

CHAPTER 3

ALCOHOLIC BEVERAGES

Article I. General

Section 3-1. Definitions.

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

1. *Intoxicating liquor* shall mean alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of three and two tenths percent of alcohol by weight.
2. *Malt liquor* shall mean any beverage manufactured from pure hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, containing alcohol in excess of three and two tenths percent by weight and not in excess of five percent by weight.
3. *Non-intoxicating beer* shall mean any beer manufactured from pure hops or pure extracts of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent of volume, and not exceeding three and two tenths percent by weight.

Section 3-2. Possession of Illegal or Untaxed Liquors.

No person shall possess intoxicating liquor in any quantity for any purpose within the City, which has not been lawfully manufactured.

Section 3-3. Sale to Drunkards, Minors.

1. No person or his employee shall sell or supply intoxicating liquor, malt liquor or non-intoxicating beer or permit the same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, malt liquor or non-intoxicating beer
2. Intoxicating liquor, malt liquor, or non-intoxicating beer shall not be given, sold, or otherwise supplied to any person under the age of twenty-one years,

but this shall not apply to supplying of intoxicating liquor, malt liquor, or non-intoxicating beer to a person under such age for medicinal purposes only, or by the parent or guardian of such person, or to administering of such intoxicating liquor, malt liquor or non-intoxicating beer to such person by a physician.

3. Any person under the age of twenty-one years, who purchases, attempts to purchase or has in his possession, any intoxicating liquor is guilty of a misdemeanor.
4. Any person under the age of twenty-one years, who purchases or attempts to purchase any malt liquor or non-intoxicating beer is guilty of a misdemeanor.

Section 3-4. Restrictions as to Place of Sale.

No person, agent or employee of any person in any capacity, shall sell intoxicating liquor, malt liquor, or non-intoxicating beer in any other place than that designated in the license; nor at any other time or otherwise than is authorized in this Chapter and the regulations herein provided for.

Section 3-5. Exceptions to Chapter; Druggists and Physicians.

Any druggist may have in his possession intoxicating liquor purchased by him from a licensed vendor under a license pursuant to this Chapter, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this state and lawfully inspected and labeled as provided for in the Liquor Control Act of the state; such intoxicating liquor to be used in the business of a druggist in compounded medicines or as a solvent or preservative. Nothing in this chapter shall prevent a regularly licensed druggist, after he procures a license therefore in compliance with this Chapter, from selling intoxicating liquor in the original package, but not to be consumed or the packages opened on the premises where sold. Nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

Section 3-6. Fees Generally.

The fees for licenses required under this Chapter shall be as established as the maximum

Section 3-7. Licenses Nontransferable.

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

Section 3-8. Duration; Proration and Refund of Fees.

All licenses issued under the provisions of this Chapter shall expire on the thirty-first day of December following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued.

Section 3-9. Revocation and Suspension Generally.

The Board of Aldermen may, on hearing, revoke or suspend any license issued under the provisions of this Chapter, for good cause shown, having first given such licensee not less than ten days notice in writing of the application to revoke or suspend his license, prior to the order of revocation issuing.

1. Such notice shall contain the grounds for such revocation or suspension set out therein, and shall command the licensee to be present at a regular or special meeting of the Board of Aldermen (at the date, time, and location set forth in the notice) and show cause, if any, why such license should not be suspended or revoked.
2. The licensee shall have full right to be represented by counsel at such hearing, and may produce witnesses and evidence in his behalf at such hearing.
3. Service of the notice of revocation or suspension hearing shall be by the Chief of Police or his subordinate, and may be served upon the licensee by leaving a copy thereof with the licensee or any person or employee in charge of the place of business of such licensee.

Section 3-10. Revocation to Forfeit License Fee.

In case of revocation or forfeiture of any license granted and issued under the provisions of this Chapter for cause or otherwise, the City shall in no event return any part of the fee paid for such license.

Section 3-11. Violation; Revocation of License.

Any person violating any of the provisions of this Chapter shall upon conviction thereof be adjudged guilty of a misdemeanor, and shall be punished as provided in this code.

1. Provided, that upon final conviction of any person for a violation of any of the provisions of this Chapter, such conviction shall automatically revoke the license hereunder issued to such person.

2. Provided further, that the term (Conviction” as used herein shall mean conviction upon final determination of any prosecution of any violation of this Chapter
3. Provided further, that no person having been convicted of a violation of any of the provisions of this chapter shall be issued a license or a renewal thereof for a period of one year, from the date of such conviction.

Section 3-12. Drinking in Public.

1. No person or persons shall within the corporate limits of the City, drink any kind of intoxicating liquors in any public street, alley or on any sidewalk, public lot or in any store room, office building, public offices where men and women come to transact their business, rest room, toilet rooms, or any public place within the corporate limits of the City of Nixa, except in rooms where intoxicating liquors are legally sold and in private dwelling houses or any private place or during a Special Event having received authorization from the Nixa Board of Aldermen in conformance with Chapter 11, Section 11-61. (#1340 3/05)
2. No person or persons shall within the corporate limits of the City deposit, place, or throw down upon the streets or sidewalks any glass bottle or any breakable receptacle, nor shall they smash or break the same upon the public streets, sidewalks, public lots, store rooms, store building, office buildings, vacant lots, or place any bottle or bottles in any public toilet or any kind of container or receptacle having contained intoxicating liquors of any kind in any public building. (#1340 3/05)

Section 3-13. Municipal Judge to Report Conviction.

Upon conviction or any person under the provisions of this Chapter, it shall be the duty of the Municipal Judge to certify such conviction to the Board of Aldermen.

Sections 3-14 through 3-25 reserved.

Article II. Sales By The Drink

Section 3-26. Zoning District.

No license shall be issued for the sale of malt liquor or intoxicating beer at retail by the drink, for consumption on the premises in the City, except where the place of such business, according to the application for such license, is to be located within a GC or HC district of this City. (#1258 7/03)

Section 3-27. License Required.

Malt liquor and non-intoxicating beer may be sold by the drink at retail for consumption on the premises where sold, when the person, partnership or corporation desiring to sell such malt liquor or non-intoxicating beer by the drink at retail for consumption on the premises where sold, shall have been licensed to do so by the City, and under the provisions of this Chapter. (#1258 7/03)

Section 3-28. Applications; Procedure of Board.

All applications for licenses under Article II of this Chapter shall be made in writing to the Board of Aldermen. No license shall be granted at the same meeting of the Board of Aldermen at which the application is presented, except by unanimous vote of the Board. Provided, however, that such application may be passed on by the Board of Aldermen at the first meeting of the Board at which the application is presented, if such applicant has first served notice, in writing, of his intention to present such application (including a copy of the application) upon each member of the Board of Aldermen, at least five days before the meeting of the Board of Aldermen at which such application is to be presented.

Section 3-29. Granting; Conditions to be Met.

On approval of the application by the Board of Aldermen and payment of the license tax herein provided, the City Clerk shall grant the applicant a license to conduct business in the City for one year from date of issuance of such license or for a fraction thereof as provided in Section 3-8. A separate license shall be required for each place of business.

Every license issued under the provisions of this Article shall particularly describe the premises at which malt liquor and/or non-intoxicating beer may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of malt liquor and/or intoxicating beer at any place other than that described therein.

Provided that the City Clerk shall not deliver to any person a license under the provisions of this Article, until such person shall produce the receipt of the City showing that the taxes levied on such license have been paid.

Section 3-30. Hours of Sale.

1. Malt Liquors. No person having a license under this Article not any employee of such person, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his licensed premises, any malt liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays or between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.
2. Non-Intoxicating Beer. No person having a license under the provisions of this Article, shall sell, give away or otherwise dispose of, or suffer the same to be done, upon or about his premises, any no-intoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m.

Section 3-31. Limitation of Number of Licensed Establishments.

The number of licenses which shall be issued and outstanding for the sale of malt liquor or non-intoxicating beer is hereby set, fixed, and determined as follows:

1. The total number of licenses issued for the sale of malt liquor shall be one for each 2,000 of population. (#1258 7/03)
2. The number of licenses for sale of non-intoxicating beer shall be one for each 1,000 of population.
2. Provided, that no person now holding any such license shall be denied a re-issuance thereof from time to time because of this section, unless such license shall be permitted to lapse.

Section 3-32. Resort Liquor License.

When a business in the City of Nixa qualifies under the Liquor Control Laws of the State of Missouri, for a Resort Liquor License, the City shall charge a fee of one and one-half times the State Fee.

Sections 3-33 through 3-45 reserved.

Article III. Original Package Sales

Section 3-46. Original Package Sales—Generally.

Intoxicating liquor, malt liquor, and non-intoxicating beer shall be sold at retail in the original package, only upon a license granted by the City, and such so sold shall not be consumed upon the premises where sold, nor the original package opened on such premises of the vendor, except as otherwise may be provided in this Chapter.

Section 3-47. Same—Location.

No license shall be issued under this Article where the place of such business sought to be licensed, according to the application for such license, is located outside the GC or HC districts of the City as defined in this Code.

Section 3-48. License Required.

It shall be unlawful for any person, firm, partnership, or corporation to manufacture, sell or expose for sale, either at wholesale or retail, in the City, intoxicating liquor, malt liquor or non-intoxicating beer as defined, in any quantity, without first having obtained a license from the City, except as otherwise provided herein.

Section 3-49. Qualifications of Applicant.

No person shall be granted a license under this Article, unless such person is of good moral character and meets the requirements as specified by State Law.

Section 3-50. Eligibility for Original Package Sales License.

No license shall be issued for the sale of intoxicating liquor, malt liquor, or non-intoxicating beer in the original package except to a person engaged in, and for use thereby in connection with, the operation of one or more of the following businesses: a drug store, cigar and tobacco store, grocery store, general merchandise store, confectionery or delicatessen store, nor shall such license be issued to any such person who does not have and keep in his store a stock of goods having a value , according to invoices at the time of making the application for license, of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors.

Section 3-51. Drive-through Original Package Sales.

Drive-through service where a customer is sold intoxicating liquor, malt liquor, and non-intoxicating beer in the original package through a window or other device while remaining in a motor vehicle shall not be allowed in the City of Nixa. (#1258 7/03)

Sections 3-61 through 3-75 reserved.