

AMENDING CHAPTER 4 OF THE NIXA CITY CODE TO UPDATE THE CITY'S LIQUOR CONTROL CODES.

Background:

City Administrator Jimmy Liles has directed that City staff review the City's current liquor control codes. The policy goal for the review was to evaluate where the codes could be modified to allow for more ease of use by both the public and City staff. At the conclusion of this review process, Council Bill 2023-12 was prepared.

The City's current liquor control codes are located in Chapter 4 of the City Code.

While reviewing potential revisions to this Chapter, staff reviewed both Ozark and Republic's codes for guidance. Both of these communities have very similar liquor control ordinances and both cities have recently updated their codes to reflect changes in the State's liquor control laws. These codes were used as a model for the proposed changes contained within Council Bill 2023-12.

Analysis:

Council Bill 2023-12 makes many substantive changes to Chapter 4 of the City Code. This memorandum will highlight, in the drafter's opinion, those changes which are the most substantive.

First, it was clear that the City's current liquor licensing scheme is unworkable. Staff currently has to contort the provisions of Chapter 4 to apply to new businesses coming to the City. This is likely due to the fact that the liquor control statutes have been updated overtime, but the City's Code has not been updated as frequently meaning that the City's adopted categories of license is more limited than the State's.

Therefore, Council Bill 2023-12, broadens the authorized liquor licenses that the City may issue. These additional categories of license, and the updated definitions for such licenses, will provide staff, and the general public, clarity on which licenses are more appropriate for the specific type of business or organization.

The Council Bill also authorizes the City to issue temporary permits for certain activities which do not necessarily require a full-blown liquor license. This adds an additional element of ease of use and flexibility to the Code that isn't currently present in Chapter 4.

Finally, the Council Bill modifies Chapter 4 to reorganize the Chapter in a manner that is modeled off of the cities of Republic and Ozark. When reviewing these cities codes, it made sense that we recommend that we adopt a similar code structure so that businesses and organizations doing business in those communities have an understanding of what the City of Nixa's requirements are.

Recommendation:

Staff recommends approval of this Bill. It is staff's view that the changes proposed in Council Bill 2023-12 will make the City's liquor control process easier for staff and the public to navigate.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 4 OF THE NIXA CITY CODE TO UPDATE THE CITY’S LIQUOR CONTROL CODES.

WHEREAS at the direction of the City Administrator, staff was directed to review the City’s current liquor control codes and propose amendments thereto: and

WHEREAS after reviewing similar codes in surrounding communities, staff’s view was to re-write the City’s liquor control codes so that they are similar to the codes of surrounding communities; and

WHEREAS this will allow for businesses to easily adapt to the City’s requirements if they have conducted business in surrounding communities; and

WHEREAS additionally, staff has attempted to ensure that these proposed amendments are consistent with the State’s liquor control laws; and

WHEREAS the City Council desires to adopt the amendments contained herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NIXA, AS FOLLOWS, THAT:

SECTION 1: Chapter 4, of the Nixa City Code is hereby amended by repealing said Chapter in its entirety and adopting in lieu thereof a new Chapter, which shall read as follows:

(Note: Language to be added is indicated by being underlined. Language to be removed is indicated by being ~~stricken~~.)

Chapter 4 – ALCOHOLIC BEVERAGES

ARTICLE I. – IN GENERAL

Sec. 4-1. – Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates otherwise:

Business means every person, sole proprietorship, corporation, partnership or other types of business enterprises, contractor, subcontractor, manufacturer, merchant or wholesaler, excluding charitable and civic groups, engaged in any business, occupation, pursuit, profession or trade or in keeping or maintaining an institution, establishment, article, utility or commodity.

46 Common eating and drinking areas means an area or areas within a building or
47 group of buildings designated for the eating of food and drinking of liquor sold at retail by
48 establishments which do not provide areas within their premises for the consumption of
49 food and liquor; where the costs of maintaining such area or areas are shared by the
50 payment of common area maintenance charges, as provided in the respective leases
51 permitting the use of such areas, or otherwise; and where the annual gross income from
52 the sale of prepared meals or food consumed in such common eating and drinking area
53 is, or is projected to be, at least two hundred seventy-five thousand dollars (\$275,000.00).
54

55 Intoxicating liquor means alcohol for beverage purposes, including alcoholic,
56 spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of
57 which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage
58 purposes containing in excess of one-half of one percent (0.5%) by volume. All beverages
59 having an alcoholic content of less than one-half of one percent (0.5%) by volume shall
60 be exempt from the provisions of this chapter.
61

62 Light wines mean an intoxicating liquor consisting of wine containing not in excess
63 of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries,
64 and other fruits and vegetables.
65

66 Liquor manufacturer means a business engaged in the production of intoxicating
67 liquor as defined in this Chapter.
68

69 Malt Liquor means an intoxicating liquor containing alcohol in excess of three and
70 two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight,
71 manufactured from pure hops or pure extract of hops or pure barley malt or wholesome
72 grains or cereals and wholesome yeast and pure water.
73

74 Microbrewery means a business whose activity is the brewing and selling of beer,
75 with an annual production of 10,000 barrels or less.
76

77 Original package means any package sealed or otherwise closed by the
78 manufacturer so as to consist of a self-contained unit and consisting of one (1) or more
79 bottles or other containers of intoxicating liquor, where the package and/or container(s)
80 describes the contents thereof as intoxicating liquor. "Original package" shall also be
81 construed and held to refer to any package containing three (3) or more standard bottles
82 of beer.
83

84 Person means an individual, association, firm, joint stock company, syndicate,
85 partnership, corporation, receiver, trustee, conservator, or any other officer appointed by
86 any State or Federal court.
87

88 Resort means any establishment having at least thirty (30) rooms for the overnight
89 accommodation of transient guests, having a restaurant or similar facility on the premises
90 at least sixty percent (60%) of the gross income of which is derived from the sale of
91 prepared meals or food, or means a restaurant provided with special space and

92 accommodations where, in consideration of payment, food, without lodging, is habitually
93 furnished to travelers and customers, and which restaurant establishment's annual gross
94 receipts immediately preceding its application for a license shall not have been less than
95 seventy-five thousand dollars (\$75,000.00) per year with at least fifty thousand dollars
96 (\$50,000.00) of such gross receipts from non-alcoholic sales, or means a seasonal resort
97 restaurant with food sales as determined in Subsection (2) of Section 311.095, RSMo.
98 Any facility which is owned and operated as a part of the resort may be used to sell
99 intoxicating liquor by the drink for consumption on the premises of such facility and, for
100 the purpose of meeting the annual gross food receipts requirements of this definition, if
101 any facility which is a part of the resort meets such requirement, such requirement shall
102 be deemed met for any other facility which is a part of the resort.

103
104 *Restaurant bar* means any establishment having a restaurant or similar facility on
105 the premises at least fifty percent (50%) of the gross income of which is derived from the
106 sale of prepared meals or food consumed on such premises or which has an annual gross
107 income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared
108 meals or food consumed on such premises.

109
110 *Sale by the drink* means the sale of any intoxicating liquor except malt liquor, in
111 the original package, in any quantity less than fifty (50) milliliters shall be deemed "sale
112 by the drink" and may be made only by a holder of a retail liquor dealer's license and
113 when so made, the container in every case shall be emptied and the contents thereof
114 served as other intoxicating liquors sold by the drink are served.

115
116 *Wine* means a vinous liquor produced by fermentation of juices of grapes, berries
117 or other fruits or a preparation of certain vegetables by fermentation and containing
118 alcohol not in excess of twenty-two percent (22%) by volume.

119
120 *Wine or brandy manufacturer* means a business whose activity is the production
121 of wine or brandy.

122
123 Sec. 4-2. – License Required – Classes of Licenses.

124
125 (a) No person shall manufacture, brew, sell or offer for sale intoxicating liquor in the City
126 of Nixa without a currently valid liquor license issued by the City and the State of
127 Missouri. A separate liquor license shall be required for each of the categories and
128 subcategories of liquor sales in which the licensee desires to engage as set forth
129 herein. No license shall be required if the manufacture is for personal use as allowed
130 by Section 311.055, RSMo.

131
132 (b) *General Licenses.* Any person possessing the qualifications and meeting the
133 requirements of this chapter may apply for the following licenses to sell or manufacture
134 intoxicating liquor:

135
136 (1) *Package liquor – malt liquor only:* Sales of malt liquor at retail in the original
137 package not for consumption on the premises where sold.

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(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 subsections (b)(1).

(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) of this section.

(4) 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.

(5) Common eating and drinking areas: Sales of intoxicating liquor of all kinds by the drink not for consumption on the premises where sold but for consumption in a common eating or drinking area.

(6) Liquor by the drink – resort: Sales of liquor of all kinds by the drink at retail for consumption on the premises of any resort or qualified restaurant.

(7) Wine or brandy manufacturer: A producer of wine or brandy through a manufacturing process.

(8) Microbrewery license: A producer of beer, with an annual production of 10,000 barrels or less.

(c) Sunday Sales. Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 6:00 A.M. on Sunday and 1:30 A.M. on Monday:

(1) Package liquor – all kinds: Sales of liquor of all kinds in the original package at retail, not for consumption on the premises where sold.

(2) Liquor by the drink – restaurant bar: Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.

(3) Liquor by the drink – common eating and drinking area: Sales of liquor of all kinds by the drink at retail not for consumption on the premises where sold but for consumption in a common eating or drinking area.

(4) Liquor by the drink – all kinds: Sales of liquor of all kinds by the drink at retail for consumption on the premises where sold.

(d) Permits.

184 (1) Temporary permit for sale by drink. Any person who possesses the qualifications
185 and complies with the provisions of Section 4-3(c) below may apply for a special
186 temporary permit to sell intoxicating liquor for consumption on premises where
187 sold.

188
189 (2) Tasting permit. Any person who is licensed to sell intoxicating liquor in the original
190 package at retail under subsections (b)(3) and (c) of this section above may apply
191 for a special permit to conduct wine, malt beverage and distilled spirit tastings on
192 the licensed premises; however, nothing in this section shall be construed to permit
193 the licensee to sell wine, malt beverages or distilled spirits for on-premises
194 consumption.

195
196 (3) Liquor Catering permit. Any person wishing to exercise the sale of liquor by the
197 drink for an event held somewhere other than the location described within the
198 Applicant's current and valid liquor license may apply for a Liquor Catering permit.
199 Said permit may be issued for no more than a period of 72 consecutive hours. An
200 application for a Liquor Catering permit must meet the following requirements:

201
202 a. Materials required for Liquor Catering permit must be presented at the time
203 of application:

204
205 1. Signed letter from the entity requesting the permit.

206
207 2. Copy of related State Liquor license.

208
209 3. Signed letter of permission from the owner of the location or premise
210 where the service of alcohol will be conducted.

211
212 4. Statement of intended dates for permit.

213
214 (4) A current and valid license for the sale of Liquor by the drink must be held by the
215 Applicant of a permit for all appropriate jurisdictions, City and State.

216
217 (5) A current and valid license for the sale of Liquor by the drink must be held by the
218 Applicant of a permit for all appropriate categories of intended sale.

219
220 Sec. 4-3. – License Regulations.

221
222 (a) Package Sales, Limitations. No license shall be issued for the sale of intoxicating
223 liquor in the original package, not to be consumed upon the premises where sold,
224 except to a person engaged in, and to be used in connection with, the operation of
225 one (1) or more of the following businesses: a drug store, a cigar and tobacco store,
226 a grocery store, a general merchandise store, a confectionery or delicatessen store,
227 nor to any such person who does not have and keep in their store a stock of goods
228 having a value according to invoices of at least one thousand dollars (\$1,000.00),
229 exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor

230 shall be consumed on the premises where sold nor shall any original package be
231 opened on the premises of the vendor except as otherwise provided in this Chapter
232 or law.

233
234 (b) *Newly-Opened Restaurant Bars.* Any new restaurant bar having been in operation for
235 less than ninety (90) days and having received temporary license in accordance with
236 the State of Missouri's rules and regulations may be issued a temporary license, for a
237 period not to exceed ninety (90) days, to sell intoxicating liquor by the drink at retail
238 for consumption on the premises between the hours of 6:00 A.M. and 1:30 A.M. on
239 weekdays and between the hours of 6:00 A.M. on Saturdays until 1:30 A.M. on
240 Sundays. No intoxicating liquor may be sold on Sundays except in accordance with
241 the provisions of Section 4-2(c).

242
243 (c) *Temporary Permit For Sale By Drink — Certain Organizations.*

244
245 (1) The City Administrator or their designee may issue a permit for the sale of
246 intoxicating liquor for consumption on premises where sold to any church, school,
247 civic, service, fraternal, veteran, political or charitable club or organization for sale
248 at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the
249 day or days named therein and it shall not authorize the sale of intoxicating liquor
250 for more than seven (7) days by any such organization.

251
252 (2) If the event will be held on a Sunday, the permit shall authorize the sale of
253 intoxicating liquor on that day beginning at 6:00 A.M.

254
255 (3) At the same time that an applicant applies for a permit under the provisions of this
256 Subsection, the applicant shall notify the Director of Revenue of the holding of the
257 event by certified mail and by such notification shall accept responsibility for the
258 collection and payment of any applicable sales tax.

259
260 (4) No provision of law or rule or regulation of the City shall be interpreted as
261 preventing any wholesaler or distributor from providing customary storage, cooling
262 or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or
263 similar gathering.

264
265 (d) *Operating Hours, Days.*

266
267 (1) No licensee or any employee of such licensee shall sell, give away or otherwise
268 dispose of, or allow the same to be done, on or about the premises, any intoxicating
269 liquor in any quantity except as outlined in Chapter 311 RSMo.

270
271 (2) When January first (1st), March seventeenth (17th), July fourth (4th) or December
272 thirty-first (31st) falls on Sunday and on the Sundays prior to Memorial Day and
273 Labor Day and on the Sunday on which the national championship game of the
274 National Football League is played, commonly known as "Super Bowl Sunday",
275 any person having a license to sell intoxicating liquor by the drink may be open for

276 business and sell intoxicating liquor by the drink under the provisions of their
277 license on that day from the time and until the time which would be lawful on
278 another day of the week, notwithstanding any provisions of this Chapter to the
279 contrary.

280
281 (e) General License Regulations.

282
283 (1) Each license issued hereunder shall be conspicuously posted on the premises for
284 which the license has been issued.

285
286 (2) A separate license shall be required for each place of business. Every license
287 issued under the provisions of this Chapter shall particularly describe the premises
288 at which intoxicating liquor may be sold thereunder, and such license shall not be
289 deemed to authorize or permit the sale of intoxicating liquor at any place other than
290 that described therein.

291
292 (3) No license issued under this Chapter shall be transferable or assignable except as
293 herein provided. In the event of the death of the licensee, the widow or widower or
294 the next of kin of such deceased licensee, who shall meet the other requirements
295 of this Chapter, may make application and the city administrator or their designee
296 may transfer such license to permit the operation of the business of the deceased
297 for the remainder of the period for which a license fee has been paid by the
298 deceased. Whenever one (1) or more members of a partnership withdraws from
299 the partnership, the city administrator or their designee, upon being requested,
300 shall permit the remaining partner or partners originally licensed, to continue to
301 operate for the remainder of the period for which the license fee has been paid,
302 without obtaining a new license.

303
304 (4) In the event any licensee desires to change the location of their place of business
305 in the city, it shall be necessary for them to file an application in the same manner
306 as herein provided for an original application, except that no additional fee shall be
307 charged and the amended license, describing the new location, shall be issued
308 immediately upon the approval of the application by the city administrator or their
309 designee. Any change of location of the enterprise prior to issuance of such an
310 amended license shall constitute a violation of this Section.

311
312 Sec. 4-4. – Schedule of License Fees.

313
314 (a) The following categories and subcategories of licenses shall be issued upon
315 compliance with the provisions of this Chapter and payment of the license fee as
316 provided for herein.

317
318 (1) General Licenses.

319
320 a. Malt liquor – original package: \$75.00.

321

- 322 b. Intoxicating liquor – all kinds – original package: \$150.00.
- 323
- 324 c. Malt liquor and light wines – by the drink: \$75.00.
- 325
- 326 d. Common eating and drinking places: \$450.00.
- 327
- 328 e. Wine and brandy manufacturer: \$300.00.
- 329
- 330 f. Microbrewery: \$300.00.
- 331
- 332 g. Intoxicating liquor – all kinds – by the drink: \$450.00.
- 333

334 (2) Sunday Sales. (Additional fees)

- 335
- 336 a. Intoxicating liquor – original package: \$300.00.
- 337
- 338 b. Restaurant bars: \$300.00.
- 339
- 340 c. Common eating and drinking places: \$300.00.
- 341
- 342 d. Liquor by the drink – all kinds: \$300.00.
- 343

344 (3) Permits.

- 345
- 346 a. Temporary permit – by the drink for certain organizations (7 days max.):
347 \$37.50.
- 348
- 349 b. Tasting permit: \$37.50.
- 350
- 351 c. Liquor Catering permit: \$15.00 per each calendar day.
- 352

353 (4) Duration – Proration and refund of fees. All licenses issued under the provisions
354 of this Chapter shall expire on the thirty-first (31st) day of December following the
355 issuance thereof. For a partial year license, the fee shall be prorated quarterly. No
356 license fee shall be returned to the holder upon sale, transfer or dissolution of the
357 business of which the license was issued.

358

359 (5) Revocation or forfeit of license – fee not returned. In case of revocation or forfeiture
360 of any license granted and issued under the provisions of this Chapter for cause
361 or otherwise, the City shall in no event return any part of the fee paid for such
362 license.

363

364 Sec. 4-5. – Application for License and Renewal.

- 365
- 366 (a) Filing of an Application. Each application for an original or renewal license shall be
367 filed with the city administrator or their designee on a form to be provided by the city,

368 signed and sworn to by the applicant. Each application shall be accompanied by a
369 proper remittance reflecting the appropriate license fee made payable to the city and
370 a copy of the related State liquor license or a copy of the application for the related
371 State liquor license.

372
373 (b) *Qualifications.* Neither the applicant nor any officer, director or shareholder of a
374 corporate applicant shall have been convicted of a felony or of any distribution, sale
375 or possession of any controlled substances or dangerous drugs. The applicant shall
376 present with the application a bona fide sale contract or option duly executed, which
377 may be subject to the applicant obtaining a liquor license, or a bona fide lease duly
378 executed by the lessor, or an option for a lease duly executed, subject to the applicant
379 obtaining a liquor license, covering the property for which a liquor license is requested.
380 If the applicant is a corporation, the petition shall set forth all of the above information
381 with respect to the managing officer or officers, identifying such officer or officers. The
382 application shall further state the full name of the corporation, its date of incorporation,
383 its registered agent and registered address, the names and addresses of all
384 shareholders of the corporation, and whether said corporation operates any other
385 business or controls or is controlled by any other corporation or business, and if so,
386 the application shall further state the name of such controlled or controlling corporation
387 or business, its registered agent and registered address, and the location of all
388 businesses operated by it and the name and address of any such businesses with a
389 liquor license, whether within or without the City; and the application shall also state if
390 such controlling corporation or any controlled corporation is doing business under a
391 fictitious name, and the address where said business is located. The city administrator
392 or their designee may request such additional information as deemed necessary or
393 appropriate in determining whether or not an application should be granted or denied.

394
395 (c) *Review of Application.* Upon the submission of an application to the City, the city
396 administrator or their designee shall review the application and all documents filed
397 therewith and approve or deny the application in accordance with the following:

398
399 (1) License applications shall be reviewed with respect to their proximity to particular
400 established uses at the time of application to ensure that a separation of a least
401 one hundred (100) feet exists between any business licensed to sell intoxicating
402 liquor and any previously established school, church, or building regularly used as
403 a place of worship.

404
405 a. Proximity shall be determined through the following methods:
406
407 1. When both uses occupy separate land parcels the measurement shall
408 start with the nearest entrance of the establishment intending to provide
409 intoxicating liquor and extend to the nearest property line of the
410 established use in question through the most direct possible route.
411
412 2. When both uses occupy the same premise the measurement will be taken
413 from the nearest entrance of each use.

- 414
415 3. In circumstances where neither of the above methods apply the
416 determination of proximity shall be made by the city administrator or their
417 designee.
418
- 419 b. If a license applicant obtains the consent, in writing, of the Board of Directors
420 of the school, or the consent, in writing, of the majority of the Managing Board
421 of the church or place of worship then the requirements of Subdivision (1) of
422 this section are waived and shall not be considered grounds for the denial of
423 the application.
424
- 425 c. If the subject location of an application had previously been issued a license
426 which was valid within one (1) year immediately preceding the application for
427 a new license, then the requirements of Subdivision (1) of this section are
428 waived and shall not be considered grounds for denial of the application.
429
- 430 (2) The city administrator or their designee shall approve the application and issue a
431 license if after said application is reviewed it is found that:
432
- 433 a. No license theretofore issued to such applicant to sell intoxicating liquors has
434 been revoked within two (2) years of the date of the application;
435
- 436 b. The applicant has not been convicted since the ratification of the Twenty-First
437 Amendment to the Constitution of the United States of the violation of any law
438 applicable to the sale of intoxicating liquor, or that such applicant has not
439 employed in his/her business any person whose license has been revoked or
440 who has been convicted of violating the provisions of such law since the date
441 aforsaid;
442
- 443 c. The applicant plans and proposes to conduct a retail liquor business in
444 compliance with the laws of the State of Missouri, the ordinances of the City
445 and the provisions of this Chapter;
446
- 447 d. The application complies with all other requirements of the Nixa City Code.
448
- 449 (3) Upon approval of any application for a license the city administrator or their
450 designee shall grant the applicant a license for a term to expire on December 31st
451 of the current calendar year, unless such license be revoked or suspended before
452 the expiration of such term.
453
- 454 (4) Applications for renewal of licenses must be filed on or before December 31st of
455 each calendar year. The city administrator or their designee shall review such
456 renewal applications in accordance with the provisions of this Chapter and all other
457 ordinances of the City which may affect any such renewal application. Upon being
458 satisfied that the renewal application is proper and in order and upon payment of

459 the appropriate license fee, the city administrator or their designee shall renew the
460 license.

461
462 Sec. 4-6. – Minors.

463
464 (a) *Persons Eighteen Years of Age or Older May Sell or Handle Liquor, When.*

465
466 (1) Except as otherwise provided in this Section, no person under the age of twenty-
467 one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor.

468
469 (2) In any place of business licensed in accordance with this Chapter, persons at least
470 eighteen (18) years of age may stock, arrange displays, operate the cash register
471 or scanner connected to a cash register, accept payment for, and sack for carry-
472 out intoxicating liquor. Delivery of intoxicating liquor away from the licensed
473 business premises cannot be performed by anyone under the age of twenty-one
474 (21) years. Any licensee who employs any person under the age of twenty-one
475 (21) years, as authorized by this Subsection, shall, when at least fifty percent
476 (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have
477 an employee twenty-one (21) years of age or older on the licensed premises during
478 all hours of operation.

479
480 (3) Persons eighteen (18) years of age or older may, when acting in the capacity of a
481 waiter or waitress, accept payment for or serve intoxicating liquor in places of
482 business which sell food for consumption on the premises if at least fifty percent
483 (50%) of all sales in those places consists of food; provided that nothing in this
484 Section shall authorize persons under twenty-one (21) years of age to mix or serve
485 across the bar intoxicating beverages.

486
487 (b) *Sales to Minor – Exceptions.*

488
489 (1) No licensee, their employee, or any other person shall procure for, sell, vend, give
490 away or otherwise supply any intoxicating liquor in any quantity whatsoever to any
491 person under the age of twenty-one (21) years, except that this Section shall not
492 apply to the parent or guardian of the minor nor to the supplying of intoxicating
493 liquor to a person under the age of twenty-one (21) years for medical purposes
494 only or to the administering of such intoxicating liquor to such person by a duly
495 licensed physician. No person shall be denied a license or renewal of a license
496 issued under this Chapter solely due to a conviction for unlawful sale or supply to
497 a minor while serving in the capacity as an employee of a licensed establishment.

498
499 (2) Any owner, occupant, or other person or legal entity with a lawful right to the
500 exclusive use and enjoyment of any property who knowingly allows a person under
501 the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails
502 to stop a person under the age of twenty-one (21) from drinking or possessing
503 intoxicating liquor on such property, unless such person allowing the person under

504 the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent
505 or guardian, is guilty of an ordinance violation.

506
507 (3) It shall be a defense to prosecution under this Subsection if:

508
509 a. The defendant is a licensed retailer, club, drinking establishment, or caterer
510 or holds a temporary permit, or an employee thereof;

511
512 b. The defendant sold the intoxicating liquor to the minor with reasonable cause
513 to believe that the minor was twenty-one (21) or more years of age; and

514
515 c. To purchase the intoxicating liquor, the person exhibited to the defendant a
516 driver's license, Missouri non-driver's identification card, or other official or
517 apparently official document, containing a photograph of the minor and
518 purporting to establish that such minor was twenty-one (21) years of age and
519 of the legal age for consumption of intoxicating liquor.

520
521 (c) *Misrepresentation Of Age By Minor To Obtain Liquor — Use Of Altered Driver's*
522 *License, Passport Or I.D. Cards, Penalties.*

523
524 (1) No person under the age of twenty-one (21) years shall represent, for the purpose
525 of purchasing, asking for or in any way receiving any intoxicating liquor, that they
526 have attained the age of twenty-one (21) years, except in cases authorized by law.

527
528 (2) In addition to Subsection (4)(a) of this Section, no person under the age of twenty-
529 one (21) years shall use a reproduced, modified or altered chauffeur's license,
530 motor vehicle operator's license, identification card issued by any uniformed
531 service of the United States, passport or identification card established in Section
532 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving
533 any intoxicating liquor.

534
535 (d) *Minors in Possession of Intoxicating Liquor.*

536
537 (1) Any person under the age of twenty-one (21) years who purchases or attempts to
538 purchase, or has in their possession, any intoxicating liquor or who is visibly
539 intoxicated as defined in Section 577.001, RSMo., or has a detectable blood
540 alcohol content of more than two-hundredths of one percent (.02%) or more by
541 weight of alcohol in such person's blood is in violation of this Section.

542
543 (2) The provisions of this Subsection shall not apply to a student who:

544
545 a. Is eighteen (18) years of age or older;

546
547 b. Is enrolled in an accredited college or university and is a student in a culinary
548 course;

549

- 550 c. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine,
551 or other similar malt or fermented beverage as part of the required curriculum;
552 and
553
- 554 d. Tastes a beverage under Subsection (5)(b)(3) of this Section only for
555 instructional purposes during classes that are part of the curriculum of the
556 accredited college or university.
557
- 558 e. The beverage must at all times remain in the possession and control of any
559 authorized instructor of the college or university, who must be twenty-one (21)
560 years of age or older. Nothing in this Subsection, may be construed to allow
561 a student under the age of twenty-one (21) to receive any beer, ale, porter,
562 wine or other similar malt or fermented beverage unless the beverage is
563 delivered as part of the student's required curriculum and the beverage is
564 used only for instructional purposes during classes conducted as part of the
565 curriculum.
566
- 567 (e) For purposes of prosecution under this Section, a manufacturer-sealed container
568 describing that there is intoxicating liquor therein need not be opened or the contents
569 therein tested to verify that there is intoxicating liquor in such container. The alleged
570 violator may allege that there was no intoxicating liquor in such container, but the
571 burden of proof of such allegation is on such person, as it shall be presumed that such
572 a sealed container describing that there is intoxicating liquor therein contains
573 intoxicating liquor.
574

575 Sec. 4-7. – Miscellaneous Offenses.
576

- 577 (a) Off-Premises Consumption. No licensee shall sell intoxicating liquor at retail in the
578 original package, not to be consumed on the premises where sold, in any original
579 package containing less than fifty (50) milliliters.
580
- 581 (b) Drinking in Public Places Prohibited.
582
- 583 (1) For purposes of this Section, the term "public place" shall mean any public street,
584 highway, sidewalk, or other public way of the City, or any City parking lot or
585 property owned or under control of the City.
586
- 587 (2) No person shall drink or ingest any intoxicating liquor in or on any public place,
588 except this shall not apply to a City event in a public place, or when a special event
589 permit has been issued by the City to hold a special event in a public place, or
590 when a temporary permit for the sale by the drink has been issued pursuant to
591 Section 4-3(c) and the organization has designated a specific area on the parking
592 lot for the sale and consumption of alcohol.
593
- 594 (3) No person shall possess or have under their control any unsealed glass, bottle,
595 can or other open container of any type containing any intoxicating liquor while in

596 or upon any public place, except this shall not apply to a City event in a public
597 place, or when a special event permit has been issued by the City to hold a special
598 event in a public place, or when a temporary permit for the sale by the drink has
599 been issued pursuant to Section 4-3(c) and the organization has designated a
600 specific area on the parking lot for the sale and consumption of alcohol.

601

602 Sec. 4-8. – Administration of Law – License Suspension and Revocation.

603

604 (a) *Suspension or Revocation of License – When – Manner.* A hearing officer, appointed
605 by the City Administrator, may suspend or revoke the license of any person for cause
606 shown. In such cases the city administrator or their designee shall schedule a hearing
607 before the hearing officer not less than ten (10) days prior to the effective date of
608 revocation or suspension, and prior to the hearing the city administrator shall give not
609 less than ten (10) days' written notice specifying grounds for the suspension or
610 revocation thereof to the licensee of the grounds upon which the license is sought to
611 be revoked or suspended and the time, date and place of the hearing. Notice may be
612 accomplished by personal delivery, U.S. mail or by posting on the licensed premises.
613 The hearing shall be conducted in accordance with Section 4-9 of this Chapter.

614

615 (b) *Grounds for Suspension or Revocation.* A license may be suspended or revoked for
616 any of the following reasons:

617

618 (1) *Violating any of the provisions of either this Chapter, Chapters 311 or 312, RSMo.,*
619 *or any ordinance of the City;*

620

621 (2) *Failing to obtain or keep a license from the State Supervisor of Liquor Control;*

622

623 (3) *Making a false affidavit in an application for a license under this Chapter;*

624

625 (4) *Failing to keep an orderly place or house;*

626

627 (5) *Selling, offering for sale, possessing or knowingly permitting the consumption on*
628 *the licensed premises of any kind of intoxicating liquors, the sale, possession or*
629 *consumption of which is not authorized under the license;*

630

631 (6) *Selling, offering for sale, possessing or knowingly permitting the consumption of*
632 *any intoxicating liquor which has not been inspected and labeled according to the*
633 *laws of the State of Missouri; or*

634

635 (7) *Selling, giving, or otherwise supplying intoxicating liquor to:*

636

637 a. *Any person under the age of twenty-one (21) years,*

638

639 b. *Any person during unauthorized hours on the licensed premises,*

640

641 c. A habitual drunkard or to any person who is under or apparently under the
642 influence of intoxicating liquor, or

643
644 d. Any person on the licensed premises during a term of suspension as ordered
645 by the Council.

646
647 (c) Automatic Revocation/Suspension. A license shall be revoked automatically if the
648 licensee's State liquor license is revoked or if the licensee is convicted in any court of
649 any violation of Chapter 311 or Chapter 312, RSMo., or of any felony violation of
650 Chapter 195, RSMo., in the course of business. A license shall be suspended
651 automatically if the licensee's State liquor license is suspended, and the suspension
652 shall be for a term not less than that imposed by the State.

653
654 (d) Effect Of Suspension. No person whose license shall have been suspended by order
655 of the Hearing Officer shall sell or give away any intoxicating liquor during the time
656 such suspension is in effect. Any licensee desiring to keep premises open for the sale
657 of food or merchandise during the period of suspension shall display the Hearing
658 Officer's order of suspension in a conspicuous place on the premises so that all
659 persons visiting the premises may readily see the same.

660
661 Sec. 4-9. Hearing Upon Suspension or Revocation of Licenses.
662

663 (a) Testimony — Evidence. Hearings before the Hearing Officer shall be in the nature of
664 a contested case. Testimony of witnesses and other evidence pertinent to the inquiry
665 may be taken in such hearings, and all proceedings in such hearings shall be
666 recorded. Any person residing or conducting a business within two hundred (200) feet
667 of the establishment shall have the right to produce witnesses and testimony.

668
669 (b) Witnesses — How Summoned. Subpoenas may be issued by the Hearing Officer for
670 any person whose testimony is desired at any hearing. Such subpoenas may be
671 served and returns thereon made by any agent and in the same manner as provided
672 by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The
673 Hearing Officer also may issue subpoenas duces tecum requiring the production of
674 documents or other items pertaining to the subject of the inquiry.

675
676 (c) Witnesses To Be Sworn. Before any witness shall testify in any such hearing, they
677 shall be sworn by the hearing officer to tell the truth and nothing but the truth.

678
679 (d) Decision — Suspension Or Revocation. If the evidence supports a finding that the
680 license should be revoked or suspended pursuant to Section 4-9 of this Chapter, the
681 Hearing Officer shall issue a written order which shall include specific findings of fact
682 and conclusions of law setting forth the grounds for the action taken. If the evidence
683 fails to support a finding that the license should be revoked or suspended, then no
684 such order shall be issued.

685

686 (e) Appeal. Any applicant or licensee aggrieved by a decision of the Hearing Officer may
687 appeal such decision to the Circuit Court pursuant to the procedure set out in Chapter
688 536, RSMo, provided such appeal is filed within ten (10) days of the date of the
689 Hearing Officer's decision. The appeal shall not stay the effect of the Hearing Officer's
690 decision.

691

692 Sec. 4-10. – Wine Sampling and Tasting.

693

694 (a) A person or entity holding a license granted by the City for the sale of liquor in the
695 original package not to be opened or consumed on the premises may provide a
696 sampling or tasting of wine, malt beverages, and distilled spirits to customers upon
697 issuance of a permit by the State Supervisor of Liquor Control and obtaining a City
698 permit for sampling subject to the following:

699

700 (1) Such sampling or tasting shall be limited to a serving of one (1) ounce samples
701 and not more than a total of two (2) ounces to anyone (1) person from anyone (1)
702 bottle of product. No person shall be allowed combined samples in excess of that
703 allowed under the Division of Alcohol and Tobacco Control Tasting Guidelines for
704 food demonstrations at any given sampling session whether or not a food
705 demonstration is occurring.

706

707 (2) Consumption of the sample must take place within the licensed premise where the
708 sample is served.

709

710 (3) No sampling or tasting shall be permitted for any customer under the age of twenty-
711 one (21) years.

712

713 (4) Alcoholic beverage samples shall not be consumed during hours or days when the
714 licensed premise is prohibited by law from being open to the public.

715

716 (5) Except as specifically permitted by this Section, all other requirements of this
717 Chapter shall remain in full force and effect.

718

719 Sec. 4-11. – Penalties.

720

721 Any person violating any of the provisions of this Chapter shall upon conviction be
722 punished as set forth in Section 1-9 of the Nixa City Code.

723

724 Sec. 4-12. Application of Missouri State Statutes.

725

726 This Chapter shall be interpreted and enforced with reference to the definitions
727 and provisions found in Chapter 311 of the Revised Statutes of Missouri.

728

729 Sec. 4-2. Violations.

730

731 ~~Any person violating any of the provisions of this chapter shall, upon conviction~~
732 ~~thereof, be adjudged guilty of a misdemeanor and shall be punished as provided in this~~
733 ~~Code.~~

734
735 ~~(1) Provided, that upon final conviction of any person for a violation of any of the~~
736 ~~provisions of this chapter, such conviction shall automatically revoke the license~~
737 ~~hereunder issued to such person.~~

738
739 ~~(2) Provided further, that the term "conviction," as used herein, shall mean conviction~~
740 ~~upon final determination of any prosecution of any violation of this chapter.~~

741
742 ~~(3) Provided further, that no person having been convicted of a violation of any of the~~
743 ~~provisions of this chapter shall be issued a license or a renewal thereof for a period~~
744 ~~of one year from the date of such conviction.~~

745
746 ~~Sec. 4-3. License fees.~~

747
748 ~~The fees for licenses required under this chapter shall be as established as the~~
749 ~~maximum allowed by law.~~

750
751 ~~Sec. 4-4. Licenses nontransferable.~~

752
753 ~~No license issued under this chapter shall be transferable or assignable.~~

754
755 ~~Sec. 4-5. Duration of licenses; proration and refund of fees.~~

756
757 ~~All licenses issued under the provisions of this chapter shall expire on the~~
758 ~~December 31 following the issuance thereof. For a partial year license, the fee shall be~~
759 ~~prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or~~
760 ~~dissolution of the business for which the license was issued.~~

761
762 ~~Sec. 4-6. Revocation of licenses; suspension and forfeit of fee.~~

763
764 ~~(a) Revocation and suspension of license. The city council may, on hearing, revoke or~~
765 ~~suspend any license issued under the provisions of this chapter, for good cause~~
766 ~~shown, having first given such licensee not less than ten days' notice in writing of the~~
767 ~~application to revoke or suspend his license, prior to the order of revocation issuing.~~

768
769 ~~(1) Such notice shall contain the grounds for such revocation or suspension set out~~
770 ~~therein, and shall command the licensee to be present at a regular or special~~
771 ~~meeting of the city council (at the date, time, and location set forth in the notice)~~
772 ~~and show cause, if any, why such license should not be suspended or revoked.~~

773
774 ~~(2) The licensee shall have full right to be represented by counsel at such hearing,~~
775 ~~and may produce witnesses and evidence in his behalf at such hearing.~~

776

777 ~~(3) Service of the notice of revocation or suspension hearing shall be by the chief of~~
778 ~~police or his subordinate and may be served upon the licensee by leaving a copy~~
779 ~~thereof with the licensee or any person or employee in charge of the place of~~
780 ~~business of such licensee.~~

781
782 ~~(b) Revocation to forfeit license fee. In case of revocation or forfeiture of any license~~
783 ~~granted and issued under the provisions of this chapter for cause or otherwise, the~~
784 ~~city shall in no event return any part of the fee paid for such license.~~

785
786 ~~Sec. 4-7. Resort liquor license.~~
787
788 ~~When a business in the city qualifies under the liquor control laws of the state for~~
789 ~~a resort liquor license, the city shall charge a fee of 1½ times the state fee.~~

790
791 ~~Sec. 4-8. Possession of illegal or untaxed liquors.~~
792
793 ~~No person shall possess intoxicating liquor in any quantity for any purpose within~~
794 ~~the city which has not been lawfully manufactured.~~

795
796 ~~Sec. 4-9. Sale to drunkards, minors.~~
797
798 ~~(a) No person or his employee shall sell or supply intoxicating liquor, malt liquor or non-~~
799 ~~intoxicating beer or permit the same to be sold or supplied to a habitual drunkard or~~
800 ~~to any person intoxicated or appearing to be in a state of intoxication.~~

801
802 ~~(b) Intoxicating liquor shall not be given, sold, or otherwise supplied to any person under~~
803 ~~the age of 21 years, but this shall not apply to the supplying of intoxicating liquor to~~
804 ~~a person under such age for medicinal purposes only, or by the parent or guardian~~
805 ~~of such person, or to the administering of such intoxicating liquor, malt liquor or non-~~
806 ~~intoxicating beer to such person by a physician. It shall be a defense to prosecution~~
807 ~~under this subsection if:~~

808
809 ~~(1) The defendant is a licensed retailer, club, drinking establishment, or caterer or~~
810 ~~holds a temporary permit, or an employee thereof;~~

811 ~~(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to~~
812 ~~believe that the minor was 21 or more years of age; and~~

813
814 ~~(3) To purchase the intoxicating liquor, the person exhibited to the defendant a~~
815 ~~driver's license, a state non-driver's identification card, or other official or~~
816 ~~apparently official document, containing a photograph of the minor and~~
817 ~~purporting to establish that such minor was 21 years of age and of the legal age~~
818 ~~for consumption of intoxicating liquor.~~

819
820 ~~(c) Any person under the age of 21 years, who purchases or attempts to purchase, or~~
821 ~~has in his or her possession, any intoxicating liquor as defined in RSMo 311.020, or~~
822 ~~who is visibly in an intoxicated condition as defined in RSMo 577.001, or has a~~

823 ~~detectable blood alcohol content of more than two-hundredths of one percent or more~~
824 ~~by weight of alcohol in such person's blood is guilty of an offense. For purposes of~~
825 ~~prosecution under this section or any other provision of this chapter involving an~~
826 ~~alleged illegal sale or transfer of intoxicating liquor to a person under 21 years of age,~~
827 ~~a manufacturer-sealed container describing that there is intoxicating liquor therein~~
828 ~~need not be opened or the contents therein tested to verify that there is intoxicating~~
829 ~~liquor in such container. The alleged violator may allege that there was not~~
830 ~~intoxicating liquor in such container, but the burden of proof of such allegation is on~~
831 ~~such person, as it shall be presumed that such a sealed container describing that~~
832 ~~there is intoxicating liquor therein contains intoxicating liquor.~~

833
834 ~~(d) For purposes of determining violations of any provision of this section, a~~
835 ~~manufacturer-sealed container describing that there is intoxicating liquor therein~~
836 ~~need not be opened or the contents therein tested to verify that there is intoxicating~~
837 ~~liquor in such container. The alleged violator may allege that there was not~~
838 ~~intoxicating liquor in such container, but the burden of proof of such allegation is on~~
839 ~~such person, as it shall be presumed that such a sealed container describing that~~
840 ~~there is intoxicating liquor therein contains intoxicating liquor.~~

841
842 ~~(e) Any person under the age of 21 years who purchases or attempts to purchase, or~~
843 ~~has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated~~
844 ~~condition as defined in RSMo 577.001, shall be deemed to have given consent to a~~
845 ~~chemical test or tests of the person's breath, blood, saliva, or urine for the purpose~~
846 ~~of determining the alcohol or drug content of the person's blood. The implied consent~~
847 ~~to submit to the chemical tests listed in this subsection shall be limited to not more~~
848 ~~than two such tests arising from the same arrest, incident, or charge. Chemical~~
849 ~~analysis of the person's breath, blood, saliva, or urine shall be performed according~~
850 ~~to methods approved by the state department of health and senior services by~~
851 ~~licensed medical personnel or by a person possessing a valid permit issued by the~~
852 ~~state department of health and senior services for this purpose. The person tested~~
853 ~~may have a physician, or a qualified technician, chemist, registered nurse, or other~~
854 ~~qualified person at the choosing and expense of the person to be tested, administer~~
855 ~~a test in addition to any administered at the direction of a law enforcement officer.~~
856 ~~The failure or inability to obtain an additional test by a person shall not preclude the~~
857 ~~admission of evidence relating to the test taken at the direction of a law enforcement~~
858 ~~officer. Upon the request of the person who is tested, full information concerning the~~
859 ~~test shall be made available to such person. Full information is limited to the following:~~

860
861 ~~(1) The type of test administered and the procedures followed;~~

862
863 ~~(2) The time of the collection of the blood or breath sample or urine analyzed;~~

864
865 ~~(3) The numerical results of the test indicating the alcohol content of the blood and~~
866 ~~breath and urine;~~

867

868 ~~(4) The type and status of any permit which was held by the person who performed~~
869 ~~the test;~~

870
871 ~~(5) If the test was administered by means of a breath-testing instrument, the date of~~
872 ~~performance of the most recent required maintenance of such instrument.~~

873
874 ~~Full information does not include manuals, schematics, or software of the instrument used~~
875 ~~to test the person or any other material that is not in the actual possession of the state.~~
876 ~~Additionally, full information does not include information in the possession of the~~
877 ~~manufacturer of the test instrument.~~

878
879 ~~(f) The provisions of this section shall not apply to a student who:~~

880
881 ~~(1) Is 18 years of age or older;~~

882
883 ~~(2) Is enrolled in an accredited college or university and is a student in a culinary~~
884 ~~course;~~

885
886 ~~(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or~~
887 ~~other similar malt or fermented beverage as part of the required curriculum; and~~

888
889 ~~(4) Tastes a beverage under subdivision (3) of this subsection only for instructional~~
890 ~~purposes during classes that are part of the curriculum of the accredited college~~
891 ~~or university. The beverage must at all times remain in the possession and~~
892 ~~control of an authorized instructor of the college or university, who must be 21~~
893 ~~years of age or older. Nothing in this subsection may be construed to allow a~~
894 ~~student under the age of 21 to receive any beer, ale, porter, wine, or other similar~~
895 ~~malt or fermented beverage unless the beverage is delivered as part of the~~
896 ~~student's required curriculum and the beverage is used only for instructional~~
897 ~~purposes during classes conducted as part of the curriculum.~~

898
899 ~~Sec. 4-10. Restrictions as to place of sale.~~

900
901 ~~No person, agent or employee of any person in any capacity, shall sell intoxicating~~
902 ~~liquor in any other place than that designated in the license; nor at any other time or~~
903 ~~otherwise than is authorized in this chapter and the regulations herein provided for.~~

904
905 ~~Sec. 4-11. Drinking in public.~~

906
907 ~~(a) No person or persons shall, within the corporate limits of the city, drink any kind of~~
908 ~~intoxicating liquors in any public street, alley or on any sidewalk, public lot or in any~~
909 ~~storeroom, office building, public offices where men and women come to transact their~~
910 ~~business, restroom, toilet rooms, or any public place within the corporate limits of the~~
911 ~~city, except in rooms where intoxicating liquors are legally sold and in private dwelling~~
912 ~~houses or any private place or during a special event having received authorization~~
913 ~~from the city council in conformance with section 16-321.~~

914
915 ~~(b) No person or persons shall, within the corporate limits of the city, deposit, place, or~~
916 ~~throw down upon the streets or sidewalks any glass bottle or any breakable~~
917 ~~receptacle, nor shall they smash or break the same upon the public streets, sidewalks,~~
918 ~~public lots, storerooms, store buildings, office buildings, vacant lots, or place any bottle~~
919 ~~or bottles in any public toilet or any kind of container or receptacle having contained~~
920 ~~intoxicating liquors of any kind in any public building.~~

921
922 ~~ARTICLE II. — SALES BY THE DRINK~~

923
924 ~~DIVISION 1. — GENERALLY~~

925
926 ~~Sec. 4-41. Scope.~~

927
928 ~~The provisions of this article apply only to malt liquor containing alcohol not in~~
929 ~~excess of five percent by weight, and light wines containing not in excess of 14 percent~~
930 ~~of alcohol by weight made exclusively from grapes, berries and other fruits and~~
931 ~~vegetables, by the drink at retail for consumption on the premises where sold to any~~
932 ~~person other than a charitable, fraternal, religious, service or veterans' organization which~~
933 ~~has obtained an exemption from the payment of federal income taxes as provided in~~
934 ~~section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or~~
935 ~~501(d) of the United States Internal Revenue Code of 1954, as amended.~~

936
937 ~~Sec. 4-42. Hours of sale.~~

938
939 ~~(a) No person having a license under this article nor any employee of such person, shall~~
940 ~~sell, give away or otherwise dispose of, or suffer the same to be done upon or about~~
941 ~~his licensed premises, any intoxicating liquor in any quantity between the hours of~~
942 ~~1:30 a.m. and 6:00 a.m. on weekdays or between the hours of 1:30 a.m. Sunday and~~
943 ~~6:00 a.m. Monday. The premises shall be and remain a closed place as defined in this~~
944 ~~section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the~~
945 ~~hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.~~

946
947 ~~(b) Where such licenses are held by clubs or hotels, this section shall apply only to the~~
948 ~~room or rooms in which intoxicating liquor is dispensed; and where such licenses are~~
949 ~~held by restaurants whose business is conducted in one room only and substantial~~
950 ~~quantities of food and merchandise other than intoxicating liquors are dispensed, then~~
951 ~~the licensee shall keep securely locked during the hours and on the days specified in~~
952 ~~this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating~~
953 ~~liquor is dispensed. A "closed place" is defined to mean a place where all doors are~~
954 ~~locked and where no patrons are in the place or about the premises.~~

955
956 ~~(c) Any person violating any provision of this section shall be deemed guilty of a class A~~
957 ~~misdemeanor.~~

958

959 ~~(d) Nothing in this section shall be construed to prohibit the sale or delivery of any~~
960 ~~intoxicating liquor during any of the hours or on any of the days specified in this section~~
961 ~~by a wholesaler licensed under the provisions of RSMo 311.180 to a person licensed~~
962 ~~to sell the intoxicating liquor at retail.~~

963
964 ~~DIVISION 2. — LICENSE~~

965
966 ~~Sec. 4-73. Required:~~

967
968 ~~Intoxicating liquor may be sold by the drink at retail for consumption on the~~
969 ~~premises where sold, when the person, partnership or corporation desiring to sell such~~
970 ~~intoxicating liquor intoxicating liquor by the drink at retail for consumption on the premises~~
971 ~~where sold, shall have been licensed to do so by the city and under the provisions of this~~
972 ~~chapter.~~

973
974 ~~Sec. 4-74. Applications; procedure.~~

975
976 ~~All applications for licenses under this article shall be made in writing to the city~~
977 ~~council. No license shall be granted at the same meeting of the city council at which the~~
978 ~~application is presented, except by unanimous vote of the city council. Provided, however,~~
979 ~~that such application may be passed on by the city council at the first meeting of the city~~
980 ~~council at which the application is presented, if such applicant has first served notice, in~~
981 ~~writing, of his intention to present such application (including a copy of the application)~~
982 ~~upon each member of the city council, at least five days before the meeting of the city~~
983 ~~council at which such application is to be presented.~~

984
985 ~~Sec. 4-75. Zoning district.~~

986
987 ~~No license shall be issued for the sale of intoxicating liquor at retail by the drink,~~
988 ~~for consumption on the premises in the city, except where the place of such business,~~
989 ~~according to the application for such license, is to be located within a zoning district where~~
990 ~~such use is authorized.~~

991
992 ~~Sec. 4-76. Granting; conditions to be met.~~

993
994 ~~(a) On approval of the application by the city council and payment of the license tax herein~~
995 ~~provided, the city clerk shall grant the applicant a license to conduct business in the~~
996 ~~city for one year from the date of issuance of such license or for a fraction thereof as~~
997 ~~provided in section 4-5. A separate license shall be required for each place of~~
998 ~~business.~~

999
1000 ~~(b) Every license issued under the provisions of this article shall particularly describe the~~
1001 ~~premises at which intoxicating liquor may be sold thereunder, and such license shall~~
1002 ~~not be deemed to authorize or permit the sale of malt liquor and/or intoxicating beer~~
1003 ~~at any place other than that described therein.~~

1005 ~~(c) Provided that the city clerk shall not deliver to any person a license under the~~
1006 ~~provisions of this article until such person shall produce the receipt of the city showing~~
1007 ~~that the taxes levied on such license have been paid.~~

1009 ~~Sec. 4-77. Limitation of number of licensed establishments.~~

1011 ~~(a) The following words, terms and phrases, when used in this article, shall have the~~
1012 ~~meanings ascribed to them in this section, except where the context clearly indicates~~
1013 ~~a different meaning:~~

1014
1015 ~~*Malt liquor* means any beverage manufactured from pure hops or pure barley malt~~
1016 ~~or wholesome grains or cereals and wholesome yeast and pure water, containing~~
1017 ~~alcohol in excess of 3.2 percent by weight and not in excess of five percent by~~
1018 ~~weight.~~

1020 ~~*Nonintoxicating beer* means any beer manufactured from pure hops or pure~~
1021 ~~extracts of hops, and pure barley malt or other wholesome grains or cereals, and~~
1022 ~~wholesome yeast, and pure water, and free from all harmful substances,~~
1023 ~~preservatives and adulterants, and having an alcoholic content of more than one-~~
1024 ~~half of one percent of volume, and not exceeding 3.2 percent by weight.~~

1026 ~~(b) The number of licenses which shall be issued and outstanding for the sale of malt~~
1027 ~~liquor or nonintoxicating beer is hereby set, fixed, and determined as follows:~~

1029 ~~(1) The total number of licenses issued for the sale of malt liquor shall be one for each~~
1030 ~~2,000 of population.~~

1032 ~~(2) The number of licenses for sale of non-intoxicating beer shall be one for each 1,000~~
1033 ~~of population.~~

1035 ~~(3) Provided that no person now holding any such license shall be denied a re-~~
1036 ~~issuance thereof from time to time because of this section, unless such license~~
1037 ~~shall be permitted to lapse.~~

1039 ~~ARTICLE III. — ORIGINAL PACKAGE SALES~~

1041 ~~DIVISION 1. — GENERALLY~~

1043 ~~Sec. 4-98. Original package sales.~~

1045 ~~Intoxicating liquor shall be sold at retail in the original package, only upon a license~~
1046 ~~granted by the city, and such so sold shall not be consumed upon the premises where~~
1047 ~~sold, nor the original package opened on such premises of the vendor, except as~~
1048 ~~otherwise may be provided in this chapter.~~

1050 ~~DIVISION 2. — LICENSE~~

1051
1052 ~~Sec. 4-127. Required.~~

1053
1054 ~~It shall be unlawful for any person, firm, partnership, or corporation to manufacture,~~
1055 ~~sell or expose for sale, either at wholesale or retail, in the city, intoxicating liquor in any~~
1056 ~~quantity, without first having obtained a license from the city, except as otherwise~~
1057 ~~provided herein.~~

1058
1059 ~~Sec. 4-128. Location.~~

1060
1061 ~~No license shall be issued under this article where the place of such business~~
1062 ~~sought to be licensed, according to the application for such license, is located in a zoning~~
1063 ~~district where such use is authorized.~~

1064
1065 ~~Sec. 4-129. Qualifications of applicant.~~

1066
1067 ~~No person shall be granted a license under this article, unless such person is of good~~
1068 ~~moral character and meets the requirements as specified by state law.~~

1069
1070 ~~Sec. 4-130. Eligibility for original package sales license.~~

1071
1072 ~~No license shall be issued for the sale of intoxicating liquor in the original package~~
1073 ~~except to a person engaged in, and for use thereby in connection with, the operation of~~
1074 ~~one or more of the following businesses: a drugstore, cigar and tobacco store, grocery~~
1075 ~~store, general merchandise store, confectionery or delicatessen store; nor shall such~~
1076 ~~license be issued to any such person who does not have and keep in his store a stock of~~
1077 ~~goods having a value, according to invoices at the time of making the application for~~
1078 ~~license, of at least \$1,000.00, exclusive of fixtures and intoxicating liquors.~~

1079
1080 **SECTION 2:** Savings Clause. Nothing in this Ordinance shall be construed to
1081 affect any suit or proceeding now pending in any court or any rights acquired, or liability
1082 incurred nor any cause or causes of action occurred or existing, under any act or
1083 ordinance repealed hereby.

1084
1085 **SECTION 3:** Severability Clause. If any section, subsection, sentence, clause, or
1086 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
1087 the validity of the remaining portions of this Ordinance. The Council hereby declares that
1088 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
1089 phrase thereof, irrespective of the fact that any one or more sections, subsections,
1090 sentences, clauses, or phrases be declared invalid.

1091
1092 **SECTION 4:** This Ordinance shall be in full force and effect from and after its final
1093 passage by the City Council and after its approval by the Mayor, subject to the provisions
1094 of section 3.11(g) of the City Charter.

1095
1096

1097 **ADOPTED BY THE COUNCIL THIS _____ DAY OF _____, 2023.**

1098

1099

ATTEST:

1100

1101

PRESIDING OFFICER

CITY CLERK

1103

1104

1105 **APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2023.**

1106

1107

ATTEST:

1108

1109

MAYOR

CITY CLERK

1111

1112

1113 **APPROVED AS TO FORM:**

1114

1115

CITY ATTORNEY

1116