

## Chapter 600

### ALCOHOLIC BEVERAGES

#### Section 600.010. Definitions.

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

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

**INTOXICATING LIQUOR** — Alcohol for beverage purposes, including alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (0.5%) by volume, except for non-intoxicating beer as defined herein. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this Chapter.

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

**MALT LIQUOR** — An intoxicating liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight manufactured from pure hops or pure extract of hops, or pure barley malt, or wholesome grains or cereals, and wholesome yeast, and pure water.

**NON-INTOXICATING 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, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent (0.5%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

**ORIGINAL PACKAGE** — Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other containers of intoxicating liquor or non-intoxicating beer, where the package and/or

container(s) describes the contents thereof as intoxicating liquor or non-intoxicating beer. "Original package" shall also be construed and held to refer to any package containing three (3) or more standard bottles of beer.

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

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

RESTAURANT BAR — Any establishment having a restaurant or similar facility on the premises at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises.

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

**Section 600.020. License Required—Classes of Licenses.** [Ord. No. 260, 2-9-2004]

- A. No person shall sell or offer for sale intoxicating liquor or non-intoxicating beer in the City of Diamond without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.
- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer:

1. *Package liquor—malt liquor only:* Sales of malt liquor at retail in the original package not for consumption on the premises where sold.
  2. *Package liquor—non-intoxicating beer:* Sales of non-intoxicating beer at retail in the original package not for consumption on the premises where sold.
  3. *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) and (2) of this Section.
  4. *Liquor by the drink—malt liquor/light wine only:* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (5) of this Section.
  5. *Liquor by the drink—non-intoxicating beer:* Sales of non-intoxicating beer at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsection (B)(2) of this Section.
  6. *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)(3) of this Section.
- 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 or non-intoxicating beer on Sundays between the hours of 9:00 A.M. and Midnight:
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.
- D. *Permits.*
1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
  2. *Tasting permit.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(3) and (C) of this Section, above, may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

**Section 600.030. License Regulations.** [CC 1979 §82.030(e); Ord. No. 268 §1, 2-13-2006; Ord. No. 281 §1, 11-13-2006]

- A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter or law.
- B. *Newly-Opened Restaurant Bars Or Amusement Places.*
1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
  2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
- C. *Temporary Permit For Sale By Drink—Certain Organizations.*
1. The City Clerk may issue a permit for the sale of intoxicating liquor and non-intoxicating beer for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.
  2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor and non-intoxicating beer on that day beginning at 11:00 A.M.

3. At the same time that an applicant applies for a permit under the provisions of this Subsection, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
4. 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.

D. *Operating Hours, Days.*

1. No licensee or any employee of such licensee shall sell, give away or otherwise dispose of, or allow the same to be done, on or about the premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.
2. When January first (1st), March seventeenth (17th), July fourth (4th), or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *Number Of Licenses Limited.*

1. No license for the sale of any and all kinds of intoxicating liquor by the drink for consumption on the premises shall be granted or issued when the granting thereof shall increase the number of such licenses outstanding and in force at that time to more than one (1) for each four hundred (400) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.
2. No license for the sale at retail of any and all kinds of intoxicating liquor in the original package shall be granted or issued when the granting thereof shall increase the number of such licenses outstanding and in force at that time to more than one (1) for each four hundred (400) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.
3. *Determining the number of licenses allowed.* For purposes of determining the number of licenses allowed by this Section, the issuance of licenses shall be counted as follows:
  - a. The issuance of a license as provided in Section 600.020(B)(3) of this Chapter (Package liquor—all kinds) shall be counted as being commensurate

with the issuance of one (1) license for every subcategory of package liquor provided in Sections 600.020(B)(1) and 600.020(B)(2).

- b. The issuance of a license as provided in Section 600.020(B)(6) of this Chapter (Liquor by the drink—all kinds) shall be counted as being commensurate with the issuance of one (1) license for every subcategory of liquor by the drink provided in Sections 600.020(B)(4) and (B)(5).

F. *General License Regulations.*

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner, or partners, originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.
4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.

- G. *Druggists May Sell And Physicians Prescribe Liquor.* Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State, and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative; provided, that nothing in this Chapter shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package, but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional

judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

**Section 600.040. Schedule of License Fees.** [Ord. No. 257 §1, 1-12-2004]

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

1. *General licenses.*

a.	Malt liquor— original package	\$22.50
b.	Non-intoxicating beer— original package	\$22.50
c.	Intoxicating liquor (all kinds)— original package	\$150.00
d.	Malt liquor and light wines— by drink	\$52.50
e.	Non-intoxicating beer— by drink	\$37.50
f.	Intoxicating liquor (all kinds)— by drink	\$450.00

2. *Sunday sales.* (Additional fees)

a.	Intoxicating liquor— original package	\$300.00
b.	Restaurant bars	\$300.00
c.	Liquor by the drink— charitable organizations	\$300.00

3. *Permits.*

a.	Temporary permit— by the drink for certain organizations (7 days max.)	\$37.50
b.	Tasting permit	\$37.50

