

BILL NO. 21-16

ORDINANCE NO. 21-16

**AN ORDINANCE AMENDING CHAPTER 600 OF THE MUNICIPAL
CODE OF THE CITY OF TWIN OAKS PERTAINING TO ALCHOLIC
BEVERAGES.**

WHEREAS, the Missouri General Assembly, through Senate Bill 126 (2021), made several changes to the state regulations on alcoholic beverages; and

WHEREAS, RSMo § 311.220 authorizes the City to make and enforce ordinances for the regulation and control of the sale of all intoxicating liquors within its limits, provide for penalties for the violation of such ordinances, as long as the City's laws are consistent with the provisions of state law; and

WHEREAS, the Board of Aldermen desires to ensure that its regulations on alcoholic beverages are consistent with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS AS FOLLOWS:

Section 1: The Twin Oaks Municipal Code, Chapter 600 "Alcoholic Beverages," is hereby amended by repealing Chapter 600 in its entirety and replacing it with an amended Chapter 600 as attached as Exhibit 1 hereto and incorporated herein by reference.

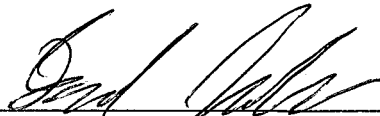
Section 2: This ordinance shall be in full force and effect on and after its passage and approval by the Mayor.

PASSED AFTER HAVING BEEN READ IN FULL OR BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, THIS 22nd DAY OF SEPTEMBER 2021.



Russ Fortune, Mayor

Attest:



Frank Johnson, City Clerk/Administrator

Exhibit 1

Chapter 600

Alcoholic Beverages

Section 600.005 Purpose.

Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this Chapter establish vital regulation of the sale and distribution of alcoholic beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important policy goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors, and retailers.

Section 600.010 Definitions.

When used in this Chapter, the following words shall have the following meanings:

ALCOHOLIC BEVERAGES

All beverages regulated by this Chapter including intoxicating liquor, light wines, and malt liquor.

CLOSED PLACE

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

INTOXICATING LIQUOR

Alcohol for beverage purposes, including 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 one-half of one percent (0.5%) by volume. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this Chapter.

LIGHT WINES

An intoxicating liquor consisting of wine containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables.

MALT LIQUOR

An intoxicating liquor containing alcohol not in excess of five percent (5%) and using the ingredients set out in Section 311.490, RSMo.

ORIGINAL PACKAGE

Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit and consisting of one (1) or more bottles or other containers of intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor. "Original package" shall also be construed and held to refer to any package containing one (1) or more standard bottles, cans, or pouches of beer.

PERSON

An individual, association, firm, joint-stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any State or Federal court.

PREMISES

The portion of any building in which a licensee under this Chapter has his/her place of business and any additional building or portion thereof used in connection therewith, and the entire lot or lots, parcel or parcels of land on which said buildings are situated, or which are used in connection with the buildings.

[R.O. 2016 § 600.010; R.O. 2011 § 600.010; Ord. No. 80-7 § 2, 8-20-1980; Ord. No. 315 § 1, 7-7-2010]

RESORT

Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000.00) per year with at least fifty thousand dollars (\$50,000.00) of such gross receipts from non-alcoholic sales; or means a seasonal resort restaurant with food sales as determined in Subsection (2) of Section 311.095, RSMo. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

SALE BY THE DRINK

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters

SUNDAY SALES

The intoxicating liquor including malt liquor between the hours of 6:00 a.m. on Sundays and 1:30 a.m. on Mondays.

Section 600.020 License Required — Classes Of Licenses.

- A. *License Required.* No person shall sell or offer for sale intoxicating liquor in the City of Twin Oaks without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.
- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor:
 - 1. **Package Liquor — Malt Liquor Only.** Sales of malt liquor at retail 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. This license may include Sunday sales.
 - 2. **Package Liquor — All Kinds.** Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsection (B)(1) of this Section.

3. **Liquor By The Drink — Malt Liquor/Light Wine Only.** Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections **(B)(1)** and **(4)** of this Section.
 4. **Malt Liquor By The Drink.** Sales of malt liquor at retail by the drink for consumption on the premises. This license may include Sunday sales.
 5. **Liquor By The Drink — All Kinds.** Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection **(B)(2)** of this Section.
- C. *Sunday Sales.* Except for any establishment that may apply for a license under Section 311.089, RSMo., any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor at retail may apply to the City for a special license for Sunday sales.
- D. *Permits; Temporary, Tasting, Caterers.*
1. **Temporary Permit For Sale By Drink — Certain Organizations.**
 - a. Notwithstanding any other provision of this Chapter, a permit for the sale of all kinds of intoxicating liquor, including intoxicating liquor in the original package, at retail by the drink for consumption on the premises of the licensee may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.
 - b. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.
 - c. At the same time that an applicant applies for a permit under the provisions of this Subsection, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
 - d. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling, or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.
 2. **Tasting Permit — Retailers.** Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections **(B)(2)** and **(C)** of this Section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.
 3. **Tasting Permit — Winery, Distiller, Manufacturer, Etc.**

- a. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes, provided no sales transactions take place. For purposes of this Subsection (D)(3), a "sales transaction" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.
 - b. Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in Section 311.218, 311.482, 311.485, 311.486, or 311.487, RSMo., or on any tax-exempt organization's licensed premises as described in Section 311.090, RSMo.
 - c. Any Winery, Distiller, Etc., May Provide Or Furnish Distilled Spirits, Wine Or Malt Beverage Samples On A Licensed Retail Premises — When.
 - (1) Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide or furnish distilled spirits, wine, or malt beverage samples on a licensed retail premises for customer tasting purposes so long as the winery, distiller, manufacturer, wholesaler, or brewer or designated employee has permission from the person holding the retail license. The retail licensed premises where such product tasting is provided shall maintain a special permit in accordance with Section 311.294, RSMo., or hold a by the drink for consumption on the premises where sold retail license. No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-the-premises product tasting.
 - (2) Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer, or brewer or by a sampling retained by the retailer, winery, distiller, manufacturer, or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the Division of Alcohol and Tobacco Control.
 - (3) Any distilled spirits, wine, or malt beverage sample provided by the retailer, winery, distiller, manufacturer, wholesaler, or brewer remaining after the tasting shall be returned to the retailer, winery, distiller, manufacturer, wholesaler, or brewer.
4. Temporary Location For Liquor By The Drink, Caterers — Permit — Fee Required.
- a. The City may 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 defined in Chapter 316, RSMo. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight (168) 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. For every permit issued pursuant to the provisions of

this Section, the permittee shall pay to the City an amount as set out in Section **600.040(A)(3)(c)** below, or fraction thereof, for which the permit is issued.

- b. Except as provided in Subsection (c), all provisions of the Liquor Control Law and the ordinances, rules, and regulations of the 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. This temporary permit shall allow the sale of intoxicating liquor in the original package.
- c. Notwithstanding any other law to the contrary, any caterer who possesses a valid State and valid local liquor license may deliver alcoholic beverages, in the course of his/her catering business. A caterer who possesses a valid State and valid local liquor license need not obtain a separate license for each City the caterer delivers in, so long as such City permits any caterer to deliver alcoholic beverages within the City.
- d. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent (5%) by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two (72) hours of the expiration of the catering permit issued pursuant to this Section.

Section 600.030 License Regulations.

A. *Package Sales, Limitations.*

1. 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: a drugstore, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her 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.
2. Under such 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 in this Chapter or law.

B. *Operating Hours, Days.*

1. No person having a license issued pursuant to this Chapter nor any employee of such person shall sell, give away, or permit the consumption of 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. on Sunday and 6:00 A.M. on Monday except as otherwise authorized and licensed for Sunday sales, and if said person has a license to sell intoxicating liquor by the drink, his/her premises shall be and remain a closed place as defined in Section **600.010** of this Chapter and between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and 1:30 A.M. on Sunday and 6:00 A.M. on Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs, hotels, or bowling alleys, this Section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants or bowling alleys whose business is conducted in one

room only, then the licensee shall keep securely locked during the hours and on the days herein specified all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor is dispensed.

2. When January 1, March 17, July 4 or December 31 falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on Super Bowl Sunday, any 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 provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

C. *Sale by the Drink.*

1. A sale by the drink may be made only by a holder of a retail liquor dealer's license.
2. When a sale by the drink is made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

D. *General License Regulations.*

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter 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.
3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the City Clerk may transfer such 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. Whenever one (1) or more members of a partnership withdraw from the partnership, the City Clerk, upon being requested, shall permit the remaining partner or partners 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.
4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board of Aldermen. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.
5. Every licensee shall keep displayed prominently at all times on its licensed premises any City license designating the premises as a place licensed by the City to sell intoxicating liquors. Within ten (10) days from the issuance of said City license, the licensee shall file with the Supervisor of Alcohol and Tobacco Control a copy of such City license.

6. No person shall directly or indirectly have an interest in more than three (3) licenses.

Section 600.035 Sales Of Liquor Prohibited Near Schools And Churches.

- A. No license shall be granted for the sale of intoxicating liquor, as defined in this Chapter, within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the Board of Aldermen. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within one hundred (100) feet of the proposed licensed premises. The measurement shall be made along the shortest path that can be traveled by foot between the closest points of customer entry where intoxicating liquor is proposed to be sold or consumed and any normally used general public entrance of the school, church, or place of worship.
- B. Subsection (A) of this Section shall not apply to:
 1. Situations when a school, church or place of worship is established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor after the license has been issued.
 2. A license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of Federal taxes.
 3. Any premises holding a license issued before January 1, 2004, by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor. To retain a license under this Subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days.

Section 600.040 Schedule Of License Fees.

- A. The following categories and subcategories of licenses shall be issued upon compliance with the provisions of this Chapter and payment of the license fee indicated:

1. *General Licenses.*

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| a. Malt liquor — original package: | \$75.00 |
| b. Intoxicating liquor (all kinds) — original package: | \$150.00 |
| c. Malt liquor — by drink: | \$75.00 |
| d. Malt liquor and light wines — by drink: | \$75.00 |
| e. Intoxicating liquor (all kinds) — by drink: | \$450.00 |

2. *Sunday Sales (Additional Fee).*

- | | |
|-----------------------------------|----------|
| a. Intoxicating liquor at retail: | \$300.00 |
|-----------------------------------|----------|

3. *Permits.*

- a. Temporary permit — by the drink for certain organizations
[seven (7) days maximum]: \$37.50
 - b. Tasting permit: \$37.50
 - c. Caterers (per each calendar day): \$15.00
- B. Of the license fee to be paid for any such license, the applicant shall pay as many 12ths 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.
- C. Any other provision herein contained to the contrary notwithstanding, no license fee charged by the City shall exceed one and one-half (1 1/2) times the amount required by law to be paid into the State Treasury for a similar State permit or license. [R.O. 2016 § 600.140(B); R.O. 2011 § 600.140; Ord. No. 80-7 § 4(j), 8-20-1980; Ord. No. 93-5 § 3, 6-16-1993; Ord. No. 95-4 § 2, 2-15-1995; Ord. No. 95-7 § 1, 3-15-1995]

Section 600.045 Retailer-Packaged Alcoholic Beverages Sold to Customers in “To-Go” Containers

- A. Notwithstanding any provision of law to the contrary, any person who is licensed by the City to sell intoxicating liquor at retail by the drink for on-premises consumption may sell retailer-packaged alcoholic beverages to customers in containers, filled on such premises by any employee of the retailer who is twenty-one years of age or older, for off-premises consumption if all the following requirements are met:
- 1. The container of the alcoholic beverage is rigid, durable, leak-proof, sealable, and designed to prevent consumption without removal of the tamperproof cap or seal. A “sealable” container does not include a container with a lid with sipping holes or openings for straws;
 - 2. The contents of each container do not exceed one hundred twenty eight ounces;
 - 3. The patron orders and purchases a meal from the licensee simultaneous with the alcoholic beverage purchase. For purposes of this subdivision, a “meal” is defined as food that has been prepared on-premises;
 - 4. The number of alcoholic beverages sold under this section by a licensee for off-premises consumption is limited to twice the number of meal servings sold by the licensee for off-premises consumption;
 - 5. The licensee provides the patron with a dated receipt or an electronic record for the meal and alcohol beverages; and
 - 6. The container is either:
 - a. Placed in a single-use, transparent bag that is securely sealed and made tamperproof such that the lid, cap, or seal will visibly demonstrate when a bag or container has been opened; or
 - b. The container opening is sealed with tamperproof tape that will visibly demonstrate when a bag or container has been opened.
 - 7. The filling of a container under this section shall follow Section 3-304.17(c) of the 2009 Food and Drug Administration Food Code.
- B. Containers that are filled under subsection A of this section shall be affixed with a label or a tag that

contains the name and address of the business that filled the container, in type not smaller than three millimeters in height and not more than twelve characters per inch, and states, "THIS BEVERAGE CONTAINS ALCOHOL."

Section 600.050 Self-Dispensing Of Beer Or Wine Permitted, When.

- A. Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a self-dispensing system, which is monitored and controlled by the licensee and allows patrons of the licensee to self-dispense beer or wine. Before a patron may dispense beer or wine, an employee of the licensee must first authorize an amount of beer or wine, not to exceed thirty-two (32) ounces of beer or sixteen (16) ounces of wine per patron per authorization, to be dispensed by the self-dispensing system.
- B. No provision of law or rule or regulation of the City shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish self-dispensing or cooling equipment or provide services for the maintenance, sanitation, or repair of self-dispensing systems.

Section 600.053 Draft Beer, Sale Of 32 To 128 Fluid Ounces Dispensed On Premises For Consumption Off Premises — Requirements.

- A. Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo., may sell from thirty-two (32) to one hundred twenty-eight (128) fluid ounces of draft beer to customers in containers filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one (21) years of age to fill containers with draft beer.
- B. No provision of law, rule, or regulation shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under Subsection (A) of this Section, to any person who is licensed to sell intoxicating liquor in the original package at retail as provided in Subsection 1 of Section 311.200, RSMo.

C. Requirements Regarding Containers.

- 1. Containers that are filled or refilled under Subsection (A) of this Section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three (3) millimeters in height and not more than twelve (12) characters per inch:
 - a. Brand name of the product dispensed;
 - b. Name of brewer or bottler;
 - c. Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;
 - d. Net contents;
 - e. Name and address of the business that filled or refilled the container;
 - f. Date of fill or refill;
 - g. The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated

at all times."

2. Containers that are filled or refilled under Subsection (A) of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, as regulated by 27 CFR 16.20 to 16.22.

D. Additional Regulations.

1. The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.
2. Containers shall only be filled or refilled by an employee of the retailer.
3. Containers shall be filled or refilled as follows:
 - a. Containers shall be filled or refilled with a tube as described in Subsection (D)(4) below and:
 - (1) Food-grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;
 - (2) A container of liquid food-grade sanitizer shall be maintained for no more than ten (10) malt beverage taps that will be used for filling and refilling containers;
 - (3) Each container shall contain no fewer than five (5) tubes that will be used only for filling and refilling containers;
 - (4) The container shall be inspected visually for contamination;
 - (5) After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and
 - (6) A different tube from the container shall be used for each filling or refilling of a container; or
 - b. Containers shall be filled or refilled with a contamination-free process and:
 - (1) The container shall be inspected visually for contamination;
 - (2) The container shall only be filled or refilled by the retailer's employee; and
 - (3) The filling or refilling shall follow the Food and Drug Administration Code 2009, Section 3-304.17(c).
4. Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.
5. When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-

grade sanitizer.

6. After filling or refilling a container, the container shall be sealed as set forth in Subsection (A) of this Section.

Section 600.055 Application for License; Qualifications.

A. Filing And Approval Of An Application.

1. Each application for a license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.
2. Upon approval of any application for a license, the City Clerk shall grant the applicant a license to conduct business in the City for a term to expire with the 30th day of June next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.

B. Qualifications For Licenses.

1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the County or City, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the County or City; and, except as otherwise provided under Subsection (G) of this Section, no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the 21st 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 who employs in his or her business as such dealer any person whose license has been revoked unless five (5) years have passed since the revocation as provided under Subsection (F) of this Section, or who has been convicted of violating such law since the date aforesaid; provided that nothing in this Section contained shall prevent the issuance of licenses to non-residents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquors to, by or through a duly licensed wholesaler within this State.
2. Additional Requirements; Exceptions.
 - a. No person, partnership or corporation shall be qualified for a license under this Chapter if such person, any member of such partnership or such corporation, or any officer, director or any stockholder owning, legally or beneficially, directly or indirectly, ten percent (10%) or more of the stock of such corporation or other financial interest therein, or ten percent (10%) or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this Chapter shall have had a license revoked under this Chapter except as otherwise provided under Subsections (F) and (G) of this Section, or shall have been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor since the ratification of the 21st Amendment to the Constitution of the United States, or shall not be a person of good moral character.

- b. No license issued under this Chapter shall be denied, suspended, revoked, or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor. Each employer shall report the identity of any employee convicted of a felony to the Division of Liquor Control. The Division of Liquor Control shall promulgate rules to enforce the provisions of this Subsection.
 - c. No wholesaler license shall be issued to a corporation for the sale of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, except to a resident corporation as defined in this Section.
- C. A "resident corporation" is defined to be a corporation incorporated under the laws of this State, all the officers and directors of which, and all the stockholders, who legally and beneficially own or control sixty percent (60%) or more of the stock in amount and in voting rights, shall be qualified legal voters and taxpaying citizens of the county and municipality in which they reside and who shall have been bona fide residents of the State for a period of three (3) years continuously immediately prior to the date of filing of application for a license, provided that a stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall own, legally and beneficially, at least sixty percent (60%) of all the financial interest in the business to be licensed under this Chapter; provided that no corporation licensed under the provisions of this Chapter on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new requirements herein, except corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent (5%) by weight, or owned or controlled, directly or indirectly, by non-resident persons, partnerships or corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent (5%) by weight.
- D. The term "financial interest" as used in this Section is defined to mean all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.
- E. The City Clerk shall by regulation require all applicants for licenses to file written statements, under oath, containing the information reasonably required to administer this Section. Statements by applicants for licenses as wholesalers and retailers shall set out, with other information required, full information concerning the residence of all persons financially interested in the business to be licensed as required by regulation. All material changes in the information filed shall be promptly reported to the City Clerk.
- F. Any person whose license or permit issued under this Chapter has been revoked shall be ineligible to work as an employee of an establishment holding a license or permit under this Chapter for five (5) years after the date of the revocation.

- G. Any person whose license or permit issued under this Chapter has been revoked shall be eligible to apply and be qualified for a new license or permit five (5) years after the date of the revocation. The person may be issued a new license or permit at the discretion of the Division of Alcohol and Tobacco Control. If the City denies the request for a new permit or license, the person may not submit a new application for five (5) years from the date of the denial. If the application is approved, the person shall pay all fees required by law for the license or permit.

Section 600.060 Minors.

A. Persons 18 Years Of Age Or Older May Sell Or Handle Intoxicating Liquor, When.

1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor.
2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out, intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.
3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor, but which does not sell intoxicating liquor at retail, persons at least eighteen (18) years of age may be employed, and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.
4. Any wholesaler licensed pursuant to this Chapter may employ persons of at least eighteen (18) years of age to:
 - a. Rotate, stock, and arrange displays at retail establishments licensed to sell intoxicating liquor; and
 - b. Unload delivery vehicles and transfer intoxicating liquor into retail licensed premises if such persons are supervised by a delivery vehicle driver who is twenty-one (21) years of age or older.
5. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix, or serve across the bar, intoxicating beverages.

B. Sales To Minor — Exceptions.

1. No licensee, his/her employee, or any other person shall procure for, 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, except that this Section shall not apply to the parent or guardian of the minor

nor 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 such 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 while serving in the capacity as an employee of a licensed establishment.

2. 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/her parent or guardian, is guilty of an ordinance violation.
3. It shall be a defense to prosecution under this Subsection if:
 - a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
 - b. 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
 - c. 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.

C. Misrepresentation Of Age By Minor To Obtain Liquor — Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.
2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

D. Minors In Possession Of Intoxicating Liquor.

1. No person under the age of twenty-one (21) years shall purchase or attempt to purchase, or have in his/her possession, any intoxicating liquor as defined in Section 600.010, or shall be visibly in an intoxicated condition as defined in Section 577.001, RSMo., or shall have a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood.

2. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in Section 577.001, RSMo., shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this Subsection shall be limited to not more than two (2) such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the State Department of Health and Senior Services by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services for this purpose. The State Department of Health and Senior Services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Department of Health and Senior Services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person.

a. "Full information" is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

b. "Full information" does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the State. Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.

3. Exception.

a. The provisions of this Subsection shall not apply to a student who:

- (1) Is eighteen (18) years of age or older;
- (2) Is enrolled in an accredited college or university and is a student in a culinary course;

- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
 - (4) Tastes a beverage under Subsection(D)(3)(a)(3) of this Section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.
- b. The beverage must at all times remain in the possession and control of any authorized instructor of the college or university, who must be twenty-one (21) years of age or older. Nothing in this Subsection may be construed to allow a student under the age of twenty-one (21) to receive any beer, ale, porter, wine or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

Section 600.065 Burden Of Proof On Violator Concerning Manufacturer-Sealed Container.

For purposes of determining violations and prosecution under this Chapter, or 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 no 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.

Section 600.070 Miscellaneous Offenses.

- A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler.* It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.
- B. *Packaging, Labeling, Repackaging Prohibited, When.* Any retailer licensed pursuant to this Chapter shall not:
 - 1. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or
 - 2. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.
- C. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.
- D. *Unlawful To Sell Unlabeled Liquor — Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.
- E. *Only Those Liquors Authorized By License To Be Kept On Premises.* It shall be unlawful for any licensee

licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

G. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "public place" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.
2. No person shall drink or ingest any intoxicating liquor in or on any public place.
3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.
4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

Section 600.075 Manufacturing A False Identification.

- A. A person commits the offense of manufacturing a false identification if he or she possesses any means of identification for the purpose of manufacturing and providing or selling a false identification card to a person under the age of twenty-one (21) for the purpose of purchasing or obtaining alcohol.
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- B. The offense of manufacturing a false identification is an ordinance violation.

Section 600.080 Warning Sign Displayed — Liquor Licenses.

Any person who is licensed to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this Section. Such sign shall be at least eleven by fourteen (11 x 14) inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects." The licensee shall display such sign in a conspicuous place on the licensed premises.

Section 600.090 Administration Of Law — License Suspension/Revocation.

- A. *Suspension Or Revocation Of License — When — Manner.* The Board of Aldermen may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Board of Aldermen or a hearing officer not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the City Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date, and place of the hearing. Notice may be accomplished by personal delivery, United States Mail or by posting on the licensed premises. The hearing

shall be conducted in accordance with Section **600.100** of this Chapter.

B. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:

1. Violating any of the provisions of either this Chapter, Chapter 311, RSMo., or any ordinance of the City; or
 2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control; or
 3. Making a false affidavit in an application for a license under this Chapter; or
 4. Failing to keep an orderly place or house; or
 5. Selling, offering for sale, possessing, or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession, or consumption of which is not authorized under the license; or
 6. Selling, offering for sale, possessing, or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
 7. Selling, giving, or otherwise supplying intoxicating liquor to:
 - a. Any person under the age of twenty-one (21) years, or
 - b. Any person during unauthorized hours on the licensed premises, or
 - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
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- d. Any person on the licensed premises during a term of suspension as ordered by the Board of Aldermen.

C. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any violation of this Chapter or Chapter 311, RSMo., or of any felony violation of Chapter 195 or 579, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.

D. *Effect Of Suspension.* No person whose license shall have been suspended by order of the Board of Aldermen shall sell or give away any intoxicating liquor during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board of Aldermen's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

Section 600.100 Hearings Upon Suspension Or Revocation Of Licenses.

A. *Hearing Officer.* Hearings may be had before the Board of Aldermen or before a Hearing Officer

appointed by the Board of Aldermen who shall be an attorney licensed to practice law in the State of Missouri. If held before a Hearing Officer, he/she shall report to the Board of Aldermen findings of fact, conclusions of law and recommendations. The Board of Aldermen may accept, modify, or refuse to accept the report of the Hearing Officer or any portion thereof.

- B. *Witnesses — How Summoned.* Subpoenas may be issued by the Board of Aldermen for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board of Aldermen also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.
- C. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.
- D. *Decision — Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.090 of this Chapter, the Board of Aldermen shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.
- E. *Appeal.* Any applicant or licensee aggrieved by a decision of the Board of Aldermen may appeal such decision to the Circuit Court as provided for contested cases in Chapter 536, RSMo., provided such appeal is filed within thirty (30) days of the date of the Board of Aldermen's decision. This appeal period shall be jurisdictional to the Circuit Court. The Board of Aldermen may delay the implementation of the order pending appeal.

Section 600.110 Collection, Disposition Of Fees.

[R.O. 2016 § 600.150; R.O. 2011 § 600.150; Ord. No. 80-7 § 4(k), 8-20-1980]

All fees collected by the City Clerk pursuant to the provisions of this Chapter shall be accounted for and paid into the City Treasury.

Section 600.120 Other Licenses May Be Required For Other Business Activities.

[R.O. 2016 § 600.160; R.O. 2011 § 600.160; Ord. No. 80-7 § 4(m), 8-20-1980; Ord. No. 315 § 3, 7-7-2010; R.O. 2016 § 600.090; R.O. 2011 § 600.090; Ord. No. 80-7 § 4(d), 8-20-1980]

The license required by this Chapter shall be in addition to and independent of any other licenses required by the City.

Section 600.130 Violations And Penalties.

In addition to any suspension or revocation proceedings set forth herein, or any remedies at law or equity, any person, firm or corporation violating any provisions of this Chapter shall be subject to the general penalty provision of Section 100.220 of this Code.