

## Chapter 600

### ALCOHOLIC BEVERAGES

Editor's Note — Ord. no. 19-911 §1, adopted September 15, 2005, repealed ch. 600 and enacted new provisions set out herein. Former ch. 600 derived from CC 1984 §§50.060, 50.080 — 50.110, 50.600 — 50.620; ord. no. 574 §1, 6-16-1987; ord. no. 587 §1, 3-8-1988; ord. no. 04-896 §§1 — 6, 2-11-2005.

**Section 600.010. Definitions.** <sup>1</sup> [Ord. No. 19-911 §1, 9-15-2005]

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

**AMUSEMENT PLACE** — Any establishment whose business building contains a square footage of at least six thousand (6,000) square feet and where games of skill commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played, or has a dance floor of at least two thousand five hundred (2,500) square feet, or any outdoor golf course with a minimum of nine (9) holes, and which has annual gross receipts of one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts is in non-alcoholic sales.

**INTOXICATING LIQUOR** — Alcohol for beverage purposes, 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 (.5%) by volume, except for non-intoxicating beer as defined in this Section. All beverages having an alcoholic content of less than one-half of one percent (.5%) by volume shall be exempt from the provisions of this Chapter, but subject to inspection as provided by Sections 196.365 to 196.445, RSMo.

**MALT LIQUOR** — Any 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 extraction from hops or pure barley malt or wholesome grains or cereals and wholesome yeast or pure water.

**MICROBREWERY** — A business whose primary activity is the brewing and selling of beer with an annual production of ten thousand (10,000) barrels or less.

**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

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<sup>1</sup>. State Law Reference — Similar provisions, §311.098(1), RSMo. State Law Reference — Similar provisions, §311.020, RSMo. State Law Reference — Similar provisions, §311.195, RSMo. State Law Reference — Similar provisions, §312.010(2). State Law Reference — Similar provisions, §311.200(2). State Law Reference — Similar provisions, §312.010(4). State Law Reference — Similar provisions, §§311.097(1), 311.095, RSMo.

alcoholic content of more than one-half of one percent (.5%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

**ORIGINAL PACKAGE** — Any package containing three (3) or more standard bottles or cans of malt liquor or non-intoxicating beer, fifty (50) ml (1.7 oz.) or more of spirituous liquors and one hundred (100) ml (3.4 oz.) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing twelve (12) ounces or less of malt liquor or non-intoxicating beer.

**PERSON** — Any person, firm, company, association or corporation to whom or to which any provision of this Chapter applies or may apply.

**PREMISES** — The place where intoxicating liquor or non-intoxicating beer is sold. The premises can be one (1) room, a building of several rooms or a building with adjacent or surrounding land such as a lot or garden.

**RESORT — RESTAURANT BAR** — Any establishment having at least thirty (30) rooms for overnight accommodation or 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.

**SPIRITUOUS LIQUORS** — Includes brandy, rum, whiskey, gin and all other preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented or malt liquors.

**Section 600.020. Violations — Penalty.** [Ord. No. 19-911 §1, 9-15-2005]

- A. It shall be unlawful for any person to violate any of the provisions of this Chapter.
- B. Any person found guilty of violating any of the provisions of this Chapter shall be punished by a fine not less than twenty-five dollars (\$25.00) and not exceeding five hundred dollars (\$500.00), or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

**Section 600.030. Minors.** <sup>2</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. *Purchase Or Possession.* Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his possession, any intoxicating liquor or non-intoxicating beer as defined in Section 600.010 is guilty of a violation of this Code. For purposes of prosecution under this Section or any other provision of this Chapter involving an alleged illegal sale or transfer of intoxicating liquor or non-intoxicating beer to a person under twenty-one (21) years of age, a manufacturer-sealed container describing that there is intoxicating liquor or non-intoxicating beer therein need not be opened or the contents therein tested to verify that there is intoxicating liquor or non-intoxicating beer in such container. The alleged violator may allege that there was not intoxicating liquor or

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2. State Law Reference — Purchase or possession by minor, §311.325, RSMo.; selling to or supplying minors, §311.310, RSMo.; misrepresenting minors, §311.320, RSMo.; similar provisions, §§312.400, 312.405, 312.407.

non-intoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor or non-intoxicating beer therein contains intoxicating liquor or non-intoxicating beer.

- B. *Sale, Etc., To Minor.* 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 (21) 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 (21) 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 violation of this Code, except that this Section shall not apply to the supplying of intoxicating liquor or non-intoxicating beer to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor or non-intoxicating beer to any person by a duly licensed physician.
- C. *Misrepresenting Age.*
  - 1. Any person of the age of seventeen (17) years or older and under the age of twenty-one (21) years who shall represent that he has attained the age of twenty-one (21) years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor or non-intoxicating beer, except in cases authorized by law, shall, upon conviction, be deemed guilty of a violation of this Code.
  - 2. In addition to any other penalties established in Subsection (C)(1) of this Section and established in Sections 577.500 to 577.530, RSMo., any person who is less than twenty-one (21) years of age who uses a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by a uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor or non-intoxicating beer shall be guilty of a violation of this Code and shall be subject to a fine of five hundred dollars (\$500.00) for each separate offense.

**Section 600.040. Public Drinking, Consumption, Possession, Etc.** [Ord. No. 19-911 §1, 9-15-2005]

- A. It shall be unlawful for any person to drink or consume any intoxicating liquor or non-intoxicating beer in or upon any street, sidewalk or alley or in any other public place within the City.
- B. It shall be unlawful for any person to possess or exercise control over an opened can, bottle, keg or other container designed or modified to contain liquid, including cups and glasses, of any intoxicating liquor or non-intoxicating beer in or upon any street, sidewalk or alley or in any other public place within the City.
- C. This Section shall not apply to drinking, consuming or possessing any intoxicating liquor or non-intoxicating beer lawfully sold in a place licensed to sell the same for consumption

on the premises where sold.

- D. This Section shall not apply to drinking, consuming or possessing any intoxicating liquor or non-intoxicating beer consumed and/or possessed within the confines of and during a City Council approved celebration, special event or fair held on City property in the central business district so long as the consumption and possession of alcoholic beverages is physically restricted and controlled in accordance with the terms of a special permit issued by the City Council, and so long as all consumption and possession ends no later than 1:00 A.M., so long as no glass containers are permitted on City property and so long as all other terms and conditions established by the City for the temporary use of its property are met.

**Section 600.050. Hours of Sale — Sale on Election Days.** <sup>3</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. *Intoxicating Liquor.* Except as otherwise provided in this Chapter, no person having a license issued under the provisions of this Chapter nor any employee of such person shall sell, give away or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. Sunday and 6:00 A.M. on Monday, upon or about his or her premises.
- B. *Election Days.* Any person having a license under this Chapter may be open for business and sell intoxicating liquor on election days in accordance with the State of Missouri Revised Statutes.
- C. *Holidays On Sunday/Super Bowl Sunday.* 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 license on that day from the time and until the time which would be lawful on another day of the week.
- D. *Non-Intoxicating Beer.* No person having a license under this Chapter nor any employee of such person shall sell, give away or permit the consumption of any non-intoxicating beer in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on any day of the week upon or about his or her premises.

**Section 600.060. Licenses Required — Term — Prorating — Renewal.** <sup>4</sup> [Ord. No. 19-911 §1, 9-15-2005]

It is hereby declared unlawful for any person, either by himself or through the use of agents or servants, to engage in the manufacture, brewing, sale or distribution of intoxicating liquors or non-intoxicating beer within the City without first having taken out and obtained a license authorizing such manufacture, brewing, sale or distribution in compliance with the terms of this Article. Such license shall be issued for a period of one (1) year from January first (1st) of each year, and persons desiring to secure licenses after January first (1st) shall pay for such portion, in

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3. State Law Reference — Similar provisions, §§311.290, 311.295, 312.410, RSMo.

4. State Law Reference — Period of license, requiring a federal license, contents of license and renewals, §311.240, RSMo.

twelfths, of the license year remaining at the time such a license is issued (part of a month counted as one (1) entire month).

**Section 600.070. Qualifications.** <sup>5</sup> [Ord. No. 19-911 §1, 9-15-2005]

No person shall be granted a license under this Chapter unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of some County of this State, nor shall any corporation be granted a license under this Chapter unless the managing officer of such corporation has the aforementioned qualifications. No person shall be granted a license under this Chapter whose license as a 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 or ordinance applicable to the manufacture or sale of intoxicating liquor or non-intoxicating beer, or who employs in his business any person not of good moral character, or whose license has been revoked, or who has been convicted of violating the provisions of any such law or ordinance since the date mentioned above.

**Section 600.080. Applications.** [Ord. No. 19-911 §1, 9-15-2005]

- A. Any person desiring to secure a license under the terms of this Chapter shall make application therefore to the City Council in writing and under oath, which application shall be delivered to the City Clerk. Such application shall state the following:
1. The name and residence of the applicant. If the application is made on behalf of a partnership, the names and addresses of all partners or any person who has a financial interest in such partnership. If the application is on behalf of a corporation, the date of incorporation, the State in which incorporated, the amount of paid-in capital, the amount of authorized capital, the names and addresses of the officers and directors and the names and addresses of all stockholders who hold ten percent (10%) or more of the capital stock, including the number of shares subscribed for or held by each.
  2. The place of birth of the applicant. If the applicant is a naturalized citizen, state the place and time of naturalization. If the application is made in the name of a corporation, the applicant shall be the person who is to be, in fact, actively engaged in the actual control and management of the particular liquor establishment for which the license is sought.
  3. The length of time the applicant has resided in the City and the residence addresses of the applicant for the preceding five (5) years.
  4. The name and business address of his employers for a period of five (5) years prior to such application.
  5. Whether or not the applicant has been convicted of a felony.
  6. The location, place or premises for which a license is sought.
  7. The zoning district in which the proposed location is to be located.

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5. State Law Reference — Qualifications for state liquor license, §311.060, RSMo.

8. Whether or not the proposed location is within one hundred (100) feet of a church, school, college or university.
  9. The class of license for which such application is made.
  10. Whether or not the applicant has had a license as a liquor dealer revoked or suspended, or has been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of the violation of the provisions of any law in any State applicable to the manufacture or sale of intoxicating liquor, or he employs or will employ in his business as such liquor dealer any person not of good moral character, or whose license has been revoked or suspended, or who has been convicted of violating the provisions of any such law since the date mentioned above.
  11. Any further reasonable information required by the City Council.
- B. (Reserved)
- C. The application shall be accompanied by the license fee hereinafter provided.

**Section 600.090. Issuance.** [Ord. No. 19-911 §1, 9-15-2005]

- A. The City Clerk, upon receipt of an application, shall forward the same to the City Administrator who shall cause an immediate investigation to be made of the statements contained therein, the character of the applicant and the location of the premises or place, and the conditions surrounding the same. On each new application for a license, the Fire Department, the Public Works Department and zoning officer, through their duly authorized agents or employees, shall make an immediate investigation of the safety and sanitation of the premises of the applicant and the equipment and furnishing contained in applicant's premises and shall report the findings of such investigations to the City Administrator. These reports shall then be forwarded, along with the application, to the next meeting of the City Council. After the original license has been issued, the City Administrator may, at any reasonable time, order a new investigation of the premises of the licensee.
- B. After full consideration of the application for a license under this Chapter, the application may be approved by the City Council, in which case the application shall be referred to the City Clerk who shall issue the license applied for and approved.
- C. Provided however, in the case of applications for temporary licenses as provided in Sections 600.280, 600.290 and 600.330 under this Chapter, upon receipt of the report of investigation the City Administrator shall consider the application and may approve application, in which case the application shall be referred to the City Clerk who shall issue the temporary license applied for and approved. The City Administrator shall cause a monthly accounting of all such temporary licenses applied for and approved to be prepared and submitted to the City Council.

**Section 600.100. Review Upon Denial of Application.** [Ord. No. 19-911 §1, 9-15-2005]

If an application for a license under this Chapter is denied by the City Council, the applicant may

request, in writing, a review of such denial by the City Council. Such request shall be made by the applicant within ten (10) days after the application for license has been denied by the City Council. Upon the written request for review made within the time specified, the City Council shall, within thirty (30) days after the receipt of such request, reinvestigate and re-examine the circumstances surrounding such application and the denial thereof. The City Council may set aside the denial of such application if a majority of its members determine that such application should be granted, and the City Council may order the City Clerk to issue the license applied for. In the event that the City Council does not approve or disapprove the application within thirty (30) days from the date such application is filed, then it shall be assumed that such application is denied.

**Section 600.110. Number Required.** [Ord. No. 19-911 §1, 9-15-2005]

A separate license shall be required for each place of business operated under the provisions of this Chapter.

**Section 600.120. Proximity.** <sup>6</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. No license for the sale or consumption of intoxicating liquor shall be issued for any premises when such premises are located within one hundred (100) feet of a school, college, university or church or other building regularly used as a place of religious worship; except that when a school, church or place of worship shall be established within one hundred (100) feet of any premises licensed to sell alcoholic beverages, the license shall not be denied for lack of such consent.
- B. When the entire building is to be used for the sale or consumption of alcoholic beverages, the distance provided in Subsection (A) shall be measured in a straight line on a horizontal plane from the nearest point of the enclosing wall or vertical extension thereof of the building to be used for the sale or consumption of alcoholic beverages to the nearest point of the enclosing wall or vertical extension thereof of the school, college, university or church building. If only a part of the building is to be used for the sale or consumption of alcoholic beverages, the distance, as provided above, shall be measured in a straight line on a horizontal plane from the nearest point of the enclosing wall or vertical extension thereof of the room in such building where alcoholic beverages are to be sold or consumed to the nearest point of the enclosing wall or vertical extension thereof of such school, college, university or church building.
- C. For the purposes of this Section, the word "*church*" shall be deemed to mean a church building or student center erected and maintained as a church or student center building and in which services are regularly held; provided, that the mere holding of religious services in any building not built and constructed as a church or student center building shall not bring such building within the definition of a church as set out in this Subsection.

**Section 600.130. Change of Location.** <sup>7</sup> [Ord. No. 19-911 §1, 9-15-2005]

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6. State Law Reference — Authority, §311.080(2), RSMo.

7. State Law Reference — Non-transferability of licenses and exceptions, §311.250, RSMo.

At any time during the year a person holding a valid license issued under the provisions of this Chapter may apply to the City in the same manner as for the original license for a change of location of the place of business; with the exception that where there is no change in ownership or any substantial change in stock ownership, as in the case of a corporation, applicant need not provide a transcript of criminal record. There shall be no fee charged for the application, approval and issuance of a license changing the location of the place of business. The City Administrator shall consider such application and may approve the application for change of location and shall cause a monthly accounting of all such applications for change of location which have been approved to be prepared and submitted to the City Council.

**Section 600.140. Renewal Licenses.** [Ord. No. 19-911 §1, 9-15-2005]

Renewal applications for licenses under this Chapter involving no change in ownership or any substantial change in stock ownership, as in the case of a corporation, and where there is no change in the location of the premises, need not be accompanied by a transcript of the applicant's criminal record; and provided further, that such renewal applications shall be forwarded to the City Council without further investigation and thereafter the renewal application shall be considered in the same manner as for the original license. No renewal application will be accepted or renewal license issued if any taxes owed to City by applicant remain outstanding.

**Section 600.150. Transfer — Location Restricted — Change of Ownership, Management.** [Ord. No. 19-911 §1, 9-15-2005]

- A. No license issued under the provisions of this Chapter shall be transferred from one person to another, nor shall such license be used at any place except on the premises for which such license is issued, except as provided in Section 600.120.
- B. If at any time a licensed business changes ownership, including a substantial change in stock ownership, as in the case of a corporation, then it shall be necessary to apply for a new license in the same manner as for an original license.
- C. In the event that the office of the managing officer of a corporation licensed under this Chapter shall become vacant, it shall be necessary for the corporation to secure a new managing officer who meets the qualifications of Section 600.060 and who shall file an application in the same manner as for the original license, provided however, that there shall be no fee charged in connection therewith.
- D. Provided however, that the City Administrator shall consider such applications for change of ownership or change of management and may approve the same, in which case the application shall be referred to the City Clerk who shall issue the license applied for and approved. The City Administrator shall cause a monthly accounting of all such applications for change of ownership or change of management which have been approved to be prepared and submitted to the City Council.

**Section 600.160. Suspension, Revocation of Licenses.** [Ord. No. 19-911 §1, 9-15-2005]

- A. The City Council may, in addition to other penalties provided by ordinance, suspend or revoke a license issued pursuant to this Chapter if the licensee or his employees or agents shall have been shown to be guilty of, to have violated, or to be involved in any of the



following:

1. Whenever licensee has not kept an orderly place;
  2. An offense resulting in a conviction involving the use of force or violence upon the person or another in the operation of the business of licensee;
  3. A conviction of a crime involving a felony by licensee or any of the officers or the managing officer of licensee;
  4. Any false, misleading or fraudulent statement of fact in the license application for the licenses or in any other document required by the City in conjunction therewith;
  5. Violation of any of the provisions of this Chapter;
  6. Violation of any State liquor control rule or regulation pertaining to the sale and licensing of intoxicating liquors;
  7. Operation of the business in such a manner that it constitutes a nuisance to the neighborhood;
  8. Conduct by the officers, employees or managing officers of the licensee, such as public drunkenness when working or while on the premises and indecent exposure when working or when on the premises. For purposes of this Section, the term "*premises*" shall include the licensed premises, the parking lots and the area around the business which is owned, used or maintained as part of the business;
  9. Lack of proper control of customers. The licensee shall use good judgment in the sale of intoxicating beverages and shall not sell same to persons obviously intoxicated. The licensee has the obligation to supervise the premises that he/she privately owns and shall keep said premises free from litter;
  10. The operation or possession of any gambling device in or about the premises where intoxicating liquor is sold, either in the original package or for consumption on the premises where sold.
- B. Any person who has been denied a license or renewal thereof or who is licensed pursuant to this Chapter and who has received a notice of intent to suspend or revoke said license may request a hearing before the City Council. Requests for such hearings shall be filed with the City Clerk within ten (10) days after notice is given of the intention to suspend or revoke. Upon receipt of a timely written request for hearing, the Council shall call a hearing and shall set forth in writing and send to the applicant or licensee or permittee, by means of registered mail, certified mail or hand delivery, notice that within a period of not less than five (5) days nor more than fourteen (14) days from the date of the posting of said notice a hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The notifications shall include the date, time and place of the hearing. At least three (3) members of the Council shall be in attendance. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or licensee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial, suspension or revocation of the license or

permit shall be considered not rebutted. The hearing need not be conducted according to the rules of evidence. Any relevant evidence may be admitted and considered by the Council if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the Council. A copy of the decision of the Council specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. In the case of suspension or revocation, the City shall in no event return any part of the license fee paid for such license. Also in this case, the Council may suspend the license upon whatever terms and conditions or for such time period deemed appropriate.

- C. In the case of suspension or revocation, the City shall in no event return any part of the license fee paid for such license.

**Section 600.170. Certain Acts Prohibited on Licensed Premises.** [Ord. No. 19-911 §1, 9-15-2005]

- A. No retail licensee or his/her employee shall permit in or upon his/her licensed premises:
  - 1. The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
  - 2. The displaying of any portion of the areola of the female breast;
  - 3. The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
  - 4. The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
  - 5. The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus;
  - 6. The displaying of film video programs or pictures depicting acts, the live performances of which are prohibited by this Section or any other law.

**Section 600.180. Expiration of License for Non-Use Thereof.** [Ord. No. 19-911 §1, 9-15-2005]

If for a period of sixty (60) days any licensee under this Chapter shall not operate his/her business, his/her license shall be deemed to have expired and becomes null and void; provided, that such license will not be deemed to have expired if the business of the licensee shall be inoperative by reason of act of God, accident or some other cause beyond the control of the licensee.

**Section 600.190. Classes Created.** [Ord. No. 19-911 §1, 9-15-2005]

The classes of licenses in this Chapter are hereby created for the manufacture and sale of intoxicating liquor and non-intoxicating beer at wholesale and retail, for which the fees herein prescribed shall be charged.

**Section 600.200. Sale of Liquor by the Drink, Cities, Requirements — Sunday Sales Authorized for Certain Organizations.** [Ord. No. 19-911 §1, 9-15-2005; Ord. No. 07-937 §1, 7-11-2007]

- A. Any person who possesses the qualifications required by Chapter 600 of the Municipal Code of the City of La Plata, and who meets the requirements of and complies with the provisions of this Chapter and the ordinances, rules and regulations of the City of La Plata which such licensee proposes to operate his business, may apply for, and the City Clerk may issue, a license to sell intoxicating liquor, as defined in this Chapter, by the drink at retail for consumption on the premises described in the application; provided, that no license shall be issued for the sale of intoxicating liquor, other than malt liquor containing alcohol not in excess of five percent (5%) by weight and light wines containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold to any person other than a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of Federal income taxes as provided in Sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the United States Internal Revenue Code of 1954, as amended, in any incorporated City having a population of less than nineteen thousand five hundred (19,500) inhabitants, until the sale of such intoxicating liquor, by the drink at retail for consumption on the premises where sold, shall have been authorized by a vote of the majority of the qualified voters of the City. Such authority shall be determined by an election to be held in those Cities having a population of less than nineteen thousand five hundred (19,500) inhabitants as determined by the last preceding Federal decennial census, under the provisions and methods set out in this Chapter. Once such licenses are issued in a City with a population of at least nineteen thousand five hundred (19,500) inhabitants, any subsequent loss of population shall not require the qualified voters of such a City to approve the sale of such intoxicating liquor prior to the issuance or renewal of such licenses.
- B. Notwithstanding any other provisions of this Chapter to the contrary, any charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of Federal income taxes as provided in Sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the United States Internal Revenue Code of 1954, as amended, may apply for, and the City Clerk may issue, a license to sell intoxicating liquor, as defined in this Chapter, between the hours of 11:00 A.M. on Sunday and midnight on Sunday by the drink at retail for consumption on the premises described in the application. The authority for the collection of fees by the City of La Plata as provided in Chapter 600, and all other laws and regulations of the City and State relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to organizations licensed under this Subsection in the same manner as they apply to establishments licensed under Subsection (A) of this Section and Chapter 600 of the Municipal Code of the City of La Plata and Sections 311.085 and 311.095, RSMo. In addition to all other fees required by law, an organization licensed under this Section shall pay an additional fee of two hundred dollars (\$200.00) a year payable at the same time and in the same manner as its other license fees payable to the City of La Plata.
- C. If any charitable, fraternal, religious, service or veterans' organization has a license to sell intoxicating liquor on its premises pursuant to this Section and such premises includes two (2) or more buildings in close proximity, such permit shall be valid for the sale of intoxicating liquor at any such building.

**Section 600.210. Malt Liquor and Wine.** <sup>8</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to applicants who have complied with this Chapter for the privilege of selling malt liquor and light wines containing not in excess of fourteen percent (14%) alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the licensed premises, which shall also permit the holder thereof to sell non-intoxicating beer. The license fee shall be seventy-five dollars (\$75.00).

**Section 600.220. Malt Liquor Not to Exceed Five Percent.** <sup>9</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to all applicants who have complied with this Chapter for the privilege of selling malt liquor not to exceed five percent (5%) at retail by the drink for consumption on the licensed premises. Notwithstanding the provisions of Section 311.290, RSMo., any person licensed pursuant to this Section may also sell malt liquor at retail between the hours of 9:00 A.M. and Midnight on Sunday. The license fee shall be seventy-five dollars (\$75.00).

**Section 600.230. Retail Liquor by the Drink — Resort — Restaurant.** <sup>10</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. Notwithstanding any other provisions of this Chapter to the contrary, any person who possesses the qualifications required by this Chapter, and who now or hereafter meets the requirements of and complies with the provisions of this Chapter, may apply for, and the Supervisor of Liquor Control may issue, 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. As used in this Section, the term "*resort*" means 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 one hundred thousand dollars (\$100,000.00) 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 (B) 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.
- B. A "*seasonal resort restaurant*" is a restaurant which is not a new restaurant establishment and which is open for business eight (8) or fewer consecutive months in any calendar year. Fifty percent (50%) of all gross sales of such restaurant shall be sales of prepared meals.

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8. State Law Reference — Similar provisions, §311.200(3), RSMo.

9. State Law Reference — Similar provisions, §§311.200, 312.100(1)(3), 312.200(1)(3), 312.030, RSMo.

10. State Law Reference — Similar provisions, §311.095, RSMo.

Any new seasonal resort restaurant establishment having been in operation for less than twelve (12) 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 (90) days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which fifty percent (50%) 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. 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.

- C. Any new resort or restaurant establishment 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 for a period not to exceed ninety (90) days if the resort or restaurant establishment can show a projection of annual gross receipts of not less than one hundred thousand dollars (\$100,000.00) per year with at least fifty thousand dollars (\$50,000.00) of such gross receipts from non-alcoholic 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. The license fee shall be three hundred dollars (\$300.00) and shall be in addition to all other license fees required by this Chapter.

**Section 600.240. Sunday Sales — Restaurant Bar.** <sup>11</sup> [Ord. No. 19-911 §1, 9-15-2005]

Notwithstanding any other provisions of this Chapter to the contrary, a license shall be issued to all applicants who have complied with this Chapter for the privilege of selling intoxicating liquor between the hours of 9:00 A.M. on Sunday and Midnight on Sunday, at retail by the drink for consumption on the licensed premises of any restaurant bar described in the application. The license fee shall be three hundred dollars (\$300.00) and shall be in addition to all other license fees required by this Chapter. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary restaurant bar license for a period of not to exceed ninety (90) days, for the privilege of selling intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday. The license fee for such temporary license shall be prorated for the period of the temporary license based on the cost of the annual license.

**Section 600.250. Sunday Sales — Amusement Place.** <sup>12</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. Notwithstanding any provisions of this Chapter to the contrary, a license shall be issued to all applicants who have complied with this Chapter for the privilege of selling intoxicating liquor between the hours of 9:00 A.M. and Midnight on Sunday, at retail by the drink for consumption on the licensed premises of any amusement place as described in the application. An amusement place shall pay an additional license fee of three hundred

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11. State Law Reference — Similar provisions, §311.097, RSMo.

12. State Law Reference — Similar provisions, §311.098, RSMo.

dollars (\$300.00) a year payable at the same time and in the same manner as its other license fees required by this Chapter.

- B. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary amusement place license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 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. Nothing in this Section shall be construed to permit the licensee to sell intoxicating liquor, malt liquor or non-intoxicating beer for off-premises consumption.

**Section 600.260. Sale in Original Package — Liquor.** <sup>13</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. 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:
  - 1. A drug store,
  - 2. A cigar and tobacco store,
  - 3. A grocery store,
  - 4. A general merchandise store,
  - 5. A confectionery, or
  - 6. Delicatessen store

nor to any such person who does not have and keep in his 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 law. The license fee shall be seventy-five dollars (\$75.00).

- B. The holder of any such license may also apply for a special license to sell intoxicating liquor, at retail, in the original package, not to be consumed on the premises where sold, between the hours of 9:00 A.M. and Midnight on Sundays. The special license fee shall be the sum of seventy-five dollars (\$75.00) a year. Such application does not require separate approval by the City Council, and the special license provided for herein may be issued forthwith upon the receipt of the application and special license fee.

**Section 600.270. Sale in Original Package — Wine Tastings.** <sup>14</sup> [Ord. No. 19-911 §1, 9-15-2005]

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13. State Law Reference — Similar provisions §311.293, RSMo.

- A. Any person who is licensed to sell intoxicating liquor in the original package at retail may apply for a special license to conduct wine tastings on the licensed premises. The license fee shall be the sum of thirty-seven dollars fifty cents (\$37.50) a year. Such application does not require separate approval by the City Council, and the special license provided for herein may be issued forthwith upon the receipt of the application and special license fee.
- B. Nothing in this Section shall be construed to permit the licensee to sell wine for on-premises consumption.

**Section 600.280. Sale in Original Package — Malt Liquor and Non-Intoxicating Beer.** <sup>15</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued for the sale of malt 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 by grocers and other merchants and dealers in the original package direct to consumers, but not for resale. The phrase "*original package*" shall be construed and held to refer to any package containing three (3) or more standard bottles of beer. This license shall also permit the holders thereof to sell non-intoxicating beer in the original package direct to consumers, but not for resale. Notwithstanding the provisions of Section 311.290, any person licensed pursuant to this Section may also sell malt liquor at retail between the hours of 9:00 A.M. and Midnight on Sunday. The license fee shall be seventy-five dollars (\$75.00).

**Section 600.290. Sale in Original Package — Intoxicating Liquor and Non-Intoxicating Beer.** <sup>16</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. Notwithstanding any provisions of this Chapter, a temporary license for the sale of intoxicating liquor and non-intoxicating beer for consumption on premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor and non-intoxicating beer at a picnic, bazaar, fair or similar gathering. The temporary license shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor and non-intoxicating beer for more than seven (7) days by any such club or organization.
- B. The license fee shall be thirty-seven dollars fifty cents (\$37.50).
- C. 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.
- D. At the same time that an applicant applies for a permit under the provisions of this Section, the applicant shall notify the Director of Revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the Director of Revenue within fifteen (15) days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax and denial of any other permit for a period of three (3) years. Under no circumstances shall a bond be required from the

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14. State Law Reference — Similar provisions, §311.294, RSMo.

15. State Law Reference — Similar provisions, §311.200(2), RSMo.

16. State Law Reference — Similar provisions, §311.482, RSMo.

applicant.

- E. 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 license holder at such picnic, bazaar, fair or similar gathering.

**Section 600.300. Wholesale Solicitor — Malt Liquor and Intoxicating Beer.** <sup>17</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to any applicant who complies with this Chapter for the privilege of selling intoxicating liquor containing not in excess of five percent (5%) alcohol by weight by a wholesaler to a person duly licensed to sell intoxicating beer at retail and for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating beer to, by or through a duly licensed wholesaler. The license fee shall be one hundred fifty dollars (\$150.00).

**Section 600.310. Wholesale Solicitor — Twenty-Two Percent Liquor.** <sup>18</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to any applicant who complies with this Chapter for the privilege of selling intoxicating liquor not in excess of twenty-two percent (22%) of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and for the privilege of selling to a duly licensed wholesaler and soliciting orders for the sale of such intoxicating liquor to, by or through a duly licensed wholesaler. The license fee shall be three hundred dollars (\$300.00).

**Section 600.320. Intoxicating Liquor of All Kinds.** <sup>19</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to any applicant who complies with this Chapter for the privilege of selling intoxicating liquor by a wholesaler to a person duly licensed to sell intoxicating liquor at retail, and for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor to, by or through a duly licensed wholesaler. The license fee shall be seven hundred fifty dollars (\$750.00).

**Section 600.330. Non-Intoxicating Beer.** <sup>20</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to any applicant who complies with this Chapter for the privilege of selling non-intoxicating beer to a person duly licensed to sell such non-intoxicating beer at retail. The license fee shall be seventy-five dollars (\$75.00).

**Section 600.340. Temporary Location for Liquor by the Drink — Caterer's License.** <sup>21</sup> [Ord. No.

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17. State Law Reference — Similar provisions, §311.180(7), RSMo.

18. State Law Reference — Similar provisions, §311.180(1)(5)(8), RSMo.

19. State Law Reference — Similar provisions, §311.180(6)(9), RSMo.

20. State Law Reference — Similar provisions, §312.100(1)(2), RSMo.

21. State Law Reference — Similar provisions, §311.485(1)(2)(4), RSMo.



19-911 §1, 9-15-2005]

- A. A temporary license may be issued to caterers and other persons holding licenses to sell intoxicating liquor, at retail by the drink for consumption on the licensed premises under this Chapter, who furnish provisions and services for use at a particular function, occasion or event, at a particular location other than the licensed premises, effective for a period not to exceed one hundred twenty (120) consecutive hours, which shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every temporary license issued pursuant to this Section, the license fee shall be the sum of fifteen dollars (\$15.00) for each calendar day, or fraction thereof, for which the temporary license is issued.
- B. All provisions of the liquor control law and the City ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the license holder, its agents, servants, employees or stock are in such premises. Except for Missouri-produced wines in the original package, the provisions of this Section shall not include the sale of packaged goods covered by this temporary license.

**Section 600.350. Consumption of Intoxicating Liquor — Set Up License.** <sup>22</sup> [Ord. No. 19-911 §1, 9-15-2005]

A license shall be issued to any applicant who has complied with this Chapter for the privilege of permitting 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 or non-intoxicating beer, to permit the drinking or consumption of intoxicating liquor or non-intoxicating beer in, on or about the premises except between 1:30 A.M. and 6:00 A.M. on any weekday and between 1:30 A.M. Sunday and 6:00 A.M. on Monday. The license fee shall be ninety dollars (\$90.00).

**Section 600.360. Microbrewery License.** <sup>23</sup> [Ord. No. 19-911 §1, 9-15-2005]

- A. A microbrewer's license shall be issued to all applicants who have complied with this Chapter which shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand (10,000) barrels per annum. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. The license fee shall be seven dollars fifty cents (\$7.50) for each one hundred (100) barrels or fraction thereof, up to a maximum license fee of three hundred seventy-five dollars (\$375.00).
- B. Notwithstanding any other provisions of this Chapter, the holder of a microbrewer's license may apply for, and the City may issue, a license to sell intoxicating liquor by the drink, at retail for consumption on the brewery premises and in the original package for off-premises consumption. Such license fee shall be the sum of four hundred fifty dollars

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22. State Law Reference — Similar provisions, §311.480, RSMo.

23. State Law Reference — Similar provisions, §311.195, RSMo.

(\$450.00).

## Chapter 605

### LIVE ADULT ENTERTAINMENT ESTABLISHMENTS

#### **Section 605.010. Definitions.** [Ord. No. 10-976 §1, 1-20-2010]

The following definitions shall apply to this Chapter:

**ADULT ENTERTAINMENT ESTABLISHMENT** — An entertainment facility or business in which there is any live exhibition, performance or dance as characterized by the exposure of any specified anatomical area even if covered by opaque clothing, or by attire, costume or otherwise appear in such attire, costume or clothing so as to emphasize or expose, even through opaque clothing, the view to specified anatomical areas.

**CUSTOMER** — Any person who:

1. Is allowed to enter an adult entertainment establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
2. Enters an adult entertainment establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
3. Is a member of and on the premises of an adult entertainment establishment operating as a private club.

**EMPLOYEE** — Any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services whatsoever directly related to the operation of an adult entertainment establishment.

**ENTERTAINER** — Any person who provides adult entertainment within an adult entertainment establishment as defined in this Section, whether or not a fee is charged or accepted for entertainment.

**MANAGER** — Any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment establishment.

**PUBLIC PLACE** — Any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

**SERVER** — Any person who serves food or drink at an adult entertainment establishment

**SPECIFIED ANATOMICAL AREAS** — Less than completely and opaquely covered:

1. Human genitals, pubic region or pubic hair; or
2. Buttock; or

3. Female breast or breasts below a point immediately above the top of the areola; or
4. Any combination of the foregoing; or
5. Human male genitals in a discernible erect state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — Sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification, as such terms are defined in the pornography and related offenses Chapter of the Missouri Criminal Code.

**Section 605.020. Unlawful Erotic Activities.** [Ord. No. 10-976 §2, 1-20-2010]

- A. It shall be unlawful for any entertainer or employee to fondle, caress, or touch any customer or other entertainer or employee in any manner in a specified anatomical area or for any customer to fondle, caress, or touch any entertainer or employee or other customer in any manner in a specified anatomical area, whether such specified anatomical area is clothed, unclothed, covered or exposed.
- B. It shall be unlawful for any entertainer to perform at a distance of less than ten (10) feet from customers or to touch any customer while performing.
- C. It shall be unlawful for any entertainer to perform on a stage that is not raised at least two (2) feet above the area on which the customer or customers sit or stand.
- D. It shall be unlawful for any customer to tip, pay, give a gratuity or other thing of value to any entertainer or to someone else in his or her behalf and it shall be unlawful for any entertainer to receive from a customer in any manner any tip, pay, gratuity or other thing of value either directly or indirectly. It shall also be unlawful for any entertainer or employee to solicit any pay, tip, gratuity, or other thing of value from any customer.
- E. It shall be unlawful for an entertainer or employee to perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.
- F. It shall be unlawful for an entertainer or employee to be visible from the exterior of the adult entertainment establishment while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
- G. It shall be unlawful to operate an adult entertainment establishment in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

**Section 605.030. License Required.** [Ord. No. 10-976 §3, 1-20-2010]

- A. It shall be unlawful for any adult entertainment establishment to allow adult entertainment to occur on premises within the City of La Plata, before or until the owner of such business has applied to the office of the Deputy City Clerk for a license to operate such business and such license has been duly approved by the Board of Aldermen, or to operate such establishment after such license has been revoked or suspended by the City, or has expired, as set forth in this Chapter.
- B. It shall be unlawful for any adult entertainment establishment to allow a manager to work at or an entertainer to perform on premises within the City of La Plata, before or until such manager or entertainer has applied to the office of the City Clerk for a license and such license has been duly issued by the City Clerk, or to work at such establishment after such license has been revoked or suspended by the City, or has expired, as set forth in this Chapter.
- C. No licensed entertainer shall perform in any adult entertainment establishment which does not have a valid license as required by this Chapter.
- D. Every owner, manager, entertainer or other employee required to be licensed by this Chapter shall post such license in a conspicuous place on the licensed premises so it is readily available for inspection by city authorities responsible for enforcement of this Chapter yet is not viewable from the public areas of the establishment.

**Section 605.040. Application for License — Board of Aldermen Consideration — Renewal.** [Ord. No. 10-976 §4, 1-20-2010]

- A. An application for license for the operation of an adult entertainment establishment in the City shall be obtained from the City Clerk.
- B. Each such application shall be submitted in the name of the person proposing to conduct or operate the adult entertainment establishment and shall be notarized. All applications shall contain the following information:
  - 1. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
  - 2. The business name, address and telephone number of the establishment, a description of the adult entertainment to be performed on the premises, and the name or names of the owner of the premises where the adult entertainment business will be located.
  - 3. The names, residence addresses, social security numbers and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders.
  - 4. The addresses of the applicant, or of all partners, or of all corporate officers and directors for the five (5) years immediately prior to the date of the application.
  - 5. A description of the adult entertainment or similar business history of the applicant, or of all partners, or of all corporate officers and directors; whether any such person or entity, in previously operating in this or another City, County or State, has had a business license revoked or suspended, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation.

6. A statement of the business, corporation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three (3) years immediately preceding the date of the application.
7. A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
  - a. A felony criminal act within five (5) years immediately preceding the application; or
  - b. A misdemeanor criminal act within five (5) years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled Substances Act or other Statutes or ordinances.

The statement shall also indicated that the applicant, each partner or corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.

8. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.
  9. A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter.
- C. Upon submission of each such application, the Police Department shall review the information contained therein and verify the qualifications of the applicant. The Board of Aldermen shall, within forty-five (45) days, consider the application at a regular session. The applicant shall be present in person at the meeting when said application is considered by the Board of Aldermen. If the application meets all the requirements as set forth in this Chapter, the Board may issue a license for operation of the adult entertainment establishment. Such license shall be issued until June thirtieth (30th) of the year in which such license is issued, or June thirtieth (30th) of the year in which such licenses issued under this Chapter are subject to the fee schedule in Section 605.080 of this Chapter, and must be renewed annually in the same manner as provided above.
- D. Such license shall not be issued if the applicant has been convicted of, released from confinement for conviction of, or diverted from prosecution of any of the crimes as set forth in Subsection (B)(7) of this Section.

**Section 605.050. Transferability — Revocation and/or Suspension of License.** [Ord. No. 10-976 §5, 1-20-2010]

- A. Any license issued under this Chapter shall not be transferable, either to any person, persons or other entities.
- B. Any license issued under this Chapter may be suspended by the City Clerk and subject to possible revocation by the Board of Aldermen upon a showing in any Municipal or Circuit Court of probable cause leading to formal charges against the applicant, manager, owner or part owner of the business so licensed for any misdemeanor or felony offense. The suspension shall be lifted upon dismissal of such charges, acquittal in a court of law, or, in the case of a manager, upon the installation of a new manager.
- C. Any license issued under this Chapter may be revoked by the Board of Aldermen upon a showing:
  - 1. Of violations of the standards of this Chapter.
  - 2. That such license was obtained through false statements in the application for such license or renewal thereof.
  - 3. That the owner or operator, or any partner, or any corporate officer or director, or any other individual holding such a license has become disqualified from having such a license by a conviction as provided in Section 605.030 and/or Section 605.070 of this Chapter.
  - 4. That the licensee failed to make a complete disclosure of all information in the application for such license or renewal thereof.

**Section 605.060. Location of Adult Entertainment Establishment.** [Ord. No. 10-976 §6, 1-20-2010]

- A. No adult entertainment establishment shall be located or situated at less distance than one thousand five hundred (1,500) feet from any property occupied by a public or private school, day care center, church or place of worship, hospital, nursing home, public park or any property used for residential purposes. This distance shall be measured by a straight line from the nearest points on the property boundary of the tract occupied by one (1) of the aforementioned uses.
- B. No adult entertainment establishment shall be located or situated at less distance than one thousand five hundred (1,500) feet from another adult entertainment establishment. This distance shall be measured by a straight line from the nearest points on the property boundaries of the tracts occupied by the adult entertainment establishments.

**Section 605.070. Business Records.** [Ord. No. 10-976 §7, 1-20-2010]

Owners or operators of an adult entertainment establishment shall maintain business records that include the names and address and ages of all entertainers and employees for a period of two (2) years. Said list or lists shall be made available to City of La Plata Police Department upon request at any time.

**Section 605.080. Manager and Entertainer License.** [Ord. No. 10-976 §8, 1-20-2010]

- A. An application for an adult entertainment manager or entertainer license for work at an

adult entertainment establishment in the City shall be obtained from the City Clerk.

- B. Each such application shall be submitted in the name of the person proposing to be an adult entertainment manager or entertainer and shall be notarized. All applications shall contain the following information.
1. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
  2. The business name, address and telephone number of the establishment where the applicant intends to work.
  3. A statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
    - a. A felony criminal act within five (5) years immediately preceding the application; or
    - b. A misdemeanor criminal act within five (5) years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled Substances Act or other Statutes or ordinances.
- The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.
4. Documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted.
  5. A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter.
- C. Upon submission of each such application, the Police Department shall review the information contained therein and verify the qualifications of the applicant. The City Clerk shall then issue the license for the adult entertainment manager or entertainer. Such license shall be issued until June thirtieth (30th) of the year in which such license is issued, or June thirtieth (30th) of the next year, if the license is issued after July first (1st) but prior to January first (1st). All licenses issued under this Chapter are subject to the fee schedule in Section 605.080 of this Chapter and must be renewed annually in the same manner as provided above.
- D. Such license shall not be issued if the applicant has been convicted of, released from confinement for conviction of, or diverted from prosecution on any of the crimes as set

forth in Subsection (B)(3) of this Section.

- E. The following fee schedule is hereby adopted:
  - 1. Adult entertainment business: \$1,000.00.
  - 2. Adult entertainment manager: \$1,000.00.
  - 3. Adult entertainer: \$1,000.00.

**Section 605.090. Manager Responsibility.** [Ord. No. 10-976 §9, 1-20-2010]

- A. A licensed adult entertainment manager shall be on duty at any adult entertainment establishment at all times the premises is open for business. The name and license number of the manager on duty shall be prominently posted during business hours.
- B. It shall be the responsibility of the manager on duty to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's license.

**Section 605.100. Operational Criteria.** [Ord. No. 10-976 §10, 1-20-2010]

- A. No adult entertainment establishment may be open or in use between the hours of 2:00 A.M. and 12:00 Noon.
- B. Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult entertainment establishment.
- C. The premises of all adult entertainment establishments shall be physically arranged in such a manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.
- D. All adult entertainment establishments shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, of which uppercase letters shall be at least two (2) inches high, and lowercase letters at least one (1) inch high, which shall read as follows:

**THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED  
AND LICENSED BY THE CITY OF LA PLATA, MISSOURI**

**ENTERTAINERS ARE:**

Not permitted to engage in any type of sexual conduct or to fondle, caress, or touch any employee, customer or other entertainer in any manner in the genitals, pubic region, buttock or female breasts, or to permit any employee, customer or other entertainer to fondle, caress, or touch in any manner the genitals, pubic region, buttock or female breast of said entertainer.

Not permitted to solicit or receive from a customer in any manner any tip, pay, gratuity or other thing of value either directly or indirectly.

**CUSTOMERS ARE:**



Not permitted to fondle, caress, or touch any entertainer, employee or other customer in any manner on the genitals, pubic region, buttock or female breasts.

E. Separate dressing rooms for men and women shall be maintained on the premises.

**Section 605.110. Compliance With Chapter Requirements.** [Ord. No. 10-976 §11, 1-20-2010]

Any adult entertainment establishment licensed under this Chapter shall comply with all the requirements of the ordinances of the City of La Plata as now or in the future may be adopted.

## **Chapter 610**

### **DECEPTIVE TRADE PRACTICES**

**Section 610.010. Definitions.** [CC 1984 §55.010]

As used in this Chapter, the following words and terms shall mean:

**ADVERTISEMENT** — Includes the attempt by publication, dissemination, solicitation or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

**MERCHANDISE** — Includes any objects, wares, goods, commodities, intangibles, real estate or services.

**SALE** — Includes any sale, offer for sale, or attempt to sell merchandise for cash or on credit.

**Section 610.020. Unlawful Practices, Exception.** [CC 1984 §55.020]

- A. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise, is declared to be an unlawful practice; provided however, that:
- B. Nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein an advertisement appears, or to the owner or operator of a radio or television station which disseminates an advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser; and provided further, that nothing herein contained shall apply to any advertisement which is subject to and complies with the rules and regulations of and the Statutes administered by the Federal Trade Commission. That such an advertisement complies with the regulations of and the Statutes administered by the Federal Trade Commission shall be a defense which must be proven by one charged with violating this

Section.

**Section 610.030. Deceptive Business Practices.** [CC 1984 §55.030]

- A. A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession, he/she recklessly:
1. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity.
  2. Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service.
  3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he/she furnishes the weight or measure.
  4. Sells, offers or exposes for sale adulterated, or mislabeled commodities.
  5. Makes a false or misleading statement for the purpose of obtaining property or credit.

**Section 610.040. Deceptive Business Practices — Definitions.** [CC 1984 §55.040]

As used in the preceding Section the following terms shall have these prescribed meanings:

**ADULTERATED** — Varying from the standard of composition or quality prescribed by Statute or lawfully promulgated administrative regulations of the United States of America or of this State lawfully filed, or if none, as set by commercial usage.

**MISLABELED** — Varying from the standard of truth or disclosure in labeling prescribed by Statute or lawfully promulgated administrative regulations of the United States of America or of this State lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity.

**Section 610.050. Altering Mileage Registering Devices.** [CC 1984 §55.050]

A person commits the offense of altering a mileage registering device if, with the purpose of misrepresenting to a prospective or eventual purchaser the number of miles traveled by a motor vehicle, he/she disconnects, changes or causes to be disconnected or changed, any mileage registering device on a motor vehicle so as to thereby indicate a different mileage than such motor vehicle has actually traveled. For the purpose of this Section "*motor vehicle*" means any self-propelled vehicle not operated exclusively upon tracks.

**Section 610.060. False Advertising.** [CC 1984 §55.060]

A person commits the offense of false advertising if, in connection with the promotion of the sale of, or to increase the consumption of, property and services, he/she recklessly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

**Section 610.070. Bait Advertising.** [CC 1984 §55.070]

- A. A person commits the offense of bait advertising if he/she advertises in any manner the sale of property or services with the purpose not to sell or provide the property or services:
1. At the price which he/she offered them.
  2. In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement.
  3. At all.

**Section 610.080. Included Offenses.** [CC 1984 §55.080]

The offenses described in Sections 610.030 through 610.070 shall be included offenses in the unlawful practices prohibited by Section 610.020. No person shall be convicted of a violation of both Section 610.020 and of one (1) or more of Sections 610.030 through 610.070, as a result of the same act by him/her.

**Chapter 615**

**PEDDLERS AND SOLICITORS**

**Section 615.010. Peddlers and Solicitors Defined.** [Ord. No. 631 §1(52.010), 5-14-1991]

For the purpose of this Chapter there shall be no difference to the rights, privileges and duties required of peddlers and solicitors, except that peddlers shall be required to pay a fee for the identification card hereinafter required.

**PEDDLER** — One who, for profit to himself/herself or his/her principal, sells any good or service, or seeks a donation for any cause of a profit-making or commercial character.

**SOLICITOR** — One who solicits for a charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service.

**Section 615.020. Presumption.** [Ord. No. 631 §1(52.020), 5-14-1991]

- A. It shall be presumed that an individual is a peddler rather than a solicitor. This presumption may be overcome by:
1. A showing that donations to the organization for which one wishes to solicit is exempt from Federal Income Taxation under Section 503 of the Internal Revenue Code.
  2. A showing that the organization for which one wishes to solicit is an organization whose primary purpose is to influence public policy.

**Section 615.030. Identification Card Required.** [Ord. No. 631 §1(52.030), 5-14-1991]

No person shall engage in any act as a peddler or solicitor without first obtaining an identification card in accordance with the provisions herein. Any person who does so shall be guilty of a misdemeanor.

**Section 615.040. Fee.** [Ord. No. 631 §1(52.040), 5-14-1991]

- A. Any person desiring a peddler's identification card shall pay a fee of twenty dollars (\$20.00) per card.
- B. There shall be no fee for a solicitor's identification card.

**Section 615.050. Application for Card.** [Ord. No. 631 §1(52.050), 5-14-1991]

Any person or organization (formal or informal) may apply for one (1) or more identification cards by completing an application form at the office of the City Clerk.

**Section 615.060. Contents of Application.** [Ord. No. 631 §1(52.060), 5-14-1991]

- A. The applicant shall provide the following information:
  - 1. Name of applicant.
  - 2. The number of identification cards required.
  - 3. A statement as to the type of cards requested.
  - 4. If one (1) or more solicitors' cards are requested, information required to overcome the presumption of Section 615.020 of this Chapter.
  - 5. If one (1) or more peddlers' cards are requested, the fee for each card as provided in Section 615.040 of this Chapter.
  - 6. The name and physical description (or in lieu thereof, a photograph) of each person for which a card is requested. The Chief of Police is directed to offer to any applicant to take instant photographs for which a reasonable fee not to exceed one dollar (\$1.00) shall be charged. Instead of providing the physical description, or photograph, the applicant may exhibit a valid driver's license or similar identification for each person for whom a card is requested, and a photocopy of said identification shall be attached to said application.
  - 7. The permanent and (if any) local address of the applicant.
  - 8. The permanent and (if any) local addresses of each person for whom a card is requested.
  - 9. A brief description of the proposed activity subject to this identification card requirement.
  - 10. A statement as to whether or not the applicant has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.
  - 11. A statement as to each person for whom a card is requested as to whether that individual has been convicted of any crime, and if so, the nature of the offense and

the penalty imposed.

12. The motor vehicle make, model, year, color and registration number of any vehicle which shall be used in the proposed activity.
13. The permanent name and address of the organization or person (with respect to a solicitor's card) who can provide a prospective donor with more information about the charity for which funds are solicited, and from whom information can be obtained as to the disposition of all funds collected, or (with respect to a peddler's card) of the individual organization to whom complaints can be made for defective merchandise, who is responsible for any breach of warranty, and from whom additional merchandise can be ordered.
14. Name and address of person or organization which is intended to receive donations or profits.
15. Any other information the applicant wishes to provide.

**Section 615.070. Special Requirements for Peddler's Card.** [Ord. No. 631 §1(52.070), 5-14-1991]

- A. No person shall be issued a peddler's identification card unless, in addition to the requirements of the preceding Section:
  1. He/she demonstrates that he/she (or in the case of an agent, his/her principal) has a valid retail sales license issued by the State Director of Revenue as required by Section 144.083, RSMo.
  2. He/she, or his/her principal, deposits with the City Clerk a bond in the amount of one hundred dollars (\$100.00) (cash or surety) per card to secure collection and payment to the State Department of Revenue of all City sales tax due and payable by reason of sales made within this City. Said bond shall be forfeited to the City, if applicant does not (within ninety (90) days of the expiration or surrender of his/her peddler's card) demonstrate by affidavit or otherwise that said sales taxes have been paid.
  3. He/she demonstrates either:
    - a. He/she is a licensed itinerant vendor within the meaning of Section 150.380, RSMo., or
    - b. He/she is exempt from said requirement.
  4. He/she demonstrates either:
    - a. He/she has a "*peddler*" license from the County and State as required by Section 150.470, RSMo., or
    - b. He/she is exempt from said requirement.

**Section 615.080. Issuance of Identification Card.** [Ord. No. 631 §1(52.080), 5-14-1991]

- A. Three (3) working days after the application, or sooner if reasonably possible, the requested identification cards shall be issued, unless:

1. The application is incomplete (in which case the City Clerk will reject the application at the time of its tender or within fifteen (15) minutes thereafter).
2. The required fee (if any) has not been paid.
3. The applicant has been convicted of a felony.
4. With respect to a particular card, if the individual for whom a card is requested has been convicted of a felony.
5. If any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.
6. If the applicant, or if a particular individual for whom an identification card is requested, has had a previous identification card revoked.

**Section 615.090. Investigation.** [Ord. No. 631 §1(52.090), 5-14-1991]

During the period of time following the application for issuance of one (1) or more identification cards and its issuance, the Chief of Police shall make diligent investigation, as to him/her seems necessary, to determine that the applicant is entitled to the identification as hereinabove stated. The Chief of Police shall cooperate with the applicant, shall inform the applicant of the progress of his/her investigation, and shall use due diligence in conducting his/her investigation.

**Section 615.100. Denial.** [Ord. No. 631 §1(52.100), 5-14-1991]

If the City Clerk denies the identification card to one (1) or more persons, he/she shall prepare promptly (and in no event later than two (2) working days after the denial) a written report of the reason for his/her denial which shall be immediately made available to the applicant. The applicant shall be entitled to correct in writing any deficiencies so noted in the report, which corrections or changes when filed shall be treated as a new application.

**Section 615.110. Applicant's Rights Upon Denial of an Identification Card.** [Ord. No. 631 §1(52.110), 5-14-1991]

- A. If an identification card is denied to an applicant, the applicant shall have the option of an immediate hearing in front of any three (3) tribunals at the applicant's option. At such hearing, the City Attorney on behalf of the City shall be required to demonstrate by the preponderance of the evidence that the applicant is not entitled to an identification card under this Chapter. The applicant may choose to take his/her case before any of the following tribunals:
  1. *Board of Aldermen.* The Board of Aldermen at its next regular meeting, or if the next regular meeting is more than ten (10) days from the denial of the identification card, at a special meeting to be held within that ten (10) day period.
  2. *Municipal Court.* The Municipal Court of the City, provided that such a hearing will be scheduled within ten (10) days of the request.
  3. *Circuit Court.* The Circuit Court of Macon County within the regularly scheduled procedures of the Circuit Court.

**Section 615.120. Hearing on Applicant's Denial of Identification Card, Procedure.** [Ord. No. 631 §1(52.120), 5-14-1991]

If the applicant requests a hearing under Section 615.110(1) or (2), the said hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri, and review from the decision shall be had to the Circuit Court of Macon County, Missouri, on the record. Should applicant decide to forego the administrative hearings, the remedy will be an injunction or declaratory judgment against the City.

**Section 615.130. Display of Identification Card.** [Ord. No. 631 §1(52.130), 5-14-1991]

Each identification card shall be, when the individual for whom it was issued is acting as a peddler or solicitor, worn on the outer clothing of the peddler or solicitor, so as to be reasonably visible to any person who might be approached by said peddler or solicitor.

**Section 615.140. Validity of Identification Card.** [Ord. No. 631 §1(52.140), 5-14-1991]

An identification card should be valid within the meaning of this Chapter for a period of twelve (12) months from its date of issuance, thereafter it shall expire. An applicant with an expired identification card shall be considered as having no identification card whatsoever and will be required to apply for a new card if he/she wishes to peddle or solicit within the City.

**Section 615.150. Revocation of Card.** [Ord. No. 631 §1(52.150), 5-14-1991]

- A. Any identification card granted hereunder may be revoked by the Municipal Court after the filing of an information by the Prosecuting Attorney and a hearing thereon for any of the following causes:
1. Any violation of this Chapter by applicant or the person for whom the particular card was issued.
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
  3. Convicted of a felony.
  4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

**Section 615.160. General Prohibitions.** [Ord. No. 631 §1(52.160), 5-14-1991]

- A. No person having a solicitor's or peddler's license can/shall:
1. Enter or remain on private property where he/she has no reason to believe that the residents thereof have indicated the solicitor or peddler is not welcome.
  2. Make an uninvited entry into a resident's home.
  3. Refuse to discontinue his/her message when requested by a hearer to do so, when on private property occupied by the hearer.
  4. Enter upon any private property, knowing or having reason to believe that the owner

or occupants do not desire to receive messages from any solicitor or peddler, either by a posted sign or otherwise.

**Section 615.170. City Responsibilities.** [Ord. No. 631 §1(52.170), 5-14-1991]

Any resident of the City may list his/her property with the City Clerk and direct that his/her property is not to be entered by a solicitor or peddler. This list shall be available for public inspection. Upon the issuance of any solicitor or peddler's license, a copy of the list shall be provided with each card. No card holder may enter the private property nor contact any person so listed. (Such listing shall continue for two (2) years, unless listee requests sooner removal, at which time the listing shall be removed, unless the listee shall request the same be continued an additional two (2) years.)

**Section 615.180. Time Limits.** [Ord. No. 631 §1(52.180), 5-14-1991]

- A. No person shall solicit or peddle within the corporate limits of this City except within the time limits prescribed in this Section:
1. From 9:00 A.M. until 9:00 P.M., Monday through Friday, and from 10:00 A.M. until 8:00 P.M. on Saturday and from 1:00 P.M. until 8:00 P.M. on Sunday.
  2. Notwithstanding Subparagraph (1) above, no person shall peddle or solicit at anytime after sunset on any day unless he/she:
    - a. Is dressed in light-colored or reflective clothing;
    - b. Has notified the Chief of Police of his/her intention to solicit after dark.

**Section 615.190. Special Restrictions on Peddler.** [Ord. No. 631 §1(52.190), 5-14-1991]

- A. No person having a peddler's identification card shall peddle or solicit merchandise:
1. At any place except within the business district of the City as defined by its zoning ordinances or within twenty-five (25) feet to any non-conforming commercial establishment.
  2. Outside of the area provided in Subsection (1) above unless he/she has a specific oral or written invitation to approach the dwelling.
  3. This Section shall not apply to any person who solicits individuals on real estate in which the person or his/her principal has an ownership or leasehold interest.

**Chapter 620**

**CIGARETTES**

**Section 620.010. Definitions.** [Ord. No. 691 §1(83.010), 12-10-1996]



When used in this Chapter the following words shall have the meanings respectively ascribed to them:

**CIGARETTE** — An item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three (3) pounds per one thousand (1,000) cigarettes and which is commonly classified, labeled or advertised as a cigarette.

**CONSUMER** — A person who comes into possession of tobacco for the purpose of consuming it, giving it away or disposing of it in any way.

**DEALER** — Any person dealing directly with the manufacturer of cigarettes in their purchase and in the business of selling cigarettes as a first (1st) seller.

**FIRST SELLER** — Includes all persons who make the initial or first (1st) sale or distribution of cigarettes within the City.

**PACKAGE** — The individual package, box or other container from which sales of cigarettes are normally made or intended to be made.

**PERSON** — Any individual, corporation, firm, partnership, incorporated or unincorporated association, or any other legal or commercial entity.

**RETAILER** — Any person who sells to a consumer or to any person for any purpose other than resale.

**SALE** — In this instance is defined to be and declared to include sales, barter, exchanges and every other manner, method and form of transferring the ownership of personal property from one (1) person to another. "*Sale*" also means the possession of cigarettes or tobacco products by any person other than a manufacturer, wholesaler or retailer and shall be prima facie evidence of possession for consumption.

**VENDING MACHINE OPERATOR** — All persons engaged in the distribution or sale of cigarettes by means of coin-operated vending machines.

**WHOLESALER** — Any person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes or tobacco products to, and render service to, retailers in the territory the person, firm or corporation chooses to serve; that purchases cigarettes or tobacco products directly from the manufacturer; that carries at all times at his/her or its principal place of business a representative stock of cigarettes or tobacco products for sale; and that comes into the possession of cigarettes or tobacco products for the purpose of selling them to retailers or to persons outside or within the State who might resell or retail the cigarettes or tobacco products to consumers. This shall include any manufacturer, jobber, broker, agent or other person, whether or not enumerated in this Chapter, who so sells or so distributes cigarettes or tobacco products.

**Section 620.020. Registration and Licensing of Certain Persons Mandatory — Fees.** [Ord. No. 691 §1(83.020), 12-10-1996]

Every wholesale dealer, jobber, manufacturer or retail dealer, or any other person, engaged in selling cigarettes or offering, delivering or displaying cigarettes for sale within the City shall procure a license therefor for each place of business that he/she desires to have for such sale or distribution of cigarettes and at the same time such license is issued shall pay to the City

Collector the sum of one dollar (\$1.00) for each such place of business, which shall be a registration fee.

**Section 620.030. Payment of Occupation Tax Required.** [Ord. No. 691 §1(83.030), 12-10-1996]

Every dealer or wholesaler engaged in the business of selling cigarettes or offering or displaying the same for sale within the City shall pay an occupation tax at the rate of one dollar (\$1.00) per thousand for all cigarettes sold or offered or displayed for sale. This tax shall be paid but once, as provided for in Section 620.050, and only by the dealer or wholesaler selling cigarettes or displaying or offering them for sale. The intent and meaning of this Chapter is that the same shall levy an occupation tax based upon and pursuant to the methods provided for by the Revised Statutes of Missouri, and pursuant to the powers therein granted and the powers contained in this Chapter. The occupation tax provided for herein shall be paid by the dealer or wholesaler, as defined in Section 620.010, selling cigarettes or offering them for sale.

**Section 620.040. Payment — Discount.** [Ord. No. 691 §1(83.040), 12-10-1996]

The tax provided for in Section 620.030 shall be paid to the City Collector and in the collection of such tax, the City Collector shall allow a discount of two percent (2%) of the face value thereof to cover the cost of labor in satisfying the reporting requirements provided for herein.

**Section 620.050. Monthly Payment.** [Ord. No. 691 §1(83.050), 12-10-1996]

It shall be the duty of every dealer or wholesaler, as defined in Section 620.010, selling, offering or displaying for sale any package of cigarettes, to remit the monthly cigarette tax reporting form and full payment by the fifteenth (15th) day of each following month. The cancelled check, accompanied by the monthly cigarette tax reporting form, shall be proof of payment.

**Section 620.060. Rules and Regulations — Records.** [Ord. No. 691 §1(83.060), 12-10-1996]

- A. For the purpose of enabling the City Collector to enforce the terms of this Chapter the following provisions are enacted:
1. Each dealer in the City and those wholesalers and retailers as defined in Section 620.010 shall procure and retain invoices showing the amount and value of the shipment of cigarettes received by him/her, the date thereof, and the name of the shipper, and shall retain this invoice for a period of three (3) years subject to the use and inspection of the City Collector.
  2. All dealers, wholesalers and retailers as defined in Section 620.010 within the City of La Plata shall maintain and keep for a period of three (3) years such other records of cigarettes received, sold or delivered within the City as may be required by the City Collector or the Board of Aldermen.
  3. The City Collector or his/her duly authorized representatives, are authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where they are placed, stores or sold, and equipment of any such dealer, wholesaler, or retailer pertaining to the sale and delivery of cigarettes taxable under this Chapter.

4. To verify the accuracy of the occupation tax imposed and assessed by this Chapter, each person, as defined in Section 620.010, is directed and required to give to the City Collector or his/her duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.
5. In addition to the powers herein granted to the City Collector he/she is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of his/her powers to a deputy or other employee of his/her office and any other matter or thing pertaining to the administration and enforcement of the provisions of this Chapter.
6. Cigarette tax reporting information received from the State of Missouri shall be held in confidence and used solely for verifying cigarette tax payment.

**Section 620.070. Refunds.** [Ord. No. 691 §1(83.070), 12-10-1996]

The City Collector is authorized to adopt, prescribe and promulgate rules and regulations including a monthly cigarette tax reporting form with regard to the presentation and proof of claim for refunds and credits as he/she may deem advisable.

**Section 620.080. Oaths and Subpoenas.** [Ord. No. 691 §1(83.080), 12-10-1996]

The City Collector or his/her employees or agents duly designated and authorized by him/her shall have the power to administer oaths and take affidavits in relation to any manner or proceedings in the exercise of their powers and duties under this Chapter. The City Collector shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the enforcement of this Chapter and to examine them in relation thereto.

**Section 620.090. Penalty for Violation of Failing to Pay the Occupation Tax.** [Ord. No. 691 §1(83.090), 12-10-1996]

Any person violating this Chapter by failing to file the report and make the payment provided for in Section 620.050 hereof shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than ninety (90) days or be punished by both such fine and imprisonment. Failure to file each monthly report and make each monthly payment shall be deemed a separate offense.

**Section 620.100. Application for, Issuance of and Provision Governing Cigarette Registration Licenses — Duplicates for Lost Certificates.** [Ord. No. 691 §1(83.100), 12-10-1996]

Every application for a cigarette registration license shall be made upon a form prescribed, prepared and furnished by the City Collector, and shall set forth such information as he/she shall require. Upon approval of such application, the City Collector shall grant and issue to the applicant therefor a cigarette registration license as herein provided. Cigarette registration licenses shall not be assignable and shall be valid only for and in the name of the person in whose name issued, and only for the transaction of business at the place and address designated therein, and shall at all times be conspicuously displayed at the place and address for which issued. All cigarette registration licenses shall expire one (1) year after the date of issue, unless

sooner surrendered, suspended or revoked for cause by the City Collector. Whenever any cigarette registration license issued under the provision of this Chapter shall be defaced or is destroyed or lost the City Collector, shall, upon application, issue a duplicate thereof to replace the defaced, destroyed or lost license upon the payment of a fee of fifty cents (\$.50) therefor. It shall be the duty of any person holding such cigarette registration license to apply for such replacement at any time the license theretofore issued to such person becomes defaced or is destroyed or lost immediately upon the fact being discovered.

**Section 620.110. Revocation or Suspension of Registration Licenses.** [Ord. No. 691 §1(83.110), 12-10-1996]

The City Collector, after hearing, shall suspend or revoke any cigarette registration license whenever he/she finds that the holder thereof has failed to comply with any of the provisions of this Chapter or any of the rules or regulations prescribed or promulgated under the provision of this Chapter by the City Collector. Upon suspending or revoking any cigarette registration license, the City Collector shall request the holder thereof to surrender to him/her immediately all license cards or tokens, or duplicates thereof, and the holder thereof shall surrender promptly all such license cards or tokens, or duplicates thereof, to the City Collector as requested. Whenever the City Collector suspends or revokes any cigarette registration license he/she shall notify the holder thereof immediately, and afford such license holder a hearing if desired by such license holder, unless such hearing has already been afforded. After such hearing the City Collector shall either rescind his/her order suspending or revoking such cigarette registration license or, good cause appearing therefor, shall continue such suspension or revocation of such cigarette registration license.

**Section 620.120. Duty of Vending Machine Operators to Affix Registration Certificates to Machines — Prohibited Sales, Etc.** [Ord. No. 691 §1(83.120), 12-10-1996]

Every person who in the capacity of owner, lessee, tenant or otherwise in any other capacity shall operate or cause to be operated, directly or indirectly, any vending machine for selling or dispensing cigarettes to the public at retail shall obtain from the City Collector the license registration as provided in Section 620.020, and any such license registration, in whatever form prescribed by the City Collector, shall be affixed in a conspicuous place on such vending machine. Any persons violating this Section by failing to obtain the required license registration shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than ninety (90) days or be punished by both such fine and imprisonment.

**Section 620.130. Seizure and Sale of Cigarettes, Vending Machine, Etc., When Required Tax Not Paid — Application of Proceeds of Sale.** [Ord. No. 691 §1(83.130), 12-10-1996]

Whenever the City Collector shall discover any cigarettes, subject to the occupation license tax imposed by this Chapter, upon which the occupation license tax has not been paid as provided herein, then the City Collector is hereby authorized and empowered forthwith to seize and take possession of such cigarettes, together with any vending machine or other mechanical device for selling or dispensing such cigarettes or receptacle in which they are held for sale, and the same shall thereupon be deemed to be forfeited to the City. The City Collector may, within a reasonable time, but in no case longer than thirty (30) days after such seizure, by first causing notice of his/her intention so to do to be posted in at least five (5) places of public view within

the City for at least five (5) days prior to the day of such sale, proceed to sell such forfeited cigarettes and equipment at the time and place and by the terms designated in such public notices of such sale posted as aforesaid. For the proceeds of such sale the City Collector shall first collect the occupation license tax due on such cigarettes together with a penalty of fifty percent (50%) thereof in addition to the amount of the occupation license tax due on such cigarettes, and the cost and expenses incurred in such proceedings. The City Collector shall pay the balance remaining in the funds realized from such sale after collecting the tax and penalty and costs and expenses of sale as aforesaid, if any, to the person in whose possession such cigarettes were found; provided, that such seizure and sale of such cigarettes and equipment shall not be deemed to relieve any person from any responsibility, penalty, fine or imprisonment for violation of any of the provisions of this Chapter.

**Section 620.140. Dealers Outside City.** [Ord. No. 691 §1(83.140), 12-10-1996]

Any dealer whose place of business is outside the corporate limits of the City shall be bound by all of the provisions of this Chapter.

**Section 620.150. Disposition of Revenue From Sale of Stamps, Etc.** [Ord. No. 691 §1(83.150), 12-10-1996]

The proceeds received from the sale of the occupation license tax imposed by this Chapter, after first deducting the necessary costs and expenses incident to the administration thereof and the necessary costs and expenses of the collection of the occupation license tax, shall be allocated to the General Revenue Fund.

**Section 620.160. Severability.** [Ord. No. 691 §2, 12-10-1996]

The provisions of this Chapter shall be severable. In the event that any provision of this Chapter is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Chapter are valid unless the court finds the valid provisions of this Chapter are so essentially and inseparably connected with, and so dependent upon the void provisions that it cannot be presumed that the Board of Aldermen would enact the valid provisions without the void ones or unless the court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

## **Chapter 625**

### **JUNK YARDS**

**Section 625.010. Definitions.** [CC 1984 §51.010]

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Chapter:

**BUSINESS PREMISES or PREMISES** — The area of a junk yard as described in a junk dealer's

license or application for license, as provided for in this Chapter.

**ITINERANT JUNK DEALER** — An individual (natural person) who buys, sells, collects, or delivers junk within the City as a business or employment within the City, but who is not an operator of a junk yard within the City or an employee of such an operator.

**JUNK** — Any old iron, steel, brass, copper, tin, lead or other base metals; old cordage, ropes, rags, fibers or fabrics; old rubber; old bottles or other glass; bones; waste paper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "*junk*" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his/her own business, or materials or objects held and used by a manufacturer as an integral part of his/her own manufacturing processes.

**JUNK DEALER** — A person who operates a junk yard, as defined above, within the City.

**JUNK YARD** — A yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one (1) or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

**Section 625.020. License Required.** [CC 1984 §51.020]

It shall be unlawful for any person to act as a junk dealer or itinerant junk dealer in the City, whether personally, by agents or employees, singly, or along with some other business or enterprise, without first having obtained a license therefor from the City Clerk in accordance with the provisions of this Chapter.

**Section 625.030. Application.** [CC 1984 §51.030]

- A. An applicant for license under this Chapter shall file with the City Clerk a written application upon forms provided by the City Clerk, and pay a fee as hereinafter prescribed.
- B. Said application shall include the junk dealer or itinerant junk dealer's name, residence address, and telephone number of applicant; the exact address or location of the place where the business is or is proposed to be carried on; and such other information as the City Clerk may reasonably require.

**Section 625.040. License Fee.** [CC 1984 §51.040]

The fees for licenses required under this Chapter shall be as established from time to time by ordinance of the Board of Aldermen and on file in the office of the City Clerk.

**Section 625.050. Investigation — Approval and Issuance of License.** [CC 1984 §51.050]

- A. Upon receipt of an application for a junk dealer's license as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character.

- B. If the findings of said investigation are favorable to the applicant, the City Clerk shall within thirty (30) days after the filing of the application and payment of the fee, issue a junk dealer's license to the applicant.

**Section 625.060. License Not Transferable.** [CC 1984 §51.060]

No license issued under this Chapter shall be transferred or assigned or used in any way by any person other than the one to whom it was issued.

**Section 625.070. Duration — Proration and Refund of Fees.** [CC 1984 §51.070]

All licenses issued under the provisions of this Chapter shall expire on the thirtieth (30th) day of June following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon the sale, transfer or dissolution of the business for which the license was issued.

**Section 625.080. General Operating Requirements.** [CC 1984 §51.080]

- A. The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:
1. The license issued pursuant to this Chapter shall be plainly displayed on the business premises.
  2. The junk yard, together with things kept therein, shall at all times be maintained in a sanitary condition.
  3. No space not covered by the license shall be used in the licensed business.
  4. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
  5. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four (4) inches.
  6. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as described herein and is in use in the licensed business.
  7. No junk shall be allowed to rest upon or protrude over any public property, street, alley, walkway, or curb or become scattered or blown off the business premises.
  8. Junk shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such junk for fire fighting purposes.
  9. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
  10. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.

11. No junk or other material shall be burned on the premises in any incinerator not meeting the approval of the Chief of the Fire Department, which approval shall not be unreasonably denied.
12. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 P.M. and 7:00 A.M.
13. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid vertical wall or fence of a minimum height of eight (8) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business.

**Section 625.090. Operation Outside City Limits.** [CC 1984 §51.090]

Section 625.080 shall not apply to the operation of junk yards outside of the City limits, even though the owner thereof be licensed in accordance with this Chapter.

**Chapter 630**

**TELEPHONE SERVICE**

**Section 630.010. License Tax Imposed.** [CC 1984 §85.010]

Every person engaged in the business of supplying telephone service in the City shall pay to the City as a license tax a sum equal to five percent (5%) of the gross income derived from station (telephone) rentals within the City, exclusive of income from services or goods supplied to the City of La Plata.

**Section 630.020. Quarterly Statements Required.** [CC 1984 §85.020]

Every person subject to the license tax imposed by this Chapter shall file with the City Collector on or before the first (1st) day of each January, April, July and October a statement verified under oath, showing the gross income of such person derived from the business of supplying telephone service in the City during the calendar quarter next preceding the month within which such statement is filed.

**Section 630.030. Inspection of Books and Records.** [CC 1984 §85.030]

The City Collector may investigate the accuracy of each such statement filed in accordance with Section 630.020 and, for that purpose, every person subject to such license tax shall permit the City Clerk or his/her duly authorized agent to inspect the books and records of such person pertaining to gross income, at any reasonable time.

**Section 630.040. Quarterly Payments of Tax.** [CC 1984 §85.040]



Each quarterly statement as required by this Chapter shall be accompanied by a remittance payable to the City of La Plata in an amount equal to five percent (5%) of the gross income during the calendar quarter next preceding the month within which such statement is filed, as shown on such statement.

**Section 630.050. Exemption From Other Occupation Taxes.** [CC 1984 §85.050]

The license tax imposed by this Chapter shall be in lieu of all other occupation taxes imposed upon the persons engaged in the business of supplying telephone service in the City, but nothing herein contained shall be construed as exempting such persons from the payment of property taxes.

**Section 630.060. Violations and Penalties.** [CC 1984 §85.060]

Any person engaged in the business of supplying telephone service in the City who fails to file the statement required by this Chapter within the time therein provided, or who fails to pay the license tax within the time provided by Section 630.020, shall pay a penalty of five percent (5%) of the tax due as shown by such statement or of the delinquent tax, for each calendar month or fraction thereof during which such payment or such statement shall be delinquent; in addition to any fine which may be imposed in any criminal proceeding.