. to 11:00 p.m." Failure to establish these requirements and obtain the endorsement at the time of license issuance will exclude the licensee from this provision.

(j) Notwithstanding subsection (i), a restaurant bar or new restaurant bar may receive a "no age restrictions" endorsement for all hours of operation by meeting all requirements of subsections (i) and also:

- (1) Not holding a dance hall permit or permitting a public dance as defined by Chapter Four of the Code of Ordinances on the licensed premises, and
- (2) Not permitting or allowing the performance of live or prerecorded music between 11:00 p.m. and 1:30 a.m. in the licensed premises, except that prerecorded background music shall be allowed so long as the total ambient sound level in the establishment does not exceed 70 decibels during that time period, and

(3) Not maintaining any pool or billiard tables in the licensed establishment for use by the public.

(k) Any restaurant bar or new restaurant bar that does not meet the requirements of subsections (j) that desires to allow persons under twenty-one years of age to enter the licensed premises unaccompanied by a parent or guardian between the hours of 11:00 p.m. and 1:30 a.m. may do so by closing the room in which intoxicating liquor or non-intoxicating beer is dispensed during those hours, or by securely locking all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor and non-intoxicating beer are dispensed during those hours and by serving no intoxicating liquor or non-intoxicating beer during those hours.

(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3634, § 2, 6-11-01; Ord. No. 3680, § 1, 12-10-01; Ord. No. 3856, § 2, 11-24-03)

Sec. 3-32. Sale of intoxicating liquor by the drink.

(a) Amusement place.

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for an amusement place to sell intoxicating liquor by the drink at retail for consumption on the premises.

(2) In order for an amusement place to qualify for a city license, it must, in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and have in its possession a state liquor license as an amusement place as defined under RSMo 311.098, and all requirements of RSMo 311.098, as amended from time to time, for obtaining an amusement place license are hereby incorporated within the provisions of this section.

(b) New amusement place.

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for a new amusement place having been in operation for less than ninety (90) days to sell intoxicating liquor at retail for consumption on the premises for a period not to exceed ninety (90) days.

(2) In order for a new amusement place to qualify for a city license, it must, in addition to the requirements of this chapter, satisfy all state requirements for a temporary license under RSMo 311.098(3), and all requirements of RSMo 311.098(3), as amended from time to time, for obtaining a new amusement place license are hereby incorporated within the provisions of this section. Notwithstanding the provisions of this section and RSMo 311.098(3), upon application of a holder of a new amusement place temporary ninety-day license, the city manager or his designee may grant a second ninety-day temporary license. The holder of the original ninety-day temporary license shall apply for the second temporary license as if the second temporary license is the original temporary license and shall be subject to and abide by all provisions of this article during the application and term of the second ninety-day license.

(c) Resorts.

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for a resort to sell intoxicating liquor by the drink at retail for consumption on the premises.

(2) In order for a resort to qualify for a city license, it must in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and have in its possession a state liquor license as a resort, as defined under RSMo 311.095, and all requirements of RSMo 311.095, as amended from time to time for obtaining a resort license are hereby incorporated within the provisions of this section.

(d) *New resorts.*

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for a new resort having been in operation for less than ninety (90) days to sell intoxicating liquor at retail for consumption on the premises for a period not to exceed ninety (90) days.

(2) In order for a new resort to qualify for a city license, it must, in addition to the requirements of this chapter, satisfy all state requirements for a temporary license under RSMo 311.098(4), and all requirements of RSMo 311.095(4), as amended from time to time, for obtaining a new resort license are hereby incorporated within the provisions of this section. Notwithstanding the provisions of this section and RSMo 311.095(4), upon application of a holder of a new resort temporary ninety-day license, the city manager or his designee may grant a second ninety-day temporary license. The holder of the original ninety-day temporary license shall apply for the second temporary license as if the second temporary license is the original temporary license and shall be subject to and abide by all provisions of this article during the application and term of the second ninety-day license.

(e) *Restaurant bars.*

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for a restaurant bar to sell intoxicating liquor by the drink at retail for consumption on the premises.

(2) In order for a restaurant bar to qualify for a city license, it must, in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and hold a state liquor license as a restaurant bar, as defined under RSMo 311.097. All requirements of RSMo 311.0907, as amended from time to time, for obtaining a restaurant bar license are hereby incorporated within the provisions of this section.

(f) *New restaurant bars.*

(1) Upon application as required by this chapter and receipt of a city license it shall be lawful for a new restaurant bar to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed ninety (90) days.

(2) In order for a new restaurant bar to qualify for a city license, it must in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and hold a state liquor license as a new restaurant bar, as defined under RSMo 311.097(3). All requirements of RSMo 311.097(3) as amended from time to time, for obtaining a new restaurant temporary license are hereby incorporated within the provisions of this section. Notwithstanding the provisions of this section and RSMo 311.097(3), upon application of a holder of a new restaurant temporary ninety-day license, the city manager or his designee may grant a second new restaurant ninety-day temporary license. The holder of the original ninety-day temporary license shall apply for the second ninety-day temporary license as if the second temporary license is the original temporary license and shall be subject to and abide by all provisions of this article during the application and term of the second ninety-day license.

(g) *Taverns.*

Upon application as required by this chapter and receipt of a city license it shall be lawful for a tavern to sell malt liquor by the drink or light wine for consumption on the premises, but it shall not be lawful for the tavern to sell intoxicating liquor by the drink. If indicated in the application, an applicant may apply for a malt liquor only tavern license. In such case, the license holder may not sell light wine for consumption on the premises.

(h) *Temporary location for liquor by the drink and caterers license.*

(1) The city collector shall, upon approval of the city manager or his designee, issue a temporary permit to caterers who hold licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter, or to persons operating a catering business who hold a license to sell intoxicating liquor by the drink at retail for consumption on their premises issued by another municipality or county government, who furnish provisions and service for use at a particular function, occasion or event at a particular location other than their primary business location whether licensed under this chapter or not, but not including a "festival" as defined in RSMo Chap. 316. The temporary permit shall be effective for 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 otherwise lawful hours for service of alcoholic beverages.

(2) All other applicable provisions of state law and municipal ordinance shall apply to the use of any temporary permit hereunder. Such a temporary permit shall not include the sale of packaged alcoholic beverages, except as set forth in subsection (4) below.

(3) No temporary license hereunder or caterer's privilege hereunder may be used at any location that has otherwise been issued a liquor license under this chapter.

(4) A temporary license may be issued hereunder to persons operating a micro-brewery as that term is defined by RSMo 311.195, as amended, or to persons selling light wine, for sale of malt liquor and light wine in the original package for consumption off premises pursuant to all other requirements of subsections (1) through (3) above so long as they otherwise hold a valid state license to sell the same in its original package.

(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3634, §3, 6-11-01; Ord. No. 3856, § 3, 11-24-03)

Sec. 3-33. Sale of liquor by the drink on Sunday.

(a) Upon application as required by this chapter and receipt of a city license it shall be lawful for a city licensed restaurant bar, new restaurant bar, amusement place or new amusement place to sell intoxicating liquor by the drink on Sunday, between the hours of 9:00 a.m. and midnight.

(b) In order for a restaurant bar or new restaurant to qualify under this section, it must, in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and hold a liquor license as a restaurant bar or new restaurant bar, as defined under RSMo 311.097, and must operate a restaurant as defined in this chapter. All requirements of RSMo 311.097, for obtaining a restaurant bar license are hereby incorporated within the provisions of this section.

(c) In order for an amusement place or new amusement place to qualify under this section, it must, in addition to the requirements of this chapter, satisfy all state requirements for a license to do business and hold a liquor license as an amusement place or new amusement place, as defined under RSMo 311.098, and all requirements of RSMo 311.098, for obtaining an amusement place license are hereby incorporated within the provisions of this section.

(d) Any tavern with a license to sell only malt liquor and non-intoxicating beer may operate at retail between the hours of 9:00 a.m. Sunday and midnight.

(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3856, §§ 4, 5, 11-24-03)

Sec. 3-34. Same – Sales of malt liquor by certain organizations.

(a) Notwithstanding any other provision of this chapter, a permit for the sale of malt liquor or light white wine, for consumption on 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 malt liquor or light wine at a picnic, bazaar, fair or similar gathering. Such permit shall be issued only once a year for the day named therein and it shall not authorize the sale of malt liquor for more than seven (7) days by any organization in any fiscal year.

(b) Notwithstanding any other provision of this chapter, any person who possesses the qualification required by this chapter, and who now or hereafter meets the requirements of the ordinances, rules and regulations of the city, may apply for, and with the approval of the city manager or his designee, the city collector shall issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises to any charitable, fraternal, religious, service or veteran's organization which has obtained an exemption from the payment of federal income taxes as provided in Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended.

(c) Notwithstanding any other provision of this chapter, any person who possesses the qualification required by this chapter, and who now or hereafter meets the requirements of the ordinances, rules and regulations of the city, may apply for, and with the approval of the city manager or his designee, the city collector shall issue a license to sell intoxicating liquor between the hours of 12:00 noon on Sunday and midnight on Sunday by the drink at retail for consumption on the premises to any charitable, fraternal, religious, service or veteran's organization which has obtained an exemption from the payment of federal income taxes as provided in Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-35. Qualifications for license.

(a) 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 a county, city, town or village of this state, nor shall any corporation or other entity be granted a license hereunder unless the managing officers of such corporation are of good moral character and qualified legal voters and taxpaying citizens of a county, city, town or village of this state.

(b) No person shall be granted a license hereunder 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 a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or nonintoxicating liquor, or who employs in his business as such dealer, any person whose license has been revoked or who has been convicted of violating such law since the date aforesaid.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-36. Application; investigation.

(a) An application for a license or permit under this article shall be made to the city collector who shall by regulation require all applicants for such licenses to file written statements, under oath, containing information reasonably required to administer this article.

(b) The completed application shall be signed under oath and shall be presented to the city collector. The application shall be accompanied by the fee charge as provided for in this article.

(c) The application for a renewal or the change of a current license holder's license or permit shall be subject to all of the same requirements of this chapter as if the application was for an original license.

(d) A full investigation of the applicant and proposed location, for the purpose of ensuring the safety, health, and general welfare of the public, shall be conducted in the following manner:

(1) The city collector shall send a copy of the application to each of the following:

a. The chief of the police department who shall ensure that a full background check regarding the applicant is conducted.

b. The building official, who shall inspect, or designate a representative to inspect, the proposed location for which the license or permit is being applied for compliance with applicable city building requirements.

c. The chief of the fire department, who shall inspect, or designate a representative to inspect, the proposed location for which the license or permit is being applied for the purpose of ensuring the location does not contain any fire hazards.

(2) The city collector shall require proof from the applicant that the applicant has no delinquent real property taxes, personal property taxes, or state or local sales taxes. The collector shall also require proof from the applicant that the applicant is a registered voter in a county within the State of Missouri. All applicants which are corporations must provide the city collector a current certificate of good standing from the Missouri Secretary of State's Office. The city collector shall also require, when applicable, proof of food and beverage sales by month, hours of operation and any other information required to administer this chapter.

(3) Upon completing their individual investigations, the police department, building inspector and fire department shall file their reports with the city collector, who shall then file all of the reports, application and information submitted by the applicant with the city manager, or his designee.

(4) The city manager, or his designee, shall conduct any other investigation necessary to ensure that the applicant meets all requirements for the license sought. This may include disclosure of any or all documents required by the State of Missouri Division of Liquor Control to be maintained by the applicant including prenumbered guest checks, cash register tapes, bank statements, and canceled checks, and invoices for food and intoxicating beverage purchases. In any case where the license sought shall be denied and the license sought is dependent in part upon sales figures, these documents shall be produced at the time any request for review to city council is made under section 3-40.

(5) At the same time as investigations are made pursuant to this section, a maximum occupancy load for the licensed premises shall be established by the city officials conducting the investigation in accordance with the building codes adopted by the City of Warrensburg.

Ord. No. 3610, § 2, 4-9-01; Ord. No. 3634, § 4, 6-11-01)

Sec. 3-37. Sale of intoxicating liquor in original package for off-premises consumption.

(a) No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in and to be used in connection with, the operation of one (1) or more of the following businesses:

- (1) A drugstore;
- (2) A cigar and tobacco store;
- (3) A grocery store;
- (4) A general merchandise store;
- (5) A confectionery or delicatessen store;

nor to any such person who does not have or keep in his store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors.

(b) Under this license, no intoxicating liquor shall be consumed on the premises where sold, nor shall any original package be opened on the premises of the vendor, except as otherwise provided by law.

(c) Sales of intoxicating liquor in the original package for off-premises consumption are hereby permitted on Sunday. Said license or permit shall be secured under the same rules, requirements and conditions as all other alcoholic beverage licenses. No additional license shall be required for Sunday sales of malt liquor and non-intoxicating beer for consumption off-premises and in the original package for persons holding a license to sell only malt liquor and non-intoxicating beer in the original package for consumption off-premises.

(d) An applicant may seek a license under this section to sell only malt liquor and non-intoxicating beer for sale in the original package for consumption off the premises.
(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3856, §§ 6, 7, 11-24-03)

Sec. 3-38. Fees.

All fees required and imposed under this article shall be as follows:

(1) *New amusement place:*

- a. Temporary 90-day..... \$112.50
- b. Temporary Sunday 90-day..... 75.00

(2) *Amusement place:*

- a. Liquor by the drink.... 450.00
- b. Liquor by the drink on Sunday..... 300.00

c. Malt liquor, light wine and non-intoxicating beer..... 75.00

(3) *New Resort:*

a. Temporary 90-day..... 112.50

(4) *Resort:*

a. Liquor by the drink... 450.00

b. Liquor by the drink on Sunday..... 450.00

c. Malt liquor, light wine and non-intoxicating beer..... 75.00

(5) *New restaurant bar:*

a. Temporary 90-day..... 112.50

b. Temporary Sunday 90-day..... 75.00

(6) *Restaurant bar:*

a. Liquor by the drink... 450.00

b. Liquor by the drink on Sunday..... 300.00

c. Malt liquor, light wine and non-intoxicating beer..... 75.00

(7) *Tavern:*

a. Malt liquor, light wine and non-intoxicating beer..... 75.00

b. Malt liquor and non-intoxicating beer only. 75.00

(8) *Civic /not for profit organizations:*

a. Liquor by the drink.... ..450.00

b. Liquor by the drink on Sunday..... 300.00

c. Malt liquor, light wine and non-intoxicating beer..... 75.00

(9) *Package sales:*

a. Malt liquor, light wine and non-intoxicating beer..... 75.00

b. Intoxicating liquor..... 75.00

c. Sunday sales of intoxicating liquor..... 300.00

d. Malt liquor and non-intoxicating beer only. 75.00

(10) Picnic liquor license... 15.00

(11) Temporary caterers License..... 15.00

(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3856, § 8, 11-24-03)

Sec. 3-38.1. Allocation of fees and refunds.

Fifty (50) percent of all fees required under this chapter shall be for the processing of the application and the remaining fifty (50) percent of the fees shall be for the issuance of the license. In the event the city denies a license for any reason then the applicant shall be entitled to a fifty (50) percent refund of the fees the applicant has paid. No licensee shall be entitled to a refund if a license is suspended, terminated or placed on probation by the city under the provisions of this chapter or if the licensee voluntarily discontinues operation under the license.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-39. Standards for issuance.

(a) If otherwise qualified, an applicant shall be entitled to a preference to have a license issued when the applicant is acquiring the ownership and control of a business presently holding a liquor license and that business is surrendering its license.

(b) Consideration shall also be given to applicants for licenses and permits on the basis of:

(1) The date and time the application is received by the city collector;

(2) The qualifications of the applicant;

(3) The location and type of operation proposed.

(4) All other requirements of this chapter.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-40. Application approval.

(a) Upon completion of the investigation of an application under this article, if the city manager, or his designee, shall find that the applicant meets all of the requirements and qualifications of this chapter, he shall approve such application and forward the same to the city collector.

(b) If an application for a license under this chapter is denied by the city manager or his designee, the applicant may request, in writing, a review of such denial by the city council, such request to be made by the applicant within ten (10) days after the application for license has been denied by the city manager or his designee. Upon the written request for review, made within the time specified, the city council shall, within thirty (30) days after the receipt of such request, review the record of investigations conducted by the city officials pursuant to section 3-36 and the facts and circumstances surrounding such application and the denial thereof; and the city council may set aside the denial of such application by the city manager or his designee if a majority of its members determines that the application should be granted; and the city council may order the city collector to issue the license applied for.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-41. Issuance; term.

On approval of an application for a license or permit under this article by the city manager or his designee and payment of the appropriate fee provided in section 3-38, the city collector shall issue the applicant a license to conduct business in the city for a term to expire with the thirtieth day of June next succeeding the date of such license. Of the fee to be paid for any such license, the applicant shall pay as many twelfths as there are months, part of a month counted as a month, remaining from the date of the license to the next succeeding

July 1.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-42. Place of sale.

No person shall sell intoxicating liquor or non-intoxicating beer in any other place than that designated in the license or permit, except as set forth in section 3-32(h).

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-43. Transfer or assignment of licenses prohibited; exception.

(a) No license issued under this article shall be transferable or assignable except as provided in this section. In the event of the death of the licensee, the widow or widower, or the next of kin of the deceased who shall meet the other requirements of this chapter may make application and the city collector may transfer the license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased.

(b) Whenever one (1) or more members of a partnership withdraws from the partnership, the city collector, upon being requested, shall permit the remaining partner originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-44. Suspension, revocation of licenses.

(a) After conferring with the city council, the city manager or his designee, on hearing, may suspend for a specified period of time or revoke for a period not exceeding one (1) year any license issued under the provisions of this article,

(1) If the licensee has failed to begin to use the license within one hundred twenty (120) calendar days from the date of issuance; or

(2) If the licensee has not at all times kept an orderly place; or

(3) If the licensee or their agent or employee has pleaded guilty or been found guilty of any violation of any provisions of chapter 3 of the Code of Ordinances of the City of Warrensburg, Missouri, relating to alcoholic beverages; or

(4) If the licensee or its agent or employee has violated any of the provisions of the State Liquor Control Law or its regulations as codified in the Code of State Regulations of the State of Missouri, or the Code of Ordinances of the City of Warrensburg; or

(5) If the licensee has failed to suppress brawls, fights or disturbances on the licensed premises; or

(6) If the licensee submitted any false or fraudulent information in applying for the license or receiving a no age restriction endorsement to the license; or

(7) For any other good cause shown.

Then in any such event, the city manager or his designee shall hold a hearing in the manner provided in this section to ascertain all facts in the matter.

(b) Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by certified mail sent to the last known address. In the event that the notice is not able to be served upon the licensee in person, and any notice sent by mail is returned by the postal service, the city clerk shall cause notice to be published in a local newspaper for three (3) consecutive days, or posted at the entrance to the licensed premises.

(c) In any instance in this section wherein a hearing is required, the city manager or his designee shall, after no less than ten (10) days written notice to the licensee, hold a hearing to ascertain all relevant facts in the matter.

(d) A licensee shall have the right to be represented by counsel, to produce witnesses and other evidence, and to cross examine all witnesses who appear against him. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The city manager or his designee may receive evidence relevant to the issues from any source.

(e) The city manager or his designee shall issue written findings of fact and conclusions of law and an order. The city manager or his designee may suspend the license for a period not to exceed ninety (90) days, or revoke the license issued hereunder. The order shall be served upon the licensee in person or by certified mail sent to the licensee's last known address.

(f) Any licensee, managing officer, or owner whose city liquor license is suspended or revoked under the provisions of this chapter shall not be granted another city liquor license during the period of suspension or revocation.

(g) In addition to suspension or revocation of the license, the hearing officer may, in lieu of suspension or revocation, limit the establishment in question to being open only to persons twenty one (21) years of age or older or may make such limitations applicable during certain hours of operation.

(h) Any proceeding hereunder may be commenced within three (3) years of the events alleged to have taken place, and any action taken may be imposed upon any subsequent license held by the licensee on the licensed premises in question.

(i) In any proceeding under this section, certified copies of Court records of guilty pleas or convictions shall be competent evidence of a violation occurring on the licensed premises.
(Ord. No. 3610, § 2, 4-9-01; Ord. No. 3634, § 5, 6-11-01; Ord. No. 3856, § 9, 11-24-03)

Sec. 3-45. Posting of notices

All establishments holding a liquor license under this chapter shall post, on a form provided by the city, within five (5) feet of the entrance to the establishment and in a place immediately viewable from the entrance to the establishment, a notice to the public of the age restrictions applicable to the establishment under section 3-31.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-46. Occupancy

It shall be a violation of this section for a license holder, or that person's agent or employee, to allow more persons upon the licensed premises than the maximum occupancy established at the issuance of the license.

(Ord. No. 3610, § 2, 4-9-01)

Sec. 3-47. Maximum floor limit

No license shall be issued for, and no license holder shall operate under said license upon, any floor or story of any structure above the second floor. In determining compliance under this section the ground floor shall be counted as the first floor.

(Ord. No. 3611, § 2, 4-9-01)