

Chapter 50 -- Beer and Liquor

50.010. Definitions. For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this section.

1. Person. The term "person" as used in this Chapter shall mean and include any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court.

2. Intoxicating liquor. Alcohol for beverage purposes, alcoholic, spirituous, ardent spirits, malt, vinous, fermented preparations, combinations of liquors or part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half (1/2) of one (1) percent (0.5%) of alcohol by weight, except for nonintoxicating beer as defined in RSMo. section 312.010.

3. Malt liquor. Liquor manufactured from pure hops, or from pure extract of hops or from both; or manufactured from pure barley malt, or wholesome grains or cereals and wholesome yeast and pure water, or from both; and which is commonly called and known as beer and which contains alcohol in excess of 3.2 percent (3.2%) by weight and not in excess of five percent (5%) by weight.

4. Nonintoxicating beer. Any beer manufactured from pure hops or pure extract of hops, and pure barley malt, or other wholesome grains or cereals, and wholesome yeast, and pure water, free from all harmful substances, preservatives, and adulterants, and having an alcoholic content of more than one-half (1/2) of one percent (1%) by volume and not exceeding 3.2 percent (3.2%) by weight.

5. Original package. An original package as used in this Chapter shall be construed and held to refer to any package containing three, six, twelve, or twenty-four small standard beer bottles or cans and any package containing three, six, or twelve large standard beer bottles or cans.

50.020. Intoxicating liquor.

1. Unlawful possession. No person shall possess intoxicating liquor within the City of Holts Summit unless such liquor has been acquired from some person holding a duly authorized license to sell under the provisions of the Missouri State Liquor Laws and applicable City Ordinances, or unless such intoxicating liquor is had or kept with the written permission of the state supervisor of liquor control, and the package in which such intoxicating liquor is contained and from which it is taken for consumption has, while

50-1

containing intoxicating liquor, been labeled and sealed with the official seal prescribed under state law and any regulations made thereunder; provided, that nothing in this Chapter shall be so

construed as to prevent the natural fermentation of fruit juices in the home for the exclusive use of the occupants of the home and their guests.

2. Druggists. Any druggist may have in his possession intoxicating liquor purchased by him from a licensed vendor under a license issued pursuant to this Chapter, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this state and lawfully inspected, gauged, and labeled as provided in Section 311.470 of the Revised Statutes of Missouri, when such intoxicating liquor is to be used in the business of such druggist in compounded medicines or as a solvent or preservative.

3. Sales by druggists, prescriptions by physicians. A druggist licensed under the provisions of this Chapter to sell intoxicating liquor in the original package may do so, but intoxicating liquor sold by him shall not be drunk or the packages opened on the premises where sold. Nothing in this article 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 provided in this section.

4. Mixing with drugs. No person shall, for any purpose whatsoever, mix or permit or cause to be mixed with any intoxicating liquor kept for sale, or sold or supplied by him as a beverage, any drug or form of methyl alcohol or any alcohol harmful to human beings upon consumption.

5. Window displays. It shall be unlawful to display in any street window or show window any intoxicating liquor or any package, bottle, or container bearing the label or brand of any intoxicating liquor without first having obtained a license pursuant to this Chapter.

6. License required. It shall be unlawful for any person to manufacture, or to sell or expose for sale either at wholesale or retail, in the City of Holts Summit any intoxicating liquor in any quantity without first having obtained a license from the City therefor, except as otherwise provided in this Chapter.

6A. License - consumption. It shall be unlawful for any person operating any premises where food, beverages, or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor, to permit the drinking or consumption of intoxicating liquor in the premises, without having first obtained a license from the City. **Ord #1815 (12-13-07)**

7. Eligibility for package sale license. No license shall be issued under this Chapter for the sale of intoxicating liquor in the original package unless the applicant has the qualifications necessary for issuance of a state license and the qualifications for a license issued by the City as provided in this Chapter and the applicant has paid the license fee set forth in this Chapter.

50-2

8. License fees. The annual license fees required and imposed under this section are as follows:

a. BREWING MALT LIQUOR: For the privilege of manufacturing and brewing in this city malt liquor containing not in excess of five percent of alcohol by weight the sum of three hundred dollars (\$300.00) [Auth. 311.180.1(1) and 311.220 RSMo.];

b. BREWING MALT LIQUOR, MICROBREWERY: For the privilege of manufacturing and brewing in this city malt liquor, containing not in excess of five percent of alcohol by weight, in quantities of not more than ten thousand barrels per annum, a fee of seven and 50/100th dollars (\$7.50) per barrel up to a maximum fee of three hundred and seventy-five dollars (\$375.00). [Auth. 311.195 RSMo];

c. MANUFACTURING LIQUOR: For the privilege of manufacturing in this city intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight the sum of one hundred and fifty dollars (\$150.00) [Auth. 311.180.1(2) and 311.220 RSMo]

d. MANUFACTURING, DISTILLING OR BLENDING LIQUOR: For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within this city the sum of three hundred dollars (\$300.00) [Auth. 311.180.1(3) and 311.220 RSMo];

e. SELLING TO WHOLESALERS, MALT LIQUOR: For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this city, the sum of seventy-five dollars (\$75.00) [Auth. 311.180.1(4) and 311.220 RSMo];

f. SELLING TO WHOLESALERS, INTOXICATING LIQUORS: For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this city, the sum of one hundred fifty dollars (\$150.00) [Auth. 311.180.1(5) and 311.220 RSMo];

g. SELLING TO WHOLESALERS, ALL KINDS: For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this city, the sum of three hundred and seventy-five dollars (\$375.00) [Auth. 311.180.1(6) and 311.220 RSMo];

h. SELLING BY WHOLESALER TO RETAILER, MALT LIQUOR: For the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor

at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this city, the sum of one hundred fifty dollars (\$150.00) [Auth. 311.180.1(7) and 311.220 RSMo (Supp. 1995)];

i. SELLING BY WHOLESALER TO RETAILER, LIQUOR:

For the privilege of selling intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this city, the sum of three hundred dollars (\$300.00) [Auth. 311.180.1(8) and 311.220 RSMo (Supp. 1996)];

j. SELLING BY WHOLESALER TO RETAILER, ALL

KINDS: For the privilege of selling intoxicating liquor of all kinds by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this city, the sum of seven hundred fifty dollars (\$750.00), except that a license authorizing the holder to sell to duly licensed wholesalers and to solicit orders for sale of intoxicating liquor, to, by or through a duly licensed wholesaler, shall not entitle the holder thereof to sell within the city, direct to retailers. [Auth. 311.180.1(9) (Supp 1995) and 311.220 RSMo];

k. RETAIL, LIQUOR IN ORIGINAL PACKAGE:

For the privilege of selling intoxicating liquor, in the original package, by drug stores, cigar and tobacco stores, grocery stores, general merchandise stores, confectioneries, or a delicatessen store, not for consumption on the premises, a fee of one hundred and fifty dollars (\$150.00). [Auth. 311.200.1 RSMo];

l. RETAIL, LIQUOR IN ORIGINAL PACKAGE,

SUNDAYS: For the privilege of selling intoxicating liquor in the original package at retail between the hours of 9:00 a.m. and midnight on Sundays, by businesses with a valid license to sell package liquor pursuant to subsection k, above, a fee of two hundred dollars (\$200.00);

m. RESORTS, SEASONAL RESORT RESTAURANTS, AND RESTAURANTS, SALE OF LIQUOR BY THE DRINK, RESORT DEFINED-TEMPORARY LICENSE, NEW BUSINESSES, WHEN

i. For a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises of any resort as described in the application the sum of four hundred and fifty dollars (\$450.00) which shall

50-4

include the sale of intoxicating liquor in the original package. [Auth. 311.095 RSMo (Supp 1995) fee authorized by 311.200.4 RSMo and 311.220 RSMo];

ii. As used in this section the term “resort” means:

(1) any establishment having at least thirty rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent of the gross income of which is derived from the sale of prepared meals or food, or

(2) 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 per year with at least fifty thousand dollars of such gross receipts from nonalcoholic sales, or

(3) means a seasonal resort restaurant with food sales as determined in subsection ii of this section.

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 receipts requirements of this subsection, 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.

iii. A seasonal resort restaurant is a restaurant which is not a new restaurant establishment and which is open for business eight or fewer consecutive months in any calendar year. Fifty percent of all gross sales of such restaurant shall be sales of prepared meals. Any new seasonal resort restaurant establishment having been in operation for less than twelve weeks may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed ninety days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which fifty percent shall be sales of prepared meals. The temporary license fee and the annual license fee shall be prorated to reflect the period of operation of the seasonal resort restaurant. The license shall be valid only during the period for which application was made and for which the fee was paid. Any seasonal resort restaurant upon resuming business for its season of operation shall not be considered a new establishment for purposes of issuing a temporary license.

50-5

Nothing in this subsection shall prohibit a seasonal resort restaurant from becoming a resort restaurant upon application, payment of fees, and compliance with the requirements of this chapter.

iv. Any new resort or restaurant establishment having been in operation for less than ninety days may be issued a temporary license to sell intoxicating

liquor by the drink at retail for consumption on the premises for a period not to exceed ninety days if the resort or restaurant establishment can show a projection of an annual gross receipts of not less than seventy-five thousand dollars per year with at least fifty thousand dollars of such gross receipts from nonalcoholic sales. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

n. RESTAURANTS, COMMON EATING AREA, BEER AND WINE BY THE DRINK: For the privilege of selling intoxicating liquor, at retail by the drink for consumption in a common eating and drinking area a fee of four hundred fifty dollars (\$450.00) per year. A common eating and drinking area is defined as an area or areas within a building or group of buildings for the eating of food and drinking of beverages sold at retail by establishments which do not provide areas within their premises for consumption of food and beverages, where the costs of maintaining such area or areas are shared by the payment of maintenance charges, as provided in the respective leases permitting the use of such areas, or otherwise, and the gross annual income from the sale of prepared meals or food consumed in such common eating and drinking area is, or is projected to be, at least two hundred and seventy-five thousand dollars. [Auth. 311.096 RSMo]

o. All applications for licenses shall be made upon such forms and in such manner as the city clerk shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid.

p. Nothing in this ordinance pertaining to the establishment of fees may be construed to authorize the type of business for which a particular fee is determined.

9. Qualifications of applicants. 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 City of Holts Summit, 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 City of Holts Summit; and 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 twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his business as such dealer, any person whose

license has been revoked or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of licenses to nonresidents 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.

10. Applications, payment of license fee. Every application for a license under the provisions of this section shall be made in writing and in the name of the owner or owners of the business at the place for which the license is requested, and shall be directed to the Board of Aldermen and filed with the city clerk. At the time of filing an application, the applicant shall pay to the city clerk, by cash or certified check, the amount of one (1) year's license fee for the license applied for.

11. Granting of license; Board of Aldermen approval required. On approval of the application by the Board of Aldermen and payment of the license fee as provided in this section, the city clerk shall grant the applicant a license to conduct business in the City. A separate license shall be required for each place of business. Every license issued under the provisions of this section 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.

12. View of interior. No license shall be issued by the Board of Aldermen for the sale of intoxicating liquor at retail by the drink for consumption on the premises where sold, in a place commonly known as a "saloon," nor in any building or room where there are blinds, screens, swinging doors, curtains, or any other things in such building or room that will obstruct or obscure the interior of such room from public view.

13. Duration of license. Each license issued in compliance with this division shall expire on the 30th day of June next succeeding the date of such permit or license. Applications for renewal of permits or licenses must be filed with the city clerk on or before the 1st day of June of each calendar year. Of the annual license fee required by this section to be paid for any permit or license, the application shall pay as many twelfths (12ths) as there are months (part of a month counted as one (1) month) remaining from the date of the permit or license to, but not including, the next succeeding 1st day of July.

14. Nontransferable, exceptions. No license issued under this section 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 section, may make application to the Board of Aldermen, and the Board of Aldermen may transfer such license to permit the operation of business of the deceased for the remainder of the period for which such license fee was paid by the deceased. Whenever one 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

50-7

to continue the operation for the remainder of the period for which the license fee has been paid without obtaining a new license.

50.022. Sunday Liquor Sales, Intoxicating Liquors. In addition to any other fee imposed under this chapter there shall be imposed the following annual fees:

- b. Retail, in Original Package, Sundays: see 50.020.8(1).

50.023 Certain Holidays, sale by the drink on Sunday allowed.

When January first, March seventeenth, July fourth, or December thirty-first, falls on a Sunday, and on the Sundays prior to Memorial Day and Labor Day, and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his license on that day from the time and until the time which would be lawful on another day of the week. [Auth. 311.298 RSMo (1994)] (Ord. ____, 3-10-97)

50.025. Malt liquor, beer and certain wines.

a. RETAIL, MALT LIQUOR AND WINE, BY THE DRINK: For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold the sum of fifty-two and 50/100ths dollars (\$52.50) per year, which license shall also permit the holder thereof to sell non-intoxicating beer as defined in this chapter. [Auth. 311.200.3 RSMo]

b. RETAIL SALE, MALT LIQUOR IN ORIGINAL PACKAGE, GROCERS: For a permit authorizing the sale of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, twenty-two and 50/100ths dollars (\$22.50) per year. This license shall also permit the holders

50-8

thereof to sell nonintoxicating beer in the original package direct to consumers, but not for resale. [Auth. 311.200.2 RSMo.]

c. Nothing in this ordinance pertaining to the establishment of fees may be construed to authorize the type of business for which a particular fee is determined.

50.030. Nonintoxicating beer, beer, malt liquor containing alcohol not in excess of five percent alcohol by weight and consumption of liquor licenses.

1. Unlawful possession. No person, except a duly licensed manufacturer or wholesaler, shall possess nonintoxicating beer within the City of Holts Summit unless the same has been acquired from some person holding a duly authorized license to sell the same under state law and this Chapter, or unless the nonintoxicating beer is had or kept with a written or printed permission of the supervisor of Liquor Control; provided, that nothing in this Chapter shall be so construed as to prevent the brewing and possession on the premises of nonintoxicating beer for the exclusive use of the occupants of the residence and their guests.

2. License required. It shall be unlawful for any person to manufacture, sell, or expose for sale either at wholesale or retail in the City, any nonintoxicating beer, beer, and malt liquor containing alcohol less than five percent (5%) alcohol by weight, in any quantity without first having obtained a license from the City therefor, except as otherwise provided in this Chapter.

3. License fees. The annual license fees imposed and required under this section are as follows:

a. For a license authorizing the manufacture, and the sale by the manufacturer, of nonintoxicating beer brewed or manufactured in this city, three hundred seventy-five dollars (\$375.00);

b. For a license authorizing the sale in this city by any distributor or wholesaler, other than the manufacturer or brewer thereof, of nonintoxicating beer, seventy five dollars (\$75.00);

c. For a license authorizing the sale of nonintoxicating beer for consumption on premises where sold, fifty-two dollars and fifty cents (\$52.50);

d. For a license authorizing the sale of nonintoxicating beer by grocers and other merchants and dealers, for sale in the original package, direct to consumers, but not for resale, twenty-two dollars and fifty cents (\$22.50);

e. For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of nonintoxicating beer, seventy-five dollars (\$75.00).

4. Licenses for on-premises consumption. Any license issued under the provisions of this section authorizing the sale of nonintoxicating beer and beer and/or malt liquor for consumption on the premises described in such license shall be construed to authorize the sale of such nonintoxicating beer and beer and/or malt liquor by the bottle, by the drink, or draught, and in the original package.

50-9

4A. License - consumption. It shall be unlawful for any person operating any premises where food, beverages, or entertainment are sold or provided for compensation, who does not possess a license for the sale of nonintoxicating beer, to permit the drinking or consumption of nonintoxicating beer in the premises, without having first obtained a license from the City. **Ord #1815 (12-13-07)**

50-9A

5. Qualification of Applicants. 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 City of Holts Summit, 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 City of Holts Summit; and 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 twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or nonintoxicating beer, or who employs in his business as such dealer, any person whose permit or license has been revoked 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 permits or licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of nonintoxicating liquors to, by or through a duly licensed wholesaler, within this state.

6. Application for licenses; payment of license fee. Every application for a license under the provisions of this section shall be made in writing and in the name of the owner or owners of the business at the place for which the license is requested, and shall be directed to the Board of Aldermen and filed with the city clerk. At the time of filing an application, the applicant shall pay to the city clerk, by cash or certified check, the amount of one (1) year's license fee for the license applied for.

7. Duration of licenses. Each license issued in compliance with this section shall expire on the 30th day of June next succeeding the date of such permit or license. Applications for renewal of permits or licenses must be filed with the city clerk on or before the 1st day of June of each calendar year. Of the annual license fee required by this section to be paid for any permit or license, the application shall pay as many twelfths (12ths) as there are months (part of a month counted as one (1) month) remaining from the date of the permit or license to, but not including, the next succeeding 1st day of July.

8. Nontransferable, exceptions. No license issued under this section 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 section, may make application to the Board of Aldermen, and the Board of Aldermen may transfer such license to permit the operation of business of the deceased for the remainder of the period for which such license fee was paid by the deceased. Whenever one 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 the operation for the remainder of the period for which the license fee has been paid without obtaining a new license.

50-10

50.040. Revocation.

1. By Board of Aldermen, hearing. The Board of Aldermen may, on hearing, revoke any license issued under the provisions of this Chapter for good cause shown, after having given such licensee not less than ten (10) days notice in writing of the application to revoke his license and prior to issuance by the Board of Aldermen of a revocation order. Such notice shall contain the ground or grounds for such revocation set out therein, and shall invite the licensee to be present at the regular or specially called meeting of the Board of Aldermen and show cause, if any, why such license should not be revoked. Such written notice shall be served by an officer of the city and service may be made by leaving a copy of such notice with the licensee or with any employee in charge of licensee's place of business.

2. Licensee's rights at hearing. At the Board of Aldermen's hearing to revoke a license issued under the provisions of this article, the licensee shall have full right to be represented by counsel, and may produce witnesses and evidence in his behalf.

3. Forfeiture of 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 license fee paid for such license.

4. Grounds for revocation. The following acts, among others, shall be deemed to be sufficient cause for revocation of licenses issued under this Chapter and to meet the requirements of this section as "good cause shown" for such revocation.

a. For all retail licenses where intoxicating liquor or nonintoxicating beer is sold in the original package.

(1) Knowingly selling, giving away, or serving upon the premises described in the license any glass, ice, water, soda water, phosphates, or any other kind of liquids to be used for the purpose of mixing intoxicating drinks and commonly referred to as "set-ups" unless the licensee possesses a consumption of liquor license;

(2) Allowing in or upon the licensed premises any improper disturbances, lewdness, immoral activities, brawls, or any indecent, profane, or obscene language, songs, entertainment, literature, or advertising material;

(3) Employing or knowingly allowing the loitering upon or about the licensed premises of any known police character, felon, gangster, racketeer, prostitute, narcotic addict, vagrant, delinquent minor, or other degenerate or dissolute person;

(4) Allowing upon the licensed premises any gambling of any kind or character whatsoever in which the one playing stands to win or lose money, trade checks, prizes, merchandise, or any other consideration whatsoever. The presence of any gambling device upon any licensed premises shall create a presumption of a violation of this division. Nothing in this section prohibits any lottery or gaming device specifically authorized by state law;

(5) Selling, giving, or otherwise supplying intoxicating liquor or nonintoxicating beer to any person under the age of twenty-one (21) years;

(6) Selling, giving, or otherwise supplying intoxicating liquor or nonintoxicating beer to a habitual drunkard or to any person who is under or apparently under the influence of alcoholic drink.

b. For all retail licenses where beer, malt liquor, intoxicating liquor, and/or nonintoxicating beer is sold for consumption on the premises:

(1) Failure to keep the premises covered by the license clean and sanitary;

50-11

(2) Placing or permitting the placing of any object on or within the windows of the premises covered by licenses which shall impede or obstruct vision from the exterior into the interior.

(3) Failure to maintain, while the licensed premises are open for business, sufficient light to insure clear visibility into the interior and within the interior of the premises;

(4) Knowingly selling, giving away, or serving upon the premises described in the license any glass, ice, water, soda water, phosphates, or any other kind of liquids to be used for the purpose of mixing intoxicating drinks and commonly referred to as "set-ups";

(5) Allowing in or upon the licensed premises any improper disturbances, lewdness, immoral activities, brawls, or any indecent, profane, or obscene language, songs, entertainment, literature, or advertising material.

(Revised: Ord. 666)

50.050. Sales in original packages. Intoxicating liquor shall be sold at retail in the original package only upon a license granted by the Board of Aldermen and intoxicating liquor so sold shall not be consumed upon the premises where sold, nor the original package opened on the premises of the vendor, except as otherwise provided in this Chapter. No intoxicating liquor purchased in the original package shall be consumed or permitted to be consumed upon any premises where intoxicating liquor is authorized legally to be sold.

50.060. Place of sale. No person shall sell intoxicating liquor in any other place than that designated in a currently effective license issued by the City which authorizes such

50-12

sale, or at any other time or in any other manner than is authorized by this Chapter, provided that nothing in this Chapter shall be so construed as to authorize the sale of intoxicating liquor in the original package or at retail by the drink for consumption on the premises where sold, in a place commonly known as a "saloon."

(Section 50.070 was repealed by Ord. 512)

50.080. Hours of sale. No person having a license under the provisions of this Chapter shall sell, give away, or otherwise dispose of or suffer any such act to be done, upon or about his premises, any liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. **(12-8-03)**

50.090. Minimum package sale size. The sale of any intoxicating liquor, beer, and malt liquor in the original package in any quantity less than 50 milliliters, shall be deemed sale

by the drink and is prohibited, except as otherwise provided in this ordinance or the Missouri Liquor Control Law, RSMo. sections 311-312.
(Revised: Ord. 666)

50.095. All Licensees.

1. The Chief of Police is hereby appointed as the supervisor of liquor control. The Chief of Police may appoint city employees under his supervision as agents with the authority to assist him with the responsibilities established in Chapter 50 of the Holts Summit City Code.

2. Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the Intoxicating Liquor Laws or the Nonintoxicating Beer Laws or the regulations of the supervisor of liquor control.

3. All licensees shall allow the licensed premises and all portions of the buildings of the premises, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics and all buildings used in connection with the operations carried on under the license and which are in their possession or under their control, and all places where they keep or have liquor stored, to be inspected by the supervisor of liquor control and their agents. Licensees shall cooperate fully with the agents during the inspections.

4. All licensees are required to keep complete and accurate records pertaining to their businesses. These records shall include a complete and accurate record of all purchases and of all sales of intoxicating liquor and nonintoxicating beer made by them. These records must include the names and addresses of all persons from whom the liquor is purchased, the dates, kinds and quantities of the purchases and the dates and amounts of payments on account. They also should include the daily gross returns from sales.

50-13

a. All licensees shall keep all files, books, records, papers, state, county and city licenses, federal tax stamps and accounts and memoranda pertaining to the business conducted by them, on the licensed premises and they, upon request of the supervisor of liquor control or his/her duly authorized agents and auditors, promptly shall allow an inspection and audit to be made by the supervisor or his/her agents, of files, books, records, papers, state, county and city licenses, federal tax stamps, accounts and memoranda and shall permit copies to be made and taken of them.

b. All records required to be kept by law or rule of the supervisor must be kept and preserved for a period of two (2) years from the date the record was made. **Ord. #1575** (January 10, 2005)

50.096. Improper Acts. In the event that a licensee or his/her employee knows or should have known, that an illegal or violent act has been committed on or about the licensed premises, they immediately shall report the occurrence to law enforcement authorities and shall

cooperate with law enforcement authorities and agents of Liquor Control during the course of any investigation into an occurrence. **Ord. #1575** (January 10, 2005)

50.097. Suspension of License.

1. The supervisor of liquor control or his/her agents may immediately suspend the liquor license of a licensee for:

a. A felony violation of the law related to, or occurring during, the operation of the establishment.

b. The licensee failing to cooperate during an inspection of the licensee according to Section 50.095.

2. The immediate suspension of a liquor license shall be effective until a hearing is conducted by the Board of Alderman as established in Section 50.040.

3. The Board of Alderman may suspend a liquor license for no more than 30 days for good cause, after a hearing is conducted as established in Section 50.040.

4. A liquor license suspension for a violation of Section 50.040, paragraph 4b(1) through (5) shall not be lifted until the supervisor of liquor control or his agent confirms the violation has been abated. **Ord. #1575** (January 10, 2005)

50.100. Revocation. Any violation of one of the liquor laws of the State of Missouri shall also be deemed a violation of this Chapter, and may, upon compliance with Section 50.040 result in the revocation of the licensee's license.

50-14

50.110. Sales to minors, drunkards, or intoxicated persons.

1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor or non-intoxicating beer in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor or non-intoxicating beer to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

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 to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

50.130. Persons eighteen (18) years of age or older may sell or handle liquor or beer, when.

1. Except as provided in subsections 2, 3, and 4 of this section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer.

2. In any place of business licensed in accordance with this Chapter, where at least fifty (50) percent of the gross sales made consist of goods, merchandise, or commodities other than intoxicating liquor or nonintoxicating beer in the original package, persons at least eighteen (18) years of age may stock, arrange displays, accept payment for, and sack or carry out intoxicating liquor or nonintoxicating beer. Delivery of intoxicating liquor or nonintoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years.

3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor or nonintoxicating beer but which does not sell intoxicating liquor or nonintoxicating beer at retail, persons at least eighteen (18) years of age may be employed and their duties may include the handling of intoxicating liquor or nonintoxicating beer for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.

50-15

4. 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 or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty (50) percent of all sales in those places consist 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 or nonintoxicating beer.

50.132. Sale of liquor prohibited near schools and churches.

1. No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred 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, except that when a school, church or place of worship shall hereafter be established within one hundred feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not

be granted until at least ten days' written notice has been provided to all owners of property within one hundred feet of the proposed licensed premises.

2. This section shall not apply to 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. This section shall not apply to 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 section, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety days.

50-15A

50.135. Temporary Liquor License.

1. The City Clerk may issue a temporary liquor license for the sale of non-intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization 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 non-intoxicating liquor for more than seven (7) days by any such club or organization in any fiscal year.

2. If the event will be held on a Sunday, the permit shall authorize the sale of non-intoxicating liquor on that day beginning at 9:00 A.M.

3. 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.

4. On approval of the application for a temporary license under this Section, and payment of the license fee of \$50 per license, per day, the City Clerk shall grant the applicant a license to conduct business at the specified location in the City for the period set forth in the application. Every license issued under the provisions of this Section shall set forth the type of license granted and shall particularly describe the premises at which the non-intoxicating liquor may be sold thereunder and such license shall not be deemed to authorize or permit the sale of alcoholic beverages at any place other than that described on the license.

5. Licenses granted under this Section shall be signed by the Mayor and the City Clerk and the Seal of the City shall be affixed by the City Clerk.

50.140. Constitutionality clause. Should any section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.