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## TITLE VI. BUSINESS AND OCCUPATION

### CHAPTER 601: ALCOHOLIC BEVERAGES

#### SECTION 6.1: DEFINITIONS

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 twenty-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 at least 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

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

*EMPLOYEE* means and includes an agent or servant, and shall be construed to mean every person working for or performing services on behalf of the licensee during actual or scheduled work hours.

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

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

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

*NON-INTOXICATING BEER*: Any beer manufactured from pure hops or pure extract of hops, and pure barley malt, or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent (0.5%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

*ORIGINAL PACKAGE*: Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other

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

*PERMITEE* means the holder of an employee's permit, issued under the provisions of this chapter.

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

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

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

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

*STANDARD BOTTLE*: Any bottle, can or similar container containing sixteen (16) ounces or less of malt liquor or non-intoxicating beer.

## **SECTION 6.2: LICENSE REQUIRED AND QUALIFICATIONS**

A. No person shall sell, or offer for sale, intoxicating liquor or non-intoxicating beer in the City of Lone Jack without a currently valid liquor license issued by the City. A separate liquor

license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage in as set forth in this Chapter.

B. *Individuals.* No person may be granted a license under this Chapter unless that person will be actively engaged in the control and management of the particular alcoholic beverage establishment for which a license is sought. The applicant must be at least twenty-one (21) years of age, of good moral character, and have not been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs, and be a qualified legal voter and taxpaying citizen of the state of Missouri. Any person who has had a license previously revoked, or who has been convicted, since the ratification of the Twenty-first Amendment to the United States Constitution, of a violation of the provisions of any law applicable to the manufacture or sale of alcoholic beverages or who employs in his or her business any person whose license has been revoked, or who has been convicted of violating the provisions of any such law since the ratification of the Twenty-first Amendment to the United States Constitution

C. *Partnerships and Limited Liability Companies.* No license permitted by this Chapter may be issued to any partnership unless all members of the partnership are persons who would be eligible for a license as individuals under the provisions of this Chapter, and no license may be issued to any partnership that has been the holder of a license that has been revoked. No license permitted by this Chapter may be issued to any limited liability company unless all members, managers and agents of the limited liability company are persons who would be eligible for a license as an individual under the provisions of this Chapter, and no license may be issued to any limited liability company that has been the holder of a license that has been revoked.

D. *Corporations.* No license permitted by this Chapter shall be issued to a corporation unless the following conditions have been satisfied:

1. All officers and directors of the corporation must be persons of good moral character.
2. The managing officer of the corporation must be a person who is eligible for a license as an individual under the provisions of this article.
3. The corporation has never been the holder of a liquor license that has been revoked.

E. *Right of Possession or Occupancy of Premises.* Applicants for licenses under this Chapter must be in possession of the premises for which the license is sought, or have the legal right to occupy the premises, before any license may be issued.

### **SECTION 6.3: GENERAL LICENSE REGULATIONS.**

A. *Operating Hours.* No licensee or any employee of such licensee shall sell, give away or otherwise dispose of, or allow the same to be done, on or about the premises, any intoxicating liquor in any quantity, between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours

of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, except as otherwise authorized and licensed for Sunday sales pursuant to this Chapter. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.

B. *Posting License.* Each license issued in accordance with this Chapter shall be conspicuously posted on the premises for which the license has been issued.

C. *Posting Warning Sign.* Any person who is licensed to sell or serve alcoholic beverages at any establishment under this Chapter shall place on the premises of the establishment a warning sign as described in this subsection C. The warning sign must be at least eleven inches (11") by fourteen inches (14") and shall read: "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects." The licensee must display the warning sign in a conspicuous place on the licensed premises. Notwithstanding other provisions of this Chapter to the contrary, a person found in violation of this subsection C shall be issued a warning; no person who violates the provisions of this subsection shall be guilty of a crime.

D. *Separate Licenses Required.* A separate license shall be required for each place of business. Every license issued under the provision of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold as authorized by the license, and that license does not authorize or permit the sale of intoxicating liquor at any place other than that described on the license.

E. *Transferability.* No license issued under this Chapter shall be transferable or assignable except as provided in this Subsection E.

1. In the event of the death of the licensee, the widow or widower or the next of kin of the deceased licensee, may make an application to the City Clerk for a transfer of the license to permit the operation of the deceased's business for the remainder of the period for which the license fee has been paid by the deceased. The applicant for a transfer pursuant to this subsection must meet the other requirements of this Chapter before a transfer may be approved.
2. Whenever one (1) or more members of a partnership withdraws from the partnership, the City Clerk, upon written request, shall permit the remaining partner or partners, originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.
3. Whenever one (1) or more members, managers or agents of a limited liability company withdraws from the company, the City Clerk, upon written request, shall permit the remaining members, managers, or agents, originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

F. *Proximity to School or Church.*

1. No license shall be issued under this Chapter for the sale of intoxicating liquor within one hundred feet (100') of any school, church or other building regularly used as a place of religious worship, unless the application is approved by a majority vote of the Board of Aldermen after ten (10) days' written notice to all owners of property within one hundred (100) feet of the proposed licensed premises. When a school, church or place of worship shall hereafter be established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor, a renewal license shall not be denied solely for this reason.
2. This provision of subsection 1 shall not apply: to a license issued by the supervisor of alcohol and tobacco control pursuant to Section 311.218 RSMo.
3. The Board shall consider the location of the proposed business for which a license is sought with respect to its proximity to a school, a church, a public park or playground and to other places of the character for which a license is sought and shall have authority to refuse to issue a license when in their judgment the issuance thereof would not be in the best interests of the locality in which the applicant applies for a location of such place. In no event shall the Board approve the issuance of a license for the sale or consumption of liquor within three hundred (300) feet of any school, church or other building regularly used as a place of worship unless the applicant for the license shall first obtain the consent in writing of the board of directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship; except that when a school, church or place of worship shall thereafter be established within three hundred (300) feet of any place of business licensed to sell intoxicating liquor, renewal of the license shall not be denied for lack of consent in writing as herein provided.
4. The proper measurement to determine the proximity of a school, church or building regularly used as a place of worship and the place where intoxicating liquor may be sold is from the nearest point of the school or church building to the nearest point of the building where intoxicating liquor may be sold as described on the license application or an existing license issued by the State of Missouri.

G. *Change of Licensee's Location.* In the event any licensee desires to change the location of the licensee's place of business within the City, the licensee shall file an application in the same manner as provided for an original application in this Chapter, except that no additional license fee shall be charged for the remainder of the period for which the license fee has been paid, and the amended license, describing the new place location, shall be issued immediately upon the approval of the application by the Board of Aldermen. Any change of location of the enterprise prior to the issuance of an amended license as described in this subsection shall constitute a violation of this Chapter.



H. *Proration of Original License Fee.* Notwithstanding other Sections of this Chapter to the contrary, an applicant for an original license shall pay a prorated annual license fee, based upon the number of full and partial months remaining in the current license year.

**SECTION 6.4: GENERAL RETAIL SALES OF MALT LIQUOR ONLY IN THE ORIGINAL PACKAGE.**

A. *Scope:* A license for the privilege of selling malt liquor only, at retail, in the original package not for consumption on the premises where sold. Under a license issued pursuant to this Section, no malt liquor shall be consumed on the premises where sold, nor shall any original package be opened on the premises of the vendor, except as otherwise provided in this Chapter or law.

B. *Qualifications.* In addition to all other requirements of this Chapter, no license shall be issued under the terms of this Section, 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 drugstore;
2. A cigar and tobacco store;
3. A confectionery or delicatessen store;
4. A grocery store;
5. A general merchandise store; nor

To any person who does not have and keep in such person's 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.

C. *Fee.* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

D. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under the terms of this Section.

**SECTION 6.5: GENERAL RETAIL SALES OF NON-INTOXICATING BEER ONLY IN THE ORIGINAL PACKAGE.**

A. *Scope:* A license for the privilege of selling non-intoxicating beer only, at retail, in the original package not for consumption on the premises where sold. Under a license issued pursuant to this Section, no non-intoxicating beer shall be consumed on the premises where sold, nor shall any original package be opened on the premises of the vendor, except as otherwise provided in this Chapter or law.

B. *Fee.* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

C. *Qualifications.* In addition to all other requirements in this Chapter, no person shall be granted or permitted to hold a license under this Section if that person holds a license to sell intoxicating liquor.

D. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under the terms of this Section.

**SECTION 6.6: GENERAL RETAIL SALES OF INTOXICATING LIQUOR OF ALL KINDS IN THE ORIGINAL PACKAGE.**

A. *Scope:* A license for the privilege of selling intoxicating liquor of all kinds, at retail, in the original package not for consumption on the premises where sold.

B. *Qualifications.* In addition to all other requirements of this Chapter, no license shall be issued under the terms of this Section, 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 drugstore;
2. A cigar and tobacco store;
3. A confectionery or delicatessen store;
4. A grocery store;
5. A general merchandise store; nor

To any person who does not have and keep in such person's 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.

C. *Fee.* Subject to subsection D of this Section, a license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

D. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under this Section

**SECTION 6.7: SUNDAY SALES OF INTOXICATING LIQUOR OF ALL KINDS IN THE ORIGINAL PACKAGE.**

A. *Scope*: A license for the privilege of selling, on Sundays, intoxicating liquor of all kinds, at retail, in the original package not for consumption on the premises where sold.

B. *Hours When Selling Permitted*. A person licensed to sell intoxicating liquors of all kinds, in the original package, on Sunday, may only sell these intoxicating liquors between the hours of 9:00 A.M. and Midnight.

C. *Fee*. A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, including possession of a valid license issued pursuant to Sections 6.4, 6.5 or 6.6, upon payment of an annual license fee as set forth in the City's Fee Schedule.

**SECTION 6.8: CERTAIN HOLIDAYS, SALE BY THE DRINK ON SUNDAY ALLOWED**

When January first, March seventeenth, July fourth, or December thirty-first falls on Sunday, and on the Sundays prior to Memorial Day, and Labor Day and 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 liquors by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his or her license on that day from the time until the time which it would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

**SECTION 6.9: GENERAL RETAIL SALES OF MALT LIQUOR/LIGHT WINE ONLY BY THE DRINK**

A. *Scope*: A license for the privilege of selling malt liquor/light wine only, at retail, by the drink for consumption on the premises where sold. No malt liquor/light wine shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Fee*. A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

C. *Restriction of Number of Licenses Available*. There shall be a limit on the number of licenses available under this Section of one (1) license for each [INSERT POPULATION NUMBER] inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.

**SECTION 6.10: GENERAL RETAIL SALES OF NON-INTOXICATING BEER ONLY BY THE DRINK**

A. *Scope.* A license for the privilege of selling non-intoxicating beer only, at retail, by the drink for consumption on the premises where sold. No non-intoxicating beer shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Fee.* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

C. *Qualifications.* In addition to all other requirements in this Chapter, no person shall be granted or permitted to hold a license under this Section if that person holds a license to sell intoxicating liquor.

D. *Restriction of Number of Licenses Available.* There shall be a limit on the number of licenses available under this Section of one (1) license for each one thousand (1,000) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.

**SECTION 6.11: GENERAL RETAIL SALES OF INTOXICATING LIQUOR OF ALL KINDS BY THE DRINK**

A. *Scope.* A license for the privilege of selling intoxicating liquor of all kinds, at retail, by the drink for consumption on the premises where sold. No intoxicating liquor shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Fee.* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

C. *Restriction of Number of Licenses Available.* There shall be a limit on the number of licenses available under this Section of one (1) license for each one thousand (1,000) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.

**SECTION 6.12: RESTAURANT BAR OR TRANSIENT GUEST ACCOMMODATIONS, SALES OF INTOXICATING LIQUOR OF ALL KINDS BY THE DRINK.**

A. *Scope:* A license for the privilege of selling intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises of the restaurant bar or transient guest accommodations where sold. No intoxicating liquor shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Qualifications.*

1. *Transient Guest Accommodations.* The applicant for a license for transient guest accommodations under this Section must be operating an establishment having at least forty rooms for the overnight accommodations of transient guests.
2. *Existing Restaurant Bars.* The applicant for a license for an existing restaurant bar must be operating an 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 sales of prepared meals or food consumed on the 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 the premises.
3. *Newly-Opened Restaurant Bars.* Any restaurant bar having been in operation less than ninety (90) days may be issued a temporary license to sell intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises of the restaurant bar where sold, for a period not to exceed ninety (90) days, provided that:
  - a.) the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year; or
  - b.) can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than Two Hundred Thousand Dollars (\$200,000.00).

C. *Fees.*

1. A permanent license under the terms of this Section shall be issued to all qualified applicants for a permanent license, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule, except where the permanent license is being issued with regard to a transition from a temporary to a permanent license under

subsection E of this Section, in which case a permanent license shall be issued to a qualified applicant for a permanent license, who has complied fully with the provisions of this Chapter, upon payment of a prorated license fee as set forth in the City's Fee Schedule.

2. A temporary license under the terms of this Section shall be issued to all qualified applicants for a temporary license, who have fully complied with the provisions of this Chapter, upon payment of a temporary license fee as set forth in the City's Fee Schedule.

D. *Transition from Temporary to Permanent License.* Thirty (30) days prior to the date of expiration of the temporary license described in subsection B.3 of this Section, the temporary licensee may submit an application for a permanent license as provided in this Chapter.

E. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under this Section.

### **SECTION 6.13: AMUSEMENT PLACES SALES OF INTOXICATING LIQUOR BY THE DRINK**

A. *Scope:* A license for the privilege of selling intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises of the amusement place where sold. No intoxicating liquor shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Qualifications.*

1. *Existing Amusement Places.* The applicant must be operating an amusement place as defined in Section 6.1, which has annual gross receipts of at least One Hundred Thousand Dollars (\$100,000.00), of which at least Fifty Thousand Dollars (\$50,000.00) are in sales of non-alcohol items.
2. *Newly-Opened Amusement Places.* Any amusement place having been in operation less than ninety (90) days may be issued a temporary license to sell intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises of the restaurant bar where sold, for a period not to exceed ninety (90) days, provided that 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) are in sales of non-alcohol items for the first year of operation.
3. *Proof of Gross Receipts.* The Board of Aldermen may demand proof of such gross receipts in whatever manner deemed appropriate to determine whether an applicant meets the qualifications for a license under this Section.

C. *Fees.*

1. A permanent license under the terms of this Section shall be issued to all qualified applicants for a permanent license, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule, except where the permanent license is being issued with regard to a transition from a temporary to a permanent license under subsection E of this Section, in which case a permanent license shall be issued to a qualified applicant for a permanent license, who has complied fully with the provisions of this Chapter, upon payment of a prorated license fee as set forth in the City's Fee Schedule.
2. A temporary license under the terms of this Section shall be issued to all qualified applicants for a temporary license, who have fully complied with the provisions of this Chapter, upon payment of a temporary license fee as set forth in the City's Fee Schedule.

D. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under this Section.

**SECTION 6.14: PLACE OF ENTERTAINMENT SALES OF INTOXICATING LIQUOR BY THE DRINK**

A. *Scope.* A license for the privilege of selling intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises of the place of entertainment where sold. No intoxicating liquor shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Qualifications.* In addition to all other requirements of this Chapter, no license shall be issued under the terms of this Section, except to a person who is licensed under the provisions of this Chapter, or who otherwise possesses the qualifications and meets the requirements of this Chapter.

C. *Fee.* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule.

D. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under this Section.

**SECTION 6.15: SUNDAY SALES OF INTOXICATING LIQUOR OF ALL KINDS BY THE DRINK, RESTAURANT BARS, AMUSEMENT PLACES AND PLACES OF ENTERTAINMENT.**

A. *Scope.* A license for the privilege of selling intoxicating liquor of all kinds, at retail, by the drink, on Sunday, for consumption on the premises of the restaurant bar, transient guest accommodations, amusement places or places of entertainment where sold. No intoxicating liquor shall be removed from the premises where sold under a license issued pursuant to this Section.

B. *Hours When Selling Permitted.* A person licensed to sell intoxicating liquors of all kinds, by the drink, for consumption on the premises of the restaurant bar or transient guest accommodations where sold, on Sunday, may only sell these intoxicating liquors between the hours of 9:00 A.M. and Midnight.

C. *Qualifications.* As a prerequisite of the issuance of any license described in this Section, the applicant must be the holder of a current and valid license issued under Section 6.12, 6.13 or 6.14.

D. *Fees.*

1. A permanent license under the terms of this Section shall be issued to all qualified applicants for a permanent license, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule except where the permanent license is being issued with regard to a transition from a temporary to a permanent license under the provisions of Subsection E of this Section, in which case a permanent license shall be issued to a qualified applicant for a permanent license, who has complied fully with the provisions of this Chapter, upon payment of a prorated license fee as set forth in the City's Fee Schedule.
2. A temporary license under the terms of this Section shall be issued to all qualified applicants for a temporary license, who have fully complied with the provisions of this Chapter, upon payment of a temporary license fee as set forth in the City's Fee Schedule.

E. *Transition from Temporary to Permanent License.* Thirty (30) days prior to the date of expiration of the temporary license described in subsection D.2 of this Section, the temporary licensee may submit an application for a permanent license as provided in this Chapter.

F. *Restriction of Number of Licenses Available.* There shall be no limit on the number of licenses available under this Section.



**SECTION 6.16: CATERER'S SALES OF INTOXICATING LIQUOR OF ALL KINDS BY THE DRINK**

A. *Scope:* A license for the privilege of selling, and/or serving intoxicating liquor of all kinds, at retail, by the drink, for consumption on the premises at a particular function, occasion or event at a particular location other than the licensed premises. No intoxicating liquor sold under a license issued pursuant to this Section shall be removed from the premises where sold. A license issued pursuant to this Section shall be either a Type A license or a Type B license. A Type A license shall be effective for a maximum of fifty days during any year. A Type B license shall be effective for an unlimited number of functions during any year. For the purposes of this Section, a year shall be measured from July 1 to June 30 of the succeeding year.

B. *Qualifications:* In addition to all other requirements of this Chapter, applicant for a license issued under this Section must be in possession of a current and valid license to sell intoxicating liquor at retail, by the drink, for consumption on the premises pursuant to the provisions of this Chapter.

C. *Fee:* A license under the terms of this Section shall be issued to all qualified applicants, who have fully complied with the provisions of this Chapter, upon payment of an annual license fee as set forth in the City's Fee Schedule for a Type A license and for a Type B license as set forth in the City's Fee Schedule.

D. *Restriction of Number of Licenses Available:* There shall be no limit on the number of licenses available under the terms of this Section.

E. *Hours of Operation:* A person issued a license under this Section is authorized to serve intoxicating liquors of all kinds at a function, occasion or event during the hours at which intoxicating liquors of all kinds may lawfully be sold and/or served upon premises licensed to sell intoxicating liquors of all kinds for on-premises consumption.

F. *Reporting Requirement:* A person issued a license under this Section shall report to the City Clerk the location of each function, occasion or event three business days in advance. The report shall be in writing on a form provided by the City, and shall include, at a minimum, permission from the owner of the property where the function, occasion or event will be held, a description of the premises, and the date or dates the function will be held.

G. *Delivery:* Notwithstanding any other provision of this Chapter to the contrary, and according to Section 311.486.5 RSMo, any person who possesses a valid license under this Section may deliver alcoholic beverage in the course of his or her catering business.

**SECTION 6.17: TEMPORARY PERMIT FOR SALE BY THE DRINK- CERTAIN ORGANIZATIONS**

A. *Scope.* Notwithstanding any other provision of this Chapter and pursuant to Section 311.482, RSMo, the City Clerk may issue a permit for the sale of intoxicating liquor and non-intoxicating beer for consumption on the premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar

gathering. A permit issued under this Section shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor or non-intoxicating beer for more than seven (7) days by any club or organization.

B. *Hours When Selling Permitted.* A club or organization possessing a valid temporary permit issued pursuant to this Section may sell intoxicating liquor or non-intoxicating beer during the times set forth in Section 6.3.A. 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.

C. *Notice Required.* At the time an applicant applies for a temporary permit under this Section, the applicant shall notify the Missouri Director of Revenue of the holding of the event as provided in Section 311.482.3, RSMo.

D. *Fee.* A temporary permit issued under the terms of this Section shall be issued to all qualified applicants, upon payment of a permit fee as set forth in the City's Fee Schedule.

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 permit holder at the event described in the permit.

## **SECTION 6.18: EMPLOYEE PERMITS**

A. *Eligibility.* No person shall be issued an employee permit unless the person is at least 21 years of age, except as otherwise may be provided by this Chapter. No person shall be issued an employee permit if the person has been convicted of a felony, is otherwise disqualified by state statutes or by the Code of State Regulations for employment on the licensed premises of an alcoholic beverage establishment, or has been issued an alcoholic beverage license or permit from this or any other city or state that is currently suspended, or that has been revoked within 5 years immediately preceding the application.

B. *Application.* Each application for an employee permit shall be filed on a form supplied by the City Clerk and shall be signed by the applicant. The application shall include:

1. The applicant's complete name, home address, home telephone number, date of birth, and motor vehicle operator's license or other identification number.
2. The applicant's height, weight, color of eyes, color of hair, and sex.
3. A statement by the applicant that he or she has not been convicted of any felony.
4. A statement by the applicant of whether or not he or she has held an alcoholic beverage license or employee permit, and, if so, when and by what state or city the license or permit was issued, and whether or not any such license or permit has ever been suspended, revoked or disqualified, and, if suspended, revoked or disqualified, when and for what reason.

5. An authorization signed by the applicant allowing law enforcement and probation and parole agencies to release criminal record information concerning the applicant.
6. An "intent to hire" form, completed and signed by the licensee by whom the applicant will be employed.
7. The applicant's criminal history record verified by the Lone Jack Police Department, to be obtained by the applicant.
8. A photograph of the applicant, to be taken by the police department.
9. A non-refundable application fee as set forth in the City's Fee Schedule to be paid to the city treasurer to defray the cost of investigation and the application process.

C. *Issuance.* If the applicant meets the requirements of this section and this chapter, the City Clerk shall issue an employee permit to the applicant which shall be valid for 3 years from the date of issuance. Upon expiration of the permit, the applicant may obtain a new permit in the same manner as provided in this section.

D. *Form of permit.* Each employee permit shall bear the physical description and photograph of the applicant and shall be laminated or be in a form, otherwise approved by the City Clerk, to prevent alteration.

E. *Invalidation, suspension or revocation.* If any person who has been issued and holds an employee permit shall be convicted of any felony, the permit shall be void. If any permittee shall violate or contribute to the violation of any of the provisions of this Chapter, the City Clerk may file request for a hearing before the board in the manner provided in Section 6.22 to consider whether the permit should be suspended or revoked.

F. *Employment of felons.* A retail licensee may employ a person convicted of a felony unrelated to the manufacture or sale of intoxicating liquor, so long as the felon does not directly participate in the retail sale, service, delivery or dispensation of alcoholic beverages. Any retail licensee who employs a felon shall report the identity of that person to the City within 10 days of the person's employment, and shall notify the City Clerk within ten days of the person's leaving the licensee's employment, using forms provided by the City Clerk for that purpose.

G. *Possession and exhibition.* While directly participating in the retail sale, service, delivery or dispensation of alcoholic beverages, any person holding an employee permit under the provisions of this section shall be required to have the permit in his or her possession, and the permit shall be exhibited to the City Clerk or to any officer of the city police department upon demand. Failure of any person to exhibit an employee permit as required by this subsection shall be prima facie evidence that the person does not hold a permit.

H. Temporary employee permit for special event.

1. *Temporary employee permit.* A temporary employee permit may be issued by the City Clerk to a person qualified under this section to directly participate in the

retail sale, service, delivery or dispensation of alcoholic beverages at a special event. The term "directly participate in the retail sale, service, delivery or dispensation of alcoholic beverages," as used in this section, shall include accepting delivery of, stocking, arranging displays of, delivering, taking orders for, accepting payment for, mixing, serving or assisting in mixing or serving alcoholic beverages. A temporary employee permit may be issued by the City Clerk to a person qualified under this section to act in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, sales clerk, stock person or doorman, or other person responsible for checking identification cards to determine age. The issuance of a temporary employee permit is subject to the following conditions:

- (a) A temporary employee permit shall be valid for 1 calendar day.
  - (b) A temporary employee permit may be issued to a qualified person only 7 times in a single calendar year.
  - (c) A temporary employee permit may only be issued to a person for services performed for a non-profit purpose or event which may include performing services for a nonprofit fraternal or church social function, or performing services as a volunteer for a licensee which provides charitable donations to a non-profit fraternal or church organization.
2. *Eligibility.* No person shall be issued a temporary employee permit unless the person is at least 21 years of age, except as otherwise provided may be provided by this Chapter. No person shall be issued a temporary employee permit if the person has been convicted of a felony, is otherwise disqualified by state statutes or by the Code of State Regulations for employment on the licensed premises of an alcoholic beverage establishment, or has been issued an alcoholic beverage license or permit from this or any other city or state that is currently suspended, or that has been revoked within 5 years immediately preceding the application.
3. *Application.* All applications for a temporary employee permit shall be filed with the City Clerk on a form supplied by the City Clerk not later than 5 business days before the special event, and shall be signed by the applicant. The application shall include:
- (a) The applicant's complete name, home address, home telephone number, date of birth, and motor vehicle operator's license or other identification number.
  - (b) The applicant's height, weight, color of eyes, color of hair, and sex.
  - (c) A statement by the applicant that he or she has not been convicted of any felony.
  - (d) A statement by the applicant of whether or not he or she has held an alcoholic beverage license or employee permit, and, if so, when and by

what state or city the license or permit was issued, and whether or not any such license or permit has ever been suspended, revoked or disqualified, and, if suspended, revoked or disqualified, when and for what reason.

- (e) An authorization signed by the applicant allowing law enforcement and probation and parole agencies to release criminal record information concerning the applicant.
  - (f) An "intent to hire" form, completed and signed by the non-profit fraternal or church organization by whom the applicant will be employed.
  - (g) A non-refundable application fee of \$10.00 to be paid to the city treasurer to defray the cost of investigation and the application process.
4. *Issuance.* If the applicant meets the requirements of this section and this chapter, the City Clerk shall issue the applicant a temporary employee permit valid for 1 calendar day.
  5. *Form of permit.* Each temporary employee permit shall bear the name, address and date of birth of the permittee, the name and address of the licensee for whom the temporary employee is working, the location of the premises for the event, the date of the event, the physical description by height, weight, color of hair, color of eyes and gender, and be on the form approved by the City Clerk.
  6. *Invalidation, suspension or revocation.* If any person who has been issued and holds a temporary employee permit shall be convicted of any felony, the permit shall be void. If any permittee shall violate or contribute to the violation of any of the provisions of this chapter, the permittee shall not be eligible for another temporary employee permit for a period of 2 years.
  7. *Possession and exhibition.* While directly participating in the retail sale, service, delivery or dispensation of alcoholic beverages, any person holding a temporary employee permit under the provisions of this section shall have the permit in his or her possession, and the permit shall be exhibited to the City Clerk or to any officer of the city police department upon demand. Failure of any person to exhibit a temporary employee permit as required by this subsection shall be prima facie evidence that the person does not hold a permit.

#### I. Prohibitions.

1. *Employment of persons without permit.* It shall be unlawful for any retail licensee to have in his employ to sell or assist in the retail sale, dispensation, service or delivery of alcoholic beverages any person who does not have an employee's permit issued by the City Clerk.
2. *False representations.* It shall be unlawful for any person to use or possess any false or falsified employee's permit issued, or purporting on its face to have been issued, by the City Clerk for the purpose of using the permit to obtain

employment in or to purchase alcoholic beverages from any premises granted a license under the provisions of this chapter, or to misrepresent to any licensee or his agent, servant or employee, or to the City Clerk or to any member of the police department, the person to be 21 years of age or older.

3. *Falsifying permit.* It shall be unlawful for any person to manufacture, forge, reproduce in any way or otherwise falsify an employee's permit issued, or purporting on its face to have been issued, by the City Clerk, or to give, lend, sell or otherwise provide to any person a false, falsified, manufactured, forged or reproduced employee's permit issued by the City Clerk.
4. *Use of another's permit.* It shall be unlawful for any lawful holder of an employee's permit issued by the City Clerk to give, lend, sell or otherwise provide the permit to any other person, or for any person not the lawful holder of the permit to use the permit for any purpose declared to be unlawful by the provisions of this division, or to give, lend, sell or otherwise provide the permit to any other person.

#### **SECTION 6.19: APPLICATION FOR LICENSE AND RENEWAL**

A. *Filing of an Application.* Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Applications for renewal of licenses must be filed on or before the first (1st) day of May of each year. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City. In the event the application is withdrawn prior to hearing, or if the Board of Aldermen denies the application, the City Clerk shall refund the license fee to the applicant within a reasonable time, not to exceed thirty (30) days.

B. *Applications by Corporations.* Corporate applicants shall state the full name of the corporation, its date of incorporation and whether the corporation operates any other business or controls, or is controlled by, any other corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of businesses operated by it which possesses a liquor license, whether within or without the City. Corporate applicants shall also state if its controlling corporation or a corporation controlled by it is doing business under a fictitious name, and the address where the fictitiously named business is located.

C. *Additional Information.* The Board of Aldermen may request any additional information of an applicant as the Board deems necessary for it to make a determination with respect to the issuance of a liquor license according to this Chapter.

D. *Date for Hearing, Consideration by the Board.* Upon the filing of a completed application for an original license with the City Clerk, the Clerk shall fix a date for a hearing before the Board of Aldermen not more than thirty-one (31) days from the date from the date the completed application was filed. The City Clerk shall provide the applicant with written notice of the date and time of the hearing. Except as provided in Section 6.20, the Board of Aldermen shall consider an application for license renewal within thirty-one (31) days of the filing of a completed application

## **SECTION 6.20: HEARINGS**

A. The Board of Aldermen shall consider the application for original or renewal license, together with any applicable report or recommendation of the City Staff, the testimony provided at any applicable hearing, and may approve an application, by a majority vote of the full Board of Aldermen, if it finds that:

1. The location of the proposed business for which a license is sought, with respect to its proximity to a school, church, public park, playground and other places of the character, would be in the best interests of the locality of the business seeking the license;
2. The applicant meets all of the applicable qualifications and requirements for the issuance of a license as set forth in this Chapter;
3. The applicant is in compliance and plans and proposes to conduct a retail liquor business in compliance with the laws of the State of Missouri, the ordinances of the City and the provisions of this Chapter.

B. A hearing upon an application for license renewal is not required, unless:

1. requested, in writing, by applicant at the time the completed application is filed with the City Clerk; or
2. before twenty-four hours prior to the time of the meeting at which the Board of Aldermen is scheduled to consider an application for license renewal, any person residing or legally conducting business within two hundred feet (200') of the applicant's place of business files a written protest against the renewal of the applicant's license.

C. In the event that the Board of Aldermen denies an application for license renewal, for which no hearing was held, the applicant may, within ten (10) days, file with the City Clerk a written request for reconsideration at a hearing by the Board at its next regularly scheduled meeting. The Board of Aldermen shall liberally grant such request for rehearing.

## **SECTION 6.21: LICENSE ADMINISTRATION**

A. *Issuance.* Upon approval by the Board of Aldermen of any application for a license under this Chapter, the City Clerk shall issue the applicant the applicable license for a term to expire with the thirtieth (30) day of June next succeeding the date of issuance of the license, unless the license is revoked or suspended for cause before the expiration of the license term.

B. *Suspension Or Revocation Of License—When—Manner.* The Board may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Board not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds

upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises.

C. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:

1. Violating any of the provisions of either this Chapter, Chapters 311 or 312, RSMo., or any Chapter of the City;
2. Failing to obtain or keep a license from the State Supervisor of Liquor Control;
3. Making a false affidavit in an application for a license under this Chapter;
4. Failing to keep an orderly place or house;
5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
7. Selling, giving, or otherwise supplying intoxicating liquor to:
  - (a) Any person under the age of twenty-one (21) years,
  - (b) Any person during unauthorized hours on the licensed premises,
  - (c) A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
  - (d) Any person on the licensed premises during a term of suspension as ordered by the Board.

D. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any violation of Chapter 311 or Chapter 312, RSMo., or of any felony violation of Chapter 195, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.

E. *Effect Of Suspension.* No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor or non-intoxicating beer during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a



conspicuous place on the premises so that all persons visiting the premises may readily see the same.

F. *Testimony Evidence.* Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.

G. *Witnesses How Summoned.* Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.

H. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing, he/she shall be sworn.

I. *Decision Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to this Chapter, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.

J. *Appeal.* Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in Chapter 536, RSMo., provided such appeal is filed within ten (10) days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.

## **SECTION 6.22: VARIOUS OFFENSES**

A. *Persons Eighteen Years Of Age Or Older May Sell Or Handle Liquor Or Beer, When.*

1. Except as otherwise provided in this Chapter, no person under the age of twenty-one (21) years shall dispense intoxicating liquor or non-intoxicating beer.
2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor or non-intoxicating beer. Delivery of intoxicating liquor or non-intoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

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

B. *Sales To Minor Exceptions.* No licensee, his/her employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the parent or guardian of the minor nor to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only, or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.

C. *Misrepresentation Of Age By Minor To Obtain Liquor Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.*

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.
2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any 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.

D. *Minors In Possession Of Intoxicating Liquor, Non-Intoxicating Beer.* Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his/her possession, any intoxicating liquor or non-intoxicating beer as defined herein is in violation of this Section. For purposes of prosecution under this Section, 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 no intoxicating liquor or 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 any non-intoxicating beer therein contains intoxicating liquor or non-intoxicating beer.

E. *Unlawful for Licensed Retailer to Purchase From Other Than Licensed Wholesaler.*

1. It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.
2. Any retailer licensed pursuant to this chapter shall not:
  - (a) Sell intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or
  - (b) Repackage intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

F. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.

G. *Unlawful To Sell Unlabeled Liquor Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.

H. *Only Those Liquors Authorized By License To Be Kept On Premises.* It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

I. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor Or Non-Intoxicating Beer.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor or non-intoxicating beer, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

J. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "public place" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot or City park.
2. No person shall drink or ingest any intoxicating liquor or non-intoxicating beer in or on any public place.

3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while in or upon any public place.
4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

K. *Live Entertainment On Premises Prohibited.* No person licensed for the sale of intoxicating liquor by the drink for consumption on the premises shall permit or allow any live entertainment on the premises. The playing and singing of music solely shall not be considered entertainment under this Section.

L. *Lewd Acts Prohibited.* Certain acts prohibited in premises licensed to sell at retail intoxicating liquor, wine or beer. It shall be unlawful for any retail licensee licensed to sell intoxicating liquor, wine or beer or his/her employee to 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 or 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. Any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and
6. The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.

M. Intoxicating liquor, light wines, malt liquor and non-intoxicating beer shall not be drunk or consumed on any commercial or industrial zoned property when such property abuts residentially zoned property within the City without first obtaining authorization, conditional or unconditional, from the Board of Alderman. (Ordinance No. 325, § 1; 9-18-07).

**SECTION 6.23: RESERVED.**

**CHAPTER 602: ADULT BUSINESS REGULATIONS**

**SECTION 6.24: BACKGROUND AND FINDINGS**

A. The Board of Aldermen, as elected representatives of the citizens of the City, have a duty to investigate the feasibility of adopting reasonable regulations to protect the citizens of the City from activities that have adverse effects which are harmful to the health, safety and general welfare of the citizenry. The Board of Aldermen met in a public meeting on May 5, 2004, to consider the regulation of adult businesses in the City and heard a report from staff and received documents regarding such regulations. The Board of Aldermen approved retaining Michael Duffy, a professional land planner with Shafer, Kline & Warren, P.C., to work with the City's Streets & Sewer Superintendent and analyze the City's zoning map with regard to spacing requirements. The following studies regarding the adverse secondary effects associated with adult businesses were given to the Mayor and each Alderman, and placed on file with the City Clerk for review by the Board of Aldermen following the May 5, 2004, meeting:

1. A study by the Special Programs Division of the Office of the Land Development Services in Austin, Texas, entitled "Report on Adult Oriented Businesses in Austin,";
2. A study by the City of Phoenix, Arizona, entitled "Adult Business Study,";
3. A report by the Minnesota Attorney General's Office entitled "Report of the Minnesota Attorney General's Working Group on the Regulation of Sexually Oriented Business";
4. A report prepared by the St. Paul, Minnesota Division of Planning entitled "Effects on Surrounding Area of Adult Entertainment Businesses in St. Paul";
5. A staff report prepared by the St. Paul, Minnesota Division of Planning entitled "Adult Entertainment";
6. A report prepared by the Amarillo, Texas Planning Department entitled "A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo";
7. A report prepared by the Los Angeles, California Department of City Planning entitled "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles";
8. A report prepared by the Indianapolis, Indiana Department of Metropolitan Development Division of Planning entitled "Adult Entertainment Businesses in Indianapolis: An Analysis";
9. A report prepared by the Beaumont, Texas Planning Department entitled "Regulation of Adult Uses; Revised September 14, 1982";

10. A memorandum from the Assistant Chief of Police of the City of Tucson, Arizona to the City Prosecutor entitled "Adult Entertainment Chapter";
11. A report by Richard McCleary, Ph.D., and James W. Meeker, J.D., Ph. D., entitled "Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard";
12. A report of the Whittier, California Planning Department Staff entitled "Amendment to Zoning Regulations; Adult Business in C-2 Zone with Conditional Use Permit";
13. An internal report of the Cleveland, Ohio Police Department entitled "Smut Shop Outlets, Contribution of these Outlets to the Increased Crime Rate in the Census Tract Areas of the Smut Shops";
14. A report by the Oklahoma City, Oklahoma Community Development Department Planning Division entitled "Adult Entertainment Businesses in Oklahoma City: A Survey of Real Estate Appraisers";
15. A legislative report by the Committee on the Proposed Regulation of Sexually Oriented Businesses of the Houston, Texas City Council;
16. A report by the Newport News, Virginia Department of Planning Development entitled "Adult Use Study";
17. A report of the Seattle, Washington Department of Construction and Land Use entitled "Directors Report: Proposed Land Use Code Text Amendment--Adult Cabarets";
18. A report by the Minnesota Crime Prevention Center, Inc. to the Minneapolis, Minnesota Board of Aldermen entitled "Analysis of the Relationship Between Adult Entertainment Establishments, Crime, and Housing Values"; and
19. Adult Cabarets-Factual Records from Phoenix, Arizona;
20. In call Escort Bureaus/Nude Modeling Studios(Private Room Nude Dancing) Index to Factual Record from Phoenix, Arizona;
21. Appendix A-Analysis of Adult Business Studios in Indianapolis, Indiana and Los Angeles, California;
22. Organized Crime;
23. Summaries of Key Reports Concerning the Negative Effects of Sexually Oriented Businesses;
24. Nude Entertainment Study from Adams County, California;

25. Adult Entertainment Study from Manatee County, Florida;
26. Adult Entertainment report from Saint Paul, Minnesota;
27. City Commission Minutes from Las Vegas, Nevada;
28. Adult Business Study from Ellicottville, New York (1998)
29. Study & Recommendations for Adult Entertainment Businesses from Islip New York(1980);
30. Adult Entertainment Study from New York, New York(1994);
31. Report of Secondary Effects of the Concentration of Adult Use Establishments from Times Square, New York(1994);
32. Regulation of Adult Entertainment Establishments from New Hanover County, North Carolina(1989);
33. A Look at Successful Abatement of Adult Oriented Business Nuisances from Oklahoma City, Oklahoma(1992);
34. A report on Secondary Impacts of Sex Oriented Businesses from Philadelphia, Pennsylvania(1996);
35. Report on Why and How Our City Organized a Joint County-Wide Sexually Oriented Businesses Task Force from Cleburne, Texas(1997);
36. An Analysis of the Effects of Sexually Oriented Businesses on the Surrounding Neighborhoods from Dallas, Texas(1997);
37. Report on The Effects of Adult Entertainment Businesses on Residential Neighborhoods from El Paso, Texas(1986);
38. Report on Location of Adult Entertainment Uses-Background Material from Bellevue, Washington(1988);
39. Report on Adult Use Study from Des Moines, Washington(1984);
40. Regulation of Adult Entertainment Establishments in St. Croix County, Wisconsin(1993);
41. Report on Commercial Sexual Exploitation of Children in the U.S.(2001);
42. Testimony of David Sherman(2000) – An Insider's View of Sexually Oriented Businesses;
43. A Report on Strip Clubs According to Strippers: Exposing Workplace Sexual Violence.

44. The following study regarding the adverse secondary effects associated with adult businesses was placed on file with the City Attorney for review by the Board of Aldermen following the May 5, 2004, meeting :An “Adult Use Study” prepared for the City of Kansas City, Missouri by Eric Damian Kelly, Ph.D., AICP, and Connie B. Cooper, AICP, consisting of 4 parts and 9 appendices (the “Kelly and Cooper Study”).
- B. The Board of Aldermen held a public meeting on May 12, 2004, to consider proposed regulations of adult businesses in the City and heard a report from staff, including the results of Mr. Duffy's zoning analysis regarding spacing; heard testimony regarding the adverse secondary effects of such businesses, including increased crime, prostitution, drug use and other illegal activities. The Kelly and Cooper Study is reasonably believed to be of particular relevance to Lone Jack both due to its geographical focus on adult businesses in the metropolitan area of which Lone Jack is a part and due to its particularized analysis of businesses it refers to as “sex shops” and “video viewing booths.”
  - C. Based on the secondary effects studies, testimony, case law and other information before it, the Board of Aldermen has made the following legislative findings of fact:
    1. That certain conduct occurring on the premises of adult businesses is detrimental to the public health, safety and general welfare of the citizens of the City and, therefore, such conduct must be regulated;
    2. That adult businesses are associated with and promote prostitution, illegal drug use and other criminal activity which constitute an immediate threat to the public peace, health, morals and safety;
    3. That regulation of adult businesses is necessary because in the absence of such regulation, significant criminal activity, including prostitution, illegal drug use and disruptive behavior and high-risk sexual conduct that may result in health hazards, has historically and regularly occurred;
    4. That adult businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values; these deleterious effects create a legitimate concern of the City to protect property values, business interests and generally protect the City from urban blight associated with adult businesses; and
    5. That it is recognized that adult businesses have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight; and
    6. That it is necessary to regulate and license entertainers and servers in the adult entertainment industry to prevent the exploitation of minors, to ensure that such individuals are adults and to ensure that such individuals have not assumed a false



identity or been involved in criminal activity associated with adult entertainment, which would make regulation difficult or impossible; and

7. That it is recognized that the live entertainment presented by some adult businesses involves bodily contact between patrons and performers, including physical contact while giving and receiving gratuities, including hugging, kissing and fondling of performers or patrons; it is further recognized that this contact titillation promotes prostitution and the spread of sexually transmitted diseases; it is further recognized that a reasonable and effective means of preventing this type of physical contact is achieved by requiring entertainers to dance or perform only on a stage, prohibiting customers from touching the performers on the stage and prohibiting customers from providing gratuities to the performers on stage except in a container placed on the stage; and
8. That it is necessary to have a licensed manager on the premises of adult business establishments to ensure that a person responsible for the overall operation of the business, including the actions of the customers and employees, is present at all times; and
9. That the license fees imposed by these regulations are reasonable fees imposed as necessary regulatory measures designed to help defray expenses incurred by the City in regulating adult businesses; and
10. That it is necessary to restrict hours of operation of adult businesses in order to prevent noise and crime during the late night and early morning hours and to preserve the character and quality of nearby residential neighborhoods; and
11. That the types of videos and films shown in adult video viewing booths are available for viewing, purchase or rental in other types of adult businesses which are less harmful to the health, safety and welfare of the community, and therefore adult video viewing booths should be prohibited in favor of other venues; and
12. That adult retail establishments (the businesses referred to in the Kelly and Cooper Report as “sex shops”) have documented harmful secondary effects within nearby residential neighborhoods notwithstanding the retail nature of the businesses; and
13. That approximately 3 tracts of land out of 48, or approximately 6.2 % of the total commercially zoned tracts of the City, is properly zoned and could accommodate various types of adult businesses notwithstanding the locational restrictions imposed by this Chapter; and
14. That adult businesses (if any) operating on the effective date of this Chapter should be brought into compliance with the provisions of this Chapter and those businesses which do not conform to the locational restrictions contained herein shall conform their operations to a lawful business use and discontinue operation as an adult business at that location; and

- D. The Board of Aldermen desires to minimize and control the adverse secondary effects associated with adult businesses and thereby protect the health, safety and welfare of the citizenry, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and to deter the spread of urban blight. It is not the intent of this Chapter or any previously enacted Chapter to suppress or limit any speech activities protected by the First Amendment to the United States Constitution, but to enact a content neutral, reasonable time, place and manner regulation

## **SECTION 6.25: DEFINITIONS**

For the purposes of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

A. *ADULT BUSINESS*: Any business:

1. That has as a substantial or significant purpose the sale or rental of merchandise that is intended for use in connection with specified sexual activities or that emphasizes matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or
2. That has as one (1) of its regular and substantial business purposes:
  - (a) The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
  - (b) The providing of services that are intended to provide sexual arousal or excitement or that allow observation of specified sexual activities or specified anatomical areas ancillary to other pursuits or allow participation in specified sexual activities ancillary to other pursuits.
3. The definition of "*adult business*" also includes, but is not limited to, any and all of the following specific adult businesses as defined herein:
  - (a) Businesses that offer merchandise for sale or rent:
    - (1) *ADULT MEDIA OUTLET*: A business engaging in the sale or rental of merchandise where a substantial or significant portion of the business is devoted to the sale or rental of "adult media". For purposes of this Subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of "adult media" if any one (1) or more of the following criteria are satisfied:
      - (i) Forty percent (40%) or more of the sales (including rentals) measured in dollars over any consecutive ninety (90) day period is derived from "adult media";

- (ii) Forty percent (40%) or more of the number of transactions measured over any consecutive ninety (90) day period relate to "adult media";
- (iii) Forty percent (40%) or more of the dollar value of all merchandise displayed at any time is attributable to "adult media";
- (iv) Forty percent (40%) or more of the inventory consists of "adult media" at any time;
- (v) Forty percent (40%) or more of the merchandise displayed for sale or rental consists of "adult media" at any time;
- (vi) Forty percent (40%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to "adult media" at any time.

The presumption that a "substantial or significant" portion of a business is devoted to the sale or rental of "adult media", based upon the above guidelines, shall be rebuttable.

- (2) *ADULT NEWSRACK*: Any coin- or card-operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- (3) *ADULT RETAIL ESTABLISHMENT*: A business that displays or offers goods for sale or rent and that meets any of the following tests:
  - (i) It displays or offers for sale or rent items from any two (2) of the following categories: "Sexually-oriented toys or novelties"; lingerie; clothing that graphically depicts "specified anatomical area"; leather goods designed or marketed for use for sexual bondage or sadomasochistic practices; and the combination of such items constitutes:
    - (a) Ten percent (10%) or more of the sales (including rentals) measured in dollars over any consecutive ninety (90) day period; or
    - (b) Ten percent (10%) or more of the number of sales transactions measured over any consecutive ninety (90) day period; or

- (c) Ten percent (10%) or more of the dollar value of all merchandise displayed at any time; or
  - (d) Ten percent (10%) or more of all inventory at any time; or
  - (e) Ten percent (10%) or more of the merchandise displayed for sale at any time; or
  - (f) Ten percent (10%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) at any time; or
- (ii) Five percent (5%) or more of the sales (including rentals) measured in dollars over any consecutive ninety (90) day period is derived from "sexually-oriented toys or novelties"; or
  - (iii) Five percent (5) or more of the number of sales transactions measured over any consecutive ninety (90) day period relate to "sexually-oriented toys or novelties"; or
  - (iv) Five percent (5%) or more of the dollar value of all merchandise displayed at any time is attributable to "sexually-oriented toys or novelties"; or
  - (v) Five percent (5%) or more of all inventory consists of "sexually-oriented toys or novelties" at any time; or
  - (vi) Five percent (5%) or more of merchandise displayed for sale consists of "sexually-oriented toys or novelties" at any time; or
  - (vii) Five percent (5%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to "sexually-oriented toys or novelties" at any time.
- (4) Businesses that provide entertainment:
- (i) *ADULT ENTERTAINMENT BUSINESS*: Any business to which the public, patrons or members are invited or admitted, and where providing "adult entertainment," as defined herein, as a regular and substantial portion of its business.

- (ii) The definition of "*adult entertainment business*" also includes, but is not limited to, any and all of the following specific adult entertainment businesses as defined herein:
- (a) *ADULT MOTION PICTURE THEATER*: An establishment with a screen or projection areas where a regular and substantial portion of its business is the exhibition to patrons of films, videotapes or motion pictures which are intended to provide sexual arousal or sexual excitement to the patrons and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
  - (b) *ADULT THEATER*: An establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities, or exhibition of specified anatomical areas of live performers, for observation by patrons.
  - (c) *ADULT ENTERTAINMENT CABARET*: An establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or patron.
  - (d) *ADULT ENTERTAINMENT STUDIO*: (Includes the terms "rap studio", "exotic dance studio", "sensitivity studio" or "encounter studio") an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

- (e) *ADULT ENCOUNTER PARLOR*: An establishment where a regular and substantial portion of its business is the provision of premises where patrons congregate, associate or consort with employees, performers and/or other patrons or private contractors who display specified anatomical areas in the presence of such patrons with the intent of providing sexual arousal or excitement to such patrons.
- (f) *BODY PAINTING STUDIO*: An establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject's body displays for the patron's view specified anatomical areas.

(5) Businesses that provide services:

- (i) *BATH HOUSE*: An enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
- (ii) *ADULT MOTEL*: An enterprise where a regular and substantial portion of its business is offering public accommodations, containing more than one hundred fifty (150) square feet of gross floor area, for the purpose of viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical area" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodical) for observation by patrons therein and which rents room accommodations for less than six (6) hours at a time.

B. *ADULT ENTERTAINMENT*: Any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment depicts, portrays, exhibits or displays specified anatomical areas or specified sexual activities.

- C. *ADULT MEDIA*: Books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMs or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".
- D. *ADULT VIDEO VIEWING BOOTH*: Any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by patrons therein. "Adult video viewing booths" are sometimes referred to as "peep shows", "adult video arcades", "panoramas" and "adult mini-motion picture theaters". An "adult video viewing booth" shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than one hundred fifty (150) square feet of gross floor area. Note: As of the date of the adoption of this definition, there are no known "adult video viewing booths" within the City, and the Unified Development Code (See Title IV of this Code) specifically does not list this as a permitted use in any existing zoning district.
- E. *CONTAGIOUS AND COMMUNICABLE DISEASES*: Those diseases which are set out in Missouri Code of State Regulations, Department of Health, 19 C.S.R. 20-20.020, as amended.
- F. *EMPLOYEE*: Any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of an adult business.
- G. *ENTERTAINER*: Any person who provides adult entertainment within an adult business, whether or not a fee is charged or accepted for entertainment.
- H. *MANAGER*: Any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.
- I. *MINOR*: Any person less than eighteen (18) years of age.
- J. *NUDE OR NUDITY*: The appearance of the human bare buttocks, anus, human genitals, the areola or the nipple of the female breast or a state of dress which fails to opaquely or fully cover the anus, human genitals or the areola or the nipple of the female breast.
- K. *OPERATE*: To own, conduct or maintain the affairs of any adult business.
- L. *OPERATOR*: Any person owning, operating, conducting or maintaining an adult business.
- M. *PATRON*: Any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or

any employee of the adult business for merchandise, entertainment or service, provided that the term patron shall not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business and who do not remain in the adult business after the purpose had been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.

N. *PERSON*: Any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group of persons, however organized.

O. *SERVER*: Any person who serves food and drink at an adult entertainment business.

P. *SEXUALLY-ORIENTED TOYS OR NOVELTIES*: Instruments, devices or paraphernalia which either depict "specified anatomical areas" or are designed or marketed for use in connection with "specified sexual activities". In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities", the following guidelines may be considered:

1. Expert testimony as to the principal use of the item;
2. Evidence concerning the total business of a person or business or a person or business establishment and the type of merchandise involved in the business;
3. National and local advertising concerning the use of the item;
4. Evidence of advertising concerning the nature of the business establishment;
5. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
6. The physical or structural characteristics of the item; or
7. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Any person may request an interpretive ruling from the Chief of Police or his/her designee as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with "specified sexual activities". An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the Board of Aldermen within fifteen (15) days following the date of the interpretive ruling by submitting a written notice of appeal to the City Clerk.

Q. *SPECIFIED ANATOMICAL AREAS*:



1. Uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or
  2. Human male genitals in a discernibly erect state, even if completely and opaquely covered.
- R. *SPECIFIED SEXUAL ACTIVITIES*: Any of the following acts of intended sexual arousal or excitement:
1. Sexual conduct including, but not limited to, actual or simulated acts of sexual intercourse, masturbation, oral copulation or sodomy;
  2. Fondling or other intentional touching of a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female;
  3. Sadomasochistic acts; or
  4. Acts involving animals or latent objects.

**SECTION 6.26: LICENSE REQUIRED FOR ADULT BUSINESS**

- A. It is unlawful for any person to operate or maintain an adult business in the City unless the owner of the adult business has obtained an adult business license from the City or to operate such business after such license has been revoked or suspended by the City.
- B. It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.
- C. The failure to post an adult business license in the manner required herein shall be prima facie evidence that an adult business has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee, manager or owner who performs any business, service or entertainment in an adult business in which an adult business license is not posted in the manner required herein had knowledge that such business is not licensed.
- D. Any business that engages in the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one (1) or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City Officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business" as defined herein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise

requested by the business, and shall not unreasonably interfere with the conduct of such business.

**SECTION 6.27: LICENSE REQUIRED FOR MANAGERS, SERVERS AND ENTERTAINERS**

It is unlawful for any person to work as an entertainer, server or manager at an adult business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult business after such person's license to do so had been revoked or suspended.

**SECTION 6.28: LICENSE, CLASSIFICATION AND FEES**

- A. The license year for all fees required herein shall be from each January first (1st) through December thirty-first (31st). The application for a license shall be accompanied by payment in full of the fee as provided in the City's Fee Schedule, and no application shall be considered complete until such fee is paid.
- B. All licenses shall be non-transferable to other persons but shall not be limited to a specific adult business that is properly licensed under this Chapter. All license fees shall be non-refundable.
- C. All adult business licenses shall be issued only for the one (1) adult business use listed on the application. Any change in the type of adult use shall invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

**SECTION 6.29: LICENSE APPLICATIONS**

- A. *Adult Business License.* All persons desiring to secure a license to operate an adult business as required herein shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:
  - 1. The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant.
  - 2. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.
  - 3. The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.

4. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership, and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders or members who own more than twenty-five percent (25%) interest in the corporation.
5. A statement from the applicant whether the applicant, or any corporate officer or director, or stockholder, partner or member who owns more than twenty-five percent (25%) interest in such entity, in previously operating in this or another City, County or State, has had an adult business license of any type revoked or suspended and, if so, the reason for the suspension or relocation and the business activity subjected to the suspension or revocation.
6. A statement from the applicant, all partners or each corporate officer and director that each such person has not been either: convicted of, or released from confinement for conviction of, or diverted from prosecution on:
  - (a) Any felony within the five (5) years immediately preceding the application, or
  - (b) A misdemeanor within the two (2) years immediately preceding the application, or
  - (c) A municipal or County Chapter violation within the two (2) years immediately preceding the application where such felony, misdemeanor, municipal or County Chapter violation involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Statutes or County or municipal Chapters.
7. On applications requesting a license to operate a bathhouse or body painting studio, the applicant shall submit to the City Clerk within forty-eight (48) hours of the time each employee begins employment a health certificate from a duly licensed Missouri physician stating that within ninety (90) days prior to the date of employment, such employee has been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement and shall also initially apply to the applicant.
8. If the applicant is a corporation or limited liability company, 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 in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter regulating adult businesses.

Failure to provide the information and documentation required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within ten (10) working days of the date the application is received by the City Clerk.

B. *Manager, Server Or Entertainer License.* All persons desiring to secure a license to be a manager, server or entertainer shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.
2. A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on any felony, whichever event is later, within five (5) years immediately preceding the application or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Statutes or municipal Chapters.

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

3. The applicant shall present to the City Clerk, who shall copy, documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
  - (a) A motor vehicle operator's license issued by any State bearing the applicant's photograph and date of birth;
  - (b) A State-issued identification card bearing the applicant's photograph and date of birth;
  - (c) An official and valid passport issued by the United States of America;
  - (d) An immigration card issued by the United States of America;
  - (e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or

- (f) Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within ten (10) working days of the date the application was received by the City Clerk.

- C. *Application Processing.* Upon receipt of an application for an adult business, manager, server or entertainer license, the City Clerk shall immediately transmit one (1) copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Mayor and Building Official. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license for which the application is made. The Chief of Police shall report the results of the investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. It shall be the duty of the Building Official to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, Building Code and Fire Code Chapters of the City. The Building Official shall report the results of his/her investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police and the Building Official, the City Clerk shall schedule the application for consideration by the Board of Aldermen at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult business, server, manager or entertainer license shall be approved or disapproved within forty-five (45) days from the date application is received by the City Clerk. The applicant shall be notified in writing of the date when the Board of Aldermen will consider the application and shall be afforded an opportunity to be heard at that meeting.

**SECTION 6.30: EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL**

- A. The Board of Aldermen shall examine an application for an adult business license or a manager, server or entertainer license within forty-five (45) days of the date such application was received by the City Clerk. After such examination, the Board of Aldermen shall approve the issuance of a license only if the appropriate license fee has been paid, the applicant is qualified, and all the applicable requirements set forth herein are met. No license shall be approved for any person ineligible pursuant to the provisions herein. All incomplete applications shall be denied.
- B. The record of the Board of Aldermen shall show the action taken on the application, and if the license is granted, the Board of Aldermen shall direct the City Clerk to issue the proper license. The adult business license and all manager, server and entertainer licenses shall state that it is not transferable to other persons or entities and the calendar year for which it is issued.

- C. If an application for a license is denied, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Jackson County Circuit Court in a manner provided by law.

**SECTION 6.31: LICENSE—INELIGIBILITY AND DISQUALIFICATION**

No person is eligible nor shall a license be issued to:

- A. An applicant for an adult business license if one or more of the following conditions exist:
  - 1. The premises for which an application for an adult business has been made is located within seven hundred fifty feet (750') of any school, church, or licensed child care center or child care center that has been inspected by the City or Fire District, or ii) five hundred feet (500') of any public building or park, or property zoned for residential purposes, which uses are located within the city limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of any school, church, licensed child care center or child care center that has been inspected by the City or Fire District, public park or property zoned for residential purposes located within the City;
    - (a) provided the phrase "property zoned for residential purposes" shall not include any property zoned for residential use for which a special use permit has been granted for an indefinite period of time which permit allows a non-residential use;
    - (b) provided further, the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way
    - (c) provided further, that the spacing restriction set forth above in subsection 1 may be waived by the Board of Aldermen after review and recommendation by the Planning Commission, if the applicant demonstrates by substantial and competent evidence and it is found that
      - (1) the proposed use will not be contrary to the public interest or contrary to nearby properties, and that the spirit and intent of this Chapter will be observed, and
      - (2) the proposed use will not enlarge or encourage the development of a "blighted area" as defined in Section 100.310 of the Revised Statutes of Missouri, as amended, and

- (3) the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program or urban renewal, and
  - (4) all applicable regulations of this Chapter will be observed.
- 2. The premises for which an application for an adult business has been made is located within seven hundred fifty feet (750') of any other adult business for which there is a license issued by the City regardless of whether such businesses are located on the same property or separate properties. Measurements shall be made in a straight line, without regard to intervening structures or objects from the premises from which an adult business would be operated to the nearest point on the property line of such other adult business located within the city;
  - (a) provided the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way, and
  - (b) provided further, that the seven hundred fifty feet (750') restriction between such regulated uses may be waived by the Board of Aldermen after review and recommendation by the Planning Commission, if the applicant demonstrates by substantial and competent evidence and it is found that
    - (1) the proposed use will not be contrary to the public interest or contrary to nearby properties, and that the spirit and intent of this Chapter will be observed, and
    - (2) the proposed use will not enlarge or encourage the development of a "blighted area" as defined in Section 100.310 of the Revised Statutes of Missouri, as amended, and
    - (3) the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program or urban renewal, and
    - (4) all applicable regulations of this Chapter will be observed.
- 3. The applicant knowingly failed to supply all of the information requested on the application;
- 4. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
- 5. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance Chapters of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Board of Aldermen;

6. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein;
  7. The applicant has had an adult business license or comparable license revoked or suspended in this or any other city during the past five (5) years; or
  8. If the applicant is applying for a license to operate a bath house or body painting studio and applicant has not produced a health certificate as required herein for all persons working on the premises.
- B. An applicant for a manager, server or entertainer license if one or more of the following conditions exist:
1. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein;
  2. The applicant knowingly failed to provide all of the information required on the application;
  3. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
  4. The applicant has had a manager, server or entertainer license revoked or suspended in this or any other city during the past five (5) years; or
  5. The applicant is applying for a license for a manager, server or entertainer in a bath house or body painting studio and has not produced a health certificate as required herein.

### **SECTION 6.32: STANDARDS OF CONDUCT**

The following standards of conduct shall be adhered to by all adult businesses, their employees and all managers, servers and entertainers and patrons of adult businesses while on or about the premises of the business:

- A. *Identification cards.* All or any manager, server or entertainer issued a license by the Chief of Police under the provisions contained herein shall, at all times when working in an adult business, have in their possession a valid identification card issued by the City bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.
- B. *Age restriction.* Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult business.
- C. *Exterior observation.* The premises of all adult businesses will be so constructed as to insure that the interior of the premises is not observable from the exterior of the building.



In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

- D. *Exterior display.* No adult business will be conducted 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.
- E. *Nudity prohibited.* No manager, employee, server, entertainer or patron in an adult business other than a licensed bathhouse shall be nude or clothed in less than opaque attire.
- F. *Certain acts prohibited.*
  - 1. No manager, employee, server, entertainer or patron shall 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 or participate in any act of prostitution as prohibited by State law or municipal Chapter while on the premises of an adult business.
  - 2. All dancing or other live entertainment on the licensed premises that is intended to provide sexual stimulation or to appeal to, arouse or excite the sexual desire or interests of the patrons shall occur and be performed solely on a platform or stage which is raised at least two (2) feet above the primary level of the customer floor area. In order to insure the performance area of the stage or performance platform is not within the reach of patrons and to further insure patrons are unable to touch the performers during their performances, the licensee, owner, operator or manager shall either erect a physical barrier between the performers and the patrons that effectively eliminates the touching of the performers by the patrons or they shall paint a clearly discernible boundary line on the stage surface beyond which the performers shall not perform and which is sufficiently distant from the forward edge of the stage to insure the patrons cannot touch the performers. Further, it shall be unlawful for any patron to be upon any portion of the stage during a performance or for an owner, operator or manager to permit a patron to be upon any portion of the stage during the performance.
  - 3. No employee, server, entertainer or patron of an adult business while on the premises of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

4. No entertainer shall solicit, demand or receive any payment or gratuity from any patron for any act prohibited herein and while on the premises of an adult business and no entertainer shall receive any payment or gratuity from any patron for any entertainment except as follows:
  - (a) While such entertainer is on the stage, a patron may place such payment or gratuity into a container affixed to the stage; or
  - (b) While such entertainer is not on the stage but while on the premises of an adult business and is clothed so as to not expose to view any specified anatomical area, a patron may either place such payment or gratuity into the entertainer's hand or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.
5. No owner, operator, manager or other person in charge of the premises of an adult business shall:
  - (a) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current drinking establishment for cereal malt beverage license;
  - (b) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
  - (c) Knowingly allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult entertainment business;
  - (d) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises as prohibited by State law or municipal Chapter; or
  - (e) Knowingly allow or permit a violation of this Chapter or any other City Chapter provision or State law.

G. *Signs required.*

1. All adult businesses shall conspicuously display on the principal entrance to the premises a sign, visible from the exterior of the premises, on 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 BUSINESS IS AN ADULT BUSINESS.  
ONLY PERSONS EIGHTEEN (18) YEARS OF AGE OR OLDER  
SHALL BE PERMITTED ON THE PREMISES.
2. All adult entertainment businesses that provide live entertainment shall conspicuously display in the common area at the principal entrance to the

premises a sign, on 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 BUSINESS IS REGULATED  
AND LICENSED BY THE CITY OF LONE JACK

ENTERTAINERS ARE:

- (a) Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- (b) Not permitted to be nude.
- (c) Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
  - (1) While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage; or
  - (2) While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand or under the entertainer's leg garter.

CUSTOMERS ARE:

- (a) Not permitted to be upon the stage at any time.
  - (b) Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server, entertainer or patron or engage in solicitation for prostitution.
- H. *Lighting required.* The premises of all adult businesses shall be equipped with overhead lighting of every place to which customers are permitted access, at an illumination of not less than one (1) foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.
- I. *Closed booths or rooms prohibited.* The premises of all adult businesses shall be physically arranged in such manner that the entire interior portion 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. "Adult video viewing booths" are prohibited whether or not the booth is visible from a common area of the premises.
- J. *Ventilation and sanitation requirements.* The premises of all adult businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing

rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

K. *Hours of operation.* No adult business may be open or in use:

1. Between the hours of 12:00 A.M. and 8:00 A.M. Monday through Saturday; nor
2. Between the hours of 12:00 A.M. Sunday and 8:00 A.M. Monday; nor
3. Between the hours of 12:00 A.M. and 11:59 P.M. on public holidays, as defined in Section 9.010, RSMo.

L. *Facilities necessary.* No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by an appropriate City Official reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
2. Toilet facilities shall be provided in convenient locations. Toilets shall be designated as to the sex accommodated therein.
3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

An appropriate City Official shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk. Provided however, that nothing contained herein shall be construed to eliminate other requirements of Statute or Chapter concerning the maintenance of premises nor to preclude authorized inspection thereof. The appropriate City Official may recommend the issuance of a license contingent upon the compliance with any requirements in this Section.

**SECTION 6.33: LICENSE—POSTING OR DISPLAY**

A. Every person licensed as an adult business shall post such license in a conspicuous place and manner on the adult business premises.

- B. Every person holding a server, manager or entertainer license shall post his/her license in his/her work area on the adult business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this Chapter.

**SECTION 6.34: MANAGER ON PREMISES**

- A. A manager shall be on duty at all adult businesses at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.
- B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid entertainer's or server's license and that such licenses are prominently posted. It shall also be the responsibility of the manager to insure minors do not enter upon the premises of an adult entertainment business.

**SECTION 6.35: INSPECTORS AND INSPECTIONS**

All adult businesses shall permit representatives of the Police Department or any other City Official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

**SECTION 6.36: SUSPENSION, REVOCATION OR NON-RENEWAL—LICENSE**

Whenever the City Clerk has information that:

- A. The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Chapter; or
- B. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or
- C. The adult business licensee or the manager, server or entertainer license was knowingly obtained through false statements in the application for such license or renewal thereof; or
- D. The adult business licensee or the manager, server or entertainer licensee knowingly failed to make a complete disclosure of all information in the application for such license or renewal thereof; or
- E. The owner or operator, or any partner, or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided herein; or
- F. If the owner or operator of an adult business or the holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as

provided herein, then the City Clerk shall make this information known to the Board of Aldermen which shall conduct a public hearing in accordance with the Notice and Hearing Procedure set forth in Section 6.37 to determine whether the license should be suspended or revoked. Based on the evidence produced at the hearing, the Board of Aldermen may take any of the following actions:

1. Suspend the license for up to ninety (90) days;
2. Revoke the license for the remainder of the license year; or
3. Place the license holder on administrative probation for a period of up to one (1) year on the condition that no further violations of the Chapter occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

**SECTION 6.37: NOTICE AND HEARING PROCEDURE**

- A. In any instance, in this Chapter wherein a hearing is required, the Board of Aldermen shall, after no less than ten (10) days' written notice to the applicant or licensee, hold such hearing to ascertain all facts in the matter.
- B. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last-known address. In the event that the Board of Aldermen is unable to serve the adult entertainment business licensee in person, and any notice sent by mail is returned by the postal service, the Board of Aldermen shall cause such notice to be posted at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.
- C. At such hearing, an applicant or licensee shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross-examine all witnesses who appear against him/her. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The Board of Aldermen may receive evidence relevant to the issues from the applicant or licensee. Witnesses may be subpoenaed and, upon request of any party, the Board of Aldermen shall issue subpoenas, and in a proper case subpoenas duces tecum, which shall be served and returned as in civil actions in Circuit Court.
- D. The Board of Aldermen shall issue findings of fact and conclusions of law and an order wherein it dismisses the complaint or suspends or revokes the license previously issued. The Board of Aldermen's order shall be served upon the applicant or licensee in person or by registered or certified mail to the applicant's or licensee's last-known address. In the event that the Board of Aldermen is not able to serve such order upon the licensee or applicant for renewal license in the manner stated above, such order may be served by posting such order at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.

**SECTION 6.38: RENEWAL**

- A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December thirty-first (31st) of each calendar year, and renewal applications for such licenses shall be submitted between December sixteenth (16th) and December thirty-first (31st).
- B. Upon timely application and review as provided for a new license, a license issued under the provisions of this Chapter shall be renewed by issuance of a new license in the manner provided herein.
- C. If the application for renewal of a license is not made during the time provided herein, the expiration of such license shall not be affected, and a new application shall be required.

**SECTION 6.39: JUDICIAL REVIEW—STAY OF ENFORCEMENT OR ORDERS**

Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this Chapter or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed forty-five (45) days pending the filing and/or final disposition of proceedings for judicial review.

**SECTION 6.40: PENALTY**

It shall be unlawful for any person to violate any of the provisions of this Chapter. Upon conviction thereof, such person shall be fined not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) or be punished by incarceration for up to six (6) months, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Chapter shall constitute a separate and distinct offense.

**SECTION 6.41: REGULATIONS**

The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this Chapter.

**SECTION 6.42: RESERVED.**

**SECTION 6.43: RESERVED.**

**SECTION 6.44: RESERVED.**

**SECTION 6.45: RESERVED.**

**SECTION 6.46: RESERVED.**

**CHAPTER 603: BUSINESS LICENSE REGULATIONS**

**SECTION 6.47: DEFINITIONS.**

For the purposes of this Chapter:

*APPLICANT* means a duly authorized officer or person of a business applying for an occupation license, either new or renewal.

*BUSINESS* means all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City, or anywhere else within its jurisdiction, unless specified as a non-business through State exemption.

*CITY* means the City of Lone Jack, Missouri

*CITY LICENSE OFFICER or LICENSE OFFICER* means the City Clerk.

*LANDLORD* means any person firm, corporation, company or partnership who rents or leases dwelling units owned by such person, firm, corporation, company or partnership.

*LICENSE OR LICENSEE* means specifically, a certificate holder of an occupation license or permit, or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Chapter or other law or Chapter.

*LICENSE YEAR* is the twelve month period beginning the first day of the month in which a license is issued for or renewed.

*MAINTAINING A BUSINESS OFFICE* means conducting the activities of one's occupation at a given place, phone or address within the physical boundaries of the City of Lone Jack.

*OCCUPATION LICENSE* means the license that every person must obtain from the License Officer before engaging in or continuing to engage in any business, non-exempted profession or occupation in the City.



*PERSON* means person, partnership, society, association, club, trustee, trust or corporation; or any officer, agent, employee, factor or any kind of personal representative under either personal appointment or pursuant to law.

*PREMISES* means to include all lands, structures, places and also any equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

**SECTION 6.48: LICENSE OFFICER - APPOINTMENT, POWER AND DUTIES.**

- A. The License Officer shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Chapter. The License Officer shall also:
1. Adopt all forms and prescribe the information to be given therein, requiring primary identification of all new applicants for a license.
  2. Require applicants to submit all affidavits and oaths necessary to the administration of this Chapter.
  3. Issue all licenses subject to licensee's compliance with all zoning and City Code requirements of the City of Lone Jack.
  4. Investigate and determine the eligibility of any applicant for a license as prescribed herein.
  5. Examine the books and records of any applicant or licensee when necessary to the administration and enforcement of this Chapter.
  6. Notify any applicant of the acceptance or rejection of the application and shall, upon the License Officer's refusal of any license or permit, at the applicant's request state in writing the reasons therefore and deliver it to the applicant.
  7. Keep a complete record of all licenses issued, showing the nature of the licenses, dates of issuance and expiration, and to whom issued.
  8. Take such actions as required to enforce the provisions of this Chapter.
  9. Have the discretion to resolve minor discrepancies in payments.
  10. Deliver to all established businesses of record an application, with letter of explanation, on or before April 15<sup>th</sup> of each year. (Ordinance No. 308, § 1; 2-20-07).

**SECTION 6.49: OCCUPATION LICENSE REQUIRED**

- A. Every person, whether or not located in the City, except those covered under Section 71.620 RSMo, desiring to engage in any business, profession or occupation in the City shall be required to obtain an occupation license before engaging in such activity as specified in this Chapter. Occupation licenses are not transferable.
- B. Any person shall be deemed to be in business or engaging in non-profit enterprise and thus subject to the requirements of this Chapter when any selling, manufacturing, soliciting, transfer, bartering or offering of any goods, wares, real, intangible and tangible personal property or services takes place. One act thereof shall constitute doing business.
- C. Every agent, sub-contractor, or representative of any person desiring to engage in or to continue to engage in any business, profession or occupation shall be responsible for the compliance of such person in acquiring an occupation license as required by this Chapter.
- D. No license shall be required of any person for any delivery in the City of any property purchased or acquired in good faith from any person at any regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this Chapter.

**SECTION 6.50: SEPARATE LICENSE REQUIRED FOR EACH PLACE OF BUSINESS.**

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any occupation, calling, trade or enterprise for which a license is required by this Chapter.

**SECTION 6.51: MORE THAN ONE OCCUPATION AT THE SAME ADDRESS**

Whenever any applicant for a license is engaged in more than one occupation at the same address, such applicant shall obtain an occupation license for each business as provided for elsewhere in this Chapter.

**SECTION 6.52: MISSOURI RETAIL SALES LICENSE REQUIRED PRIOR TO ISSUANCE OF LICENSE**

- A. Every applicant for an occupation license relating to a business which involves the retail sale of goods shall exhibit a valid and current Retail Sales License issued by the State of Missouri. The License Officer may accept, at her discretion and in lieu of the presentment of said Missouri Retail Sales License, the number of said license to the City.
- B. The revocation of such Retail Sales License by the Director of Revenue of the State of Missouri shall render the occupation license issued hereunder null and void provided, however, that the Director of Revenue of the State of Missouri or any duly authorized representative must inform the License Officer in writing of such revocation of a Retailers License before such City license shall be revoked.

- C. The License Officer may upon presentment of proof of issuance or reissuance of a Missouri Retail Sales License reinstate the City occupation license that any business may have had in effect at the time of revocation under the provisions of Subsection "B" above, upon the payment of a reinstatement fee of Five Dollars (\$5.00).

**SECTION 6.53: PROCEDURE FOR APPLICATION, ISSUANCE AND RENEWAL OF LICENSE.**

- A. Every person required to obtain a license under the provisions of this Chapter shall submit an application for issuance or renewal of such license to the License Officer. The application shall include the following:
  - 1. Written statements upon forms provided by the License Officer as necessary to determine:
    - (a) Any conviction of, or plea of guilty to, a felony or previous record of suspension or revocation of an occupation license in any jurisdiction.
    - (b) That an applicant has sworn to the truthfulness and accuracy of the information provided on all forms and will abide by the provisions of this Chapter. The applicant must provide positive identification as the person applying for such license.
    - (c) Any other information deemed as fair and necessary by the License Officer for the efficient administration of this Chapter.
    - (d) The full amount of the fees chargeable for such license.
    - (e) Proof of Liability insurance or certificate of self-insurance and proof of worker compensation issuance from contractors.
- B. At the time the application is submitted, the License Officer shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the License Officer for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Chapter.
- C. The applicant shall submit application for renewal of the license annually at the time specified in this Chapter. Such application for renewal shall include a written statement upon forms provided that the information submitted on the application form is true and correct.
- D. When the License Officer upon considering and applying the general standards set out in this Chapter determines that an applicant for a license, or for a renewal of a license, is not qualified under such provisions, the application shall be denied.

**SECTION 6.54: GENERAL DUTIES OF THE POLICE.**

The Chief of Police and the Police Department shall cooperate with the City License Officer and other City officials for the strict enforcement of this Chapter and all license Chapters.

**SECTION 6.55: LICENSE YEAR, WHEN FEES ARE PAID, EXPIRATION.**

- A. A license issued pursuant to this Chapter shall be effective for a period of one (1) year from the first day of May to the last day of April of each year. All renewals of licenses shall be made on the first day of May of each year. Such renewal applications shall be processed the same as an original application. Fees shall be payable upon filing of a new application and upon renewal annually as further set out in this Section.
- B. License fees for renewals shall be due and payable on or before the first business day of May of each license year. (Ordinance No. 308, § 2; 2-20-07).
- C. All licenses, except as otherwise specifically provided for in this Chapter, shall expire if the renewal fee is not paid in full within the period provided for in Paragraph "B" above. A license which is not paid in full by such date is delinquent and such business or occupation will be deemed unlicensed and fall under the strict enforcement of this Chapter.

**SECTION 6.56: PRO-RATING LICENSE FEES.**

Occupation license fees shall not be pro-rated but shall be charged on a license year basis.

**SECTION 6.57: LICENSE FEES - DELINQUENT AND UNPAID, LIABILITY OF VIOLATOR.**

- A. All license fees required to be paid pursuant to the provisions of this Chapter shall be deemed delinquent if not paid on the date such payment is due. All persons delinquent in the payment of such fees, in addition to the fees found to be due, shall be required to pay the license fee, plus an additional ten percent (10%) penalty of the license fee for the first month or fraction thereof past due and an additional two percent (2%) of the license fee due for each additional month such delinquency shall thereafter continue. The penalty provided for in this section shall be in addition to any other penalty prescribed by Chapter.
- B. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due to the City.
- C. The City Attorney may, at the suggestion of the License Officer, institute a civil suit in the name of the City to recover any unpaid fee or enforce this Chapter as a result of any unpaid fee.
- D. No civil judgment or any act by the City Attorney, the License Officer or the violator shall bar or prevent prosecution in the City's Municipal Court for each and every violation of this Chapter.

- E. Any person engaging in any business, profession, or occupation as herein specified without first having paid the license fee required herein and having secured a license for the conduct of such business, profession, or occupation shall upon conviction thereof be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense.

**SECTION 6.58: CAUSE FOR SUSPENSION, DENIAL OR REVOCATION OF LICENSE.**

- A. A license issued under the provisions of this Chapter may be revoked, suspended or denied by the License Officer after notice and hearing for any of the following causes:
1. Any fraud, misrepresentation or false statement contained in the application for license.
  2. Any violation of the terms or provisions of this Chapter.
  3. Conduct of the business licensed under the provisions of this Chapter in an unlawful manner or in such manner as to constitute a breach of the peace or detrimental to the public health, safety or welfare, except that a landlord who rents or leases more than one dwelling unit shall not be subject to revocation of the landlord's occupation when only a portion of the landlord's dwelling units are determined to be in noncompliance with the City's codes.
  4. Failure or refusal to comply with the requirements of a provisional order or any other order issued by the License Officer.
  5. Failure to obtain a Missouri Retail Sales License.
  6. Failure to pay City taxes or user fees.
- B. Notice of hearing for the suspension, denial or revocation of a license shall be given in writing setting forth specific reasons for the suspension, denial or revocation of the license and the time and place of the hearing. Such notice shall be mailed to the licensee at the last known address, at least five days prior to the date set for the hearing. In the alternative, such notice of hearing may be delivered to the licensee by personal service. (Ordinance No. 308, § 3; 2-20-07).
- C. Upon revocation, denial or suspension no refund of any portion of the license fee shall be made to the licensee, and the licensee shall immediately cease all business operations at each place found to be in violation of the provisions of this Chapter or any other law or Chapter. (Ordinance No. 308, § 4; 2-20-07).
- D. As stated in Section 314.200, RSMo, the City shall not deny a license to an applicant primarily upon the basis that a felony or misdemeanor conviction of the applicant precludes the applicant from demonstrating good moral character, where the conviction resulted in the applicant's incarceration and the applicant has been released by pardon, parole or otherwise from such incarceration, or resulted in the applicant being placed on

probation and there is no evidence the applicant has violated the conditions of that probation. The City may consider the conviction as some evidence of an absence of good moral character, but shall also consider the nature of the crime committed in relation to the license which the applicant seeks, the date of the conviction, the conduct of the applicant since the date of the conviction and other evidence as to the applicant's character.

- E. Any person violating any order of the License Officer dealing with the suspension, denial or revocation of any license made pursuant to this Section continuing to engage in any business, profession or occupation during the term of such suspension or revocation shall upon conviction thereof be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense. (Ordinance No. 308, § 5; 2-20-07).

**SECTION 6.59: APPEAL - PROCEDURE.**

Any person aggrieved by the decision of the License Officer in regard to the denial of an application for or revocation of a license as provided in this Chapter or with the renewal of a license as provided in this Chapter, shall have the right to appeal to the Board of Aldermen. Such appeal shall be taken by filing a written statement setting forth the grounds for the appeal with the City Clerk for transmittal to the Board of Aldermen within thirty days after notice of the decision by the License Officer has been mailed to such person's last known address. The Board of Aldermen shall set the time and place for the hearing of such appeal. A notice of such hearing shall be mailed to the appellant at the last known address at least five days prior to the date set forth for the hearing. (Ordinance No. 308, § 6; 2-20-07).

**SECTION 6.60: DUPLICATE LICENSE, CHANGE IN LOCATION.**

- A. Whenever a license is lost or destroyed, a duplicate license shall be issued by the License Officer upon payment of a replacement fee as provided in the City's Fee Schedule.
- B. Any licensee shall have the right to change the location of a licensed business provided that:
  - 1. The licensee submits an application on forms provided by the License Officer for such change in location of the licensed business prior to making such change in location.
  - 2. The proposed location meets the requirements of all Health, Zoning, Fire, Building and other Chapters of the City of Lone Jack.
  - 3. The licensee pays a transfer fee as provided in the City's Fee Schedule.

**SECTION 6.61: LICENSE FEE.**

- A. Every person conducting any business, industry or enterprise or engaged in any occupation shall procure a license from the License Officer and shall pay a fee as provided in the City's Fee Schedule, except for such occupations that are exempt from

the provisions of this Chapter. However, the enumeration of any business, occupation or profession in this Chapter does not authorize the conduct of such business, occupation or profession that is prohibited by any Federal or State law or statute, or any City Chapter.

- B. Individuals serving as their own general contractor to build a dwelling for their own personal use shall not be required to pay the license fee contained in this section.

**SECTION 6.62: DUTIES OF THE LICENSEE.**

- A. Every person licensed under the provisions of this Chapter shall:
  1. Permit any reasonable inspection of the licensed business.
  2. Comply with all City Zoning Chapters and other such Chapters pertaining to that classification of business and comply with said Chapters before operation of business may begin.
  3. Avoid all unlawful practices or conditions that do or may affect the public health, safety or welfare.
  4. Cease operation of the business on the premises after expiration of the license and/or during any period the license is revoked or suspended.
  5. Post and maintain the occupation license upon the licensed premises in a place where it may be seen at all times.
  6. Carry such license, or copy thereof, on licensee's person when such licensee has no licensed business premises.
  7. Post at the premises where located any license permit issued for use in connection with any coin, vending or other business machine or device so that it may be seen at all times along with a copy of the valid City of Lone Jack Occupation License for the owner of the machine(s).
  8. Not allow any license or permit to remain posted or displayed or used after the period for which it was issued has expired, been suspended or revoked or for any other reason become ineffective.
  9. Not loan, sell, give or assign to any other person, or allow any other person to use, display, destroy, damage, remove or to have in possession any license or permit which has been issued to such licensee.
  10. Keep all records and books necessary to the computation of the renewal license fee and to the enforcement of the provisions of this Chapter.

**SECTION 6.63: EXEMPTED OCCUPATIONS.**

- A. In accordance with Section 71.620.1, RSMo, as amended, the following professional occupations are exempt from the licensing and fee provisions of this Chapter:
1. Minister of the gospel
  2. Duly accredited Christian Scientist practitioner
  3. Teacher
  4. Professor in a college
  5. Priest
  6. Lawyer
  7. Certified Public Accountant
  8. Dentist
  9. Chiropractor
  10. Optometrist
  11. Chiropodist
  12. Physician or Surgeon
- B. In accordance with Section 71.630, RSMo, as amended, farmers and their employees and all other producers and their employees are exempt from the licensing and fee provisions of this Chapter when selling agricultural products and produce from a wagon, cart or vehicle that such farmers and producers have themselves raised or produced.
- C. In accordance with Section 71.620.2, RSMo, as amended, the following professional occupations are exempt from the licensing and fee provisions of this Chapter unless that person maintains a business office within the City of Lone Jack:
1. Architect
  2. Professional Engineer
  3. Land Surveyor
  4. Auctioneer
  5. Real Estate Broker or Real Estate Salesperson
  6. Insurance Agent or Broker



- D. In accordance with Section 148.620, RSMo, as amended, credit unions and associations, including savings and loan associations, are exempt from the licensing and fee provisions of this Chapter.
- E. In accordance with Section 340.214, RSMo, , as amended, veterinarians (for veterinary services only), are exempt from the licensing and fee provisions of this Chapter.
- F. In accordance with Section 345.051, RSMo, as amended, clinical audiologist and speech-language pathologist, are exempt from the licensing and fee provisions of this Chapter.

**SECTION 6.64: ENFORCEMENT OF THIS CHAPTER - PENALTY.**

- A. It shall be unlawful for any person to engage in any business without first obtaining a license to do so as required by this Chapter.
- B. The following procedure shall apply for the enforcement of this Chapter with regard to inspections and violations:
  - 1. The following persons shall be authorized to conduct inspections in the manner prescribed herein:
    - (a) The License Officer making the investigations necessary to the enforcement of this Chapter.
    - (b) City officials having duties to perform with reference to inspection of licensees or businesses.
  - 2. All persons authorized herein to inspect licensees and businesses shall have the authority to enter at all reasonable times, the following premises:
    - (a) Those for which a license is required
    - (b) Those for which a license was issued and which, at the time of inspection, are operating under such license
    - (c) Those for which the license has been revoked or suspended.
  - 3. Persons inspecting licensees, their businesses or premises as herein authorized shall report any suspected violations of this Chapter or any other laws or Chapters to the License Officer and shall submit such other reports as the License Officer shall require.
  - 4. When an inspector has reported the violation of any provisions of this Chapter the License Officer shall issue to the affected person an order to correct such violation.
  - 5. The order and all other notices issued in compliance with this Chapter shall be in writing, personally served or left with the affected person's agent or employee.

The notice shall apprise the person affected of the specific violations. In the absence of such person affected or the agent or employee, a copy of such notice shall be affixed to some structure on the premises. Mailing such notice to the last known address of the person affected shall constitute service thereof.

6. The order shall require compliance within five days of personal service on the affected person and within ten days of affixing such notice to the licensee's premises or depositing such notice in the United States mail.
7. Upon written appeal of the order by the person affected, and before the expiration of the period for compliance, the License Officer shall order a hearing. Notice of such hearing shall be given to the affected person in the manner prescribed in of this Chapter.
8. Upon written application the License Officer shall have the authority to extend the time for compliance, to grant a new hearing date, and to change, modify or rescind any recommendation or order.
9. Upon the failure or refusal of the violator to comply with the order or with any order made after hearing, the License Officer may then suspend or revoke any license issued to such violator under the provisions of this Chapter. (Ordinance No. 308, § 7; 2-20-07).

**SECTION 6.65: RESERVED.**

**SECTION 6.66: RESERVED.**

**SECTION 6.67: RESERVED.**

**SECTION 6.68: RESERVED.**

**SECTION 6.69: RESERVED.**

**SECTION 6.70: RESERVED.**

## **CHAPTER 604: FIREWORKS**

**SECTION 6.71: FIREWORKS**

- A. *Definitions.* The following terms shall have, for the purpose of this Chapter, the following definitions:
  1. "*Indoor sales*" means sales conducted inside permanent structures.
  2. "*Permanent structure*" means a non-movable building, securely attached to a foundation, housing a business licensed to sell merchandise generally, in addition to the sale of fireworks.

3. "*Person*" means any individual, company, partnership, corporation or other business entity.
  4. "*Temporary stand*" means a nonpermanent structure used for the sale of fireworks.
  5. "*Consumer Fireworks*" means explosive devices designed primarily to produce visible or audible effects by combustion. This term includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as Class C common fireworks by regulation of the United States Department of Transportation.
  6. "Fireworks season" means the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, provided however, that any sales by persons holding a state issued jobbers permit during any period of time other than the fireworks season as defined herein shall be to nonresidents of Missouri, or to residents of Missouri only after a reasonable inquiry and a waiver signed by the buyer on a form provided by the State Fire Marshal indicating that the fireworks are for use outside of Missouri if the sale is a retail transaction, all in accordance with 11 C.S.R. 40-3.010.4.E.
- B. *Dates when sale and use are permitted.* No consumer fireworks may be sold except during fireworks season.
- C. *Sales–License required.* Only consumer fireworks may be sold or offered for sale within the City. However, no person shall offer for sale or sell at retail any consumer fireworks without first having applied for and received a license to do so for each location at which the consumer fireworks are sold or offered for sale. Each license shall expire on December 31. No license shall be issued for any location where paints, oils or varnishes are manufactured or kept for use or sale nor where rosin, turpentine, gasoline or other similar inflammable substances or any substance which may generate inflammable vapors is used, stored or offered for sale or where it is determined that any condition exists that makes the storage or sale of consumer fireworks at such location unusually hazardous. No license shall be issued for any location in which retail fireworks sales is not a permitted use under the City's UDO or relevant Planned Development District.
- D. *License–Application–Bond.* Applications for a license to sell consumer fireworks shall:
1. Be made in writing to the Mayor, accompanied by the license fee; and
  2. Include a Certificate of Insurance showing that the licensee has, during the period of sale, commercial general liability insurance in amounts equal to the sovereign immunity limits for public entities as calculated by Missouri Department of Insurance and published annually in the Missouri Register as required by Section 537.610, RSMo. (In 2007, for all claims arising out of a single accident or

occurrence, the limit is \$2,369,306; and for any one person in a single accident or occurrence, the limit is \$355,396), and which names the City as an additional insured.

- E. *License–Fees.* The annual fee for a license to sell fireworks shall be as provided in the City’s Fee Schedule.
- F. *Sales–Rules and regulations.* The following shall be general requirements that must be followed by all persons selling consumer fireworks within the City:
1. All weeds and combustible materials shall be cleared from any sales location, including a distance of at least twenty-five feet surrounding the sales location; and
  2. There shall be at least one supervisor, no younger than twenty-one years of age, on duty at all times when the sale of fireworks is in progress. Such supervisor shall remain near the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or unless the merchandise is removed; and
  3. The license authorizing the sale of fireworks shall be available for inspection; and
  4. Fireworks shall not be sold to any child under the age of sixteen years, unless such child is accompanied by a parent or guardian; and
  5. The storage of fireworks for sale shall not be located in residential areas; and
  6. Smoking shall not be permitted within 100 feet of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 100 Feet" (or similar wording) signs shall be conspicuously posted at all sales and storage locations in letters at least four inches tall; and
  7. All retail sales locations shall be equipped with at least two 10 lb. ABC dry chemical fire extinguishers; and
  8. No consumer fireworks shall be sold or offered for sale within 100 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or other volatile liquids are sold in quantities in excess of one (1) gallon. No consumer fireworks shall be sold or offered for sale within six hundred (600) feet of any church, school building or day-care or any location for which a license pursuant to this Chapter has been issued, provided however that this six hundred foot (600’) spacing requirement may be waived in the sole discretion of the Board of Aldermen. No consumer fireworks shall be sold to any intoxicated person.
- G. *Indoor sales restrictions.* The following requirements shall be specifically applied to any indoor sales locations:

1. Indoor sale locations shall comply with the provisions of the City's building and fire codes and UDO and relevant Planned Development District terms.
  2. Fireworks shall be stored handled, displayed and sold only as units in their original packaging.
  3. No fireworks sales from an indoor location shall be located in a residential zone. Furthermore, a fireworks indoor sale location shall be no closer than two thousand five hundred (2,500) feet from any other fireworks indoor sale location.
  4. No person shall sleep in an indoor sale location.
  5. In the event that that the indoor sale location is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.
- H. *Discharge restrictions.* It is unlawful for any person to throw, use, explode, detonate or shoot within the City limits bottle rockets (of all types and sizes) and any and all fireworks with an aerial trajectory having a cylinder or cartridge holding a propellant charge, which cylinder or cartridge is not intended to be completely consumed before landing.
- I. *Permit for Public Display of Fireworks.*
1. No person shall use any fireworks as part of or in a public display of fireworks without first having obtained a Public Fireworks Display permit. ("Public display of fireworks" means an entertainment feature where the public is admitted or encouraged to view the display of fireworks.) The Mayor may issue a Public Fireworks Display permit for the purpose of organized public fireworks displays. The permit may allow the public display of fireworks other than consumer fireworks. Application shall be made on a form provided by the City entitled "Public Fireworks Display Permit Application" and shall include necessary documentation to comply with these regulations. Applications must be received at least twenty-one (21) days in advance of the requested display date to allow adequate time for application processing, and a courtesy copy shall be provided to the Lone Jack Fire Protection District on the same day that submittal is made to the City. Notwithstanding any provision to the contrary, the Mayor may revoke or deny a Public Fireworks Display permit based on unfavorable weather conditions in order to protect the public's health, safety and welfare.
  2. A Public Fireworks Display permit shall be issued by the Mayor, upon recommendation from the Lone Jack Fire Protection District and Director of Public Works, upon the satisfaction of the following:
    - (a) The public display will be conducted as part of a holiday celebration, special event or activity, ceremony, or other occasion of similar nature; and

- (b) The person conducting the public display has demonstrated knowledge and experience in the safe and proper storage and handling of fireworks and related devices.
  - (c) A Certificate of Insurance showing that the licensee has, during the period of the public display, commercial general liability insurance in amounts equal to the sovereign immunity limits for public entities as calculated by Missouri Department of Insurance and published annually in the Missouri Register as required by Section 537.610, RSMo. (In 2007, for all claims arising out of a single accident or occurrence, the limit is \$2,369,306; and for any one person in a single accident or occurrence, the limit is \$355,396), and which names the City as an additional insured.
  - (d) A Public Fireworks Display plan detailing the individual who has responsibility for the pyrotechnic safety and who controls, initiates, or otherwise creates the Public Display, a plot plan of the property showing the location of the pyrotechnic set-up, the start time and estimated duration of the Public Display, a description of the fireworks to be used; the area where the fireworks display is to be conducted shall be submitted with the application. The site plan shall furthermore set forth the distance separating the mortars used to launch the fireworks and the structures and also set forth the distance separating the mortar and the spectators viewing the display; the names, ages and addresses of the persons who will be shooting off the fireworks.
  - (e) The licensee shall detail its cleanup plan for after the display has ended.
3. Any public display conducted pursuant to a Public Fireworks Display permit shall be in accordance with the following:
- (a) Fireworks that fire a projectile into the air shall be directed in such a manner that the projectile does not fire over or above any building structure or any persons viewing the display; and
  - (b) The persons firing the fireworks shall be at least 18 years of age and there shall be at least 2 persons supervising the actual firing at all times during the display; and
  - (c) At least 2 10 lb. ABC dry chemical and 1 APW fire extinguishers shall be present at the site of the firing of the fireworks; and
  - (d) The licensee shall be responsible for all fireworks being fired. All unfired fireworks and fireworks residue remaining after the public display shall be immediately disposed of in a manner safe for that type of firework and such that no hazardous or dangerous condition is created; and
  - (e) Fireworks shall be kept and stored, prior to firing, in a place and manner that is not hazardous to property or dangerous to any person.

- (f) The licensee shall follow applicable National Fire Protection Association (NFPA) Code 1123 for Fireworks Display, and shall include a notarized and verified Statement of Intent to Comply with NFPA Code 1123.
  - (g) The consumption of alcohol six hours prior to and during the display by any person supervising or participating as one or more of the shooters is prohibited.
- J. *Items and activities not subject to the provisions of this Section.* Nothing in this Section shall be construed as to the manufacture, storage, sale or use of signals necessary for classes of public or private transportation, nor as applying to the military or naval forces of the United States, or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as apply to the transportation, sale or use of fireworks solely for agricultural purposes, provided that the items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the State of Missouri.
- K. Penalty. Any person found in violation of this Chapter shall, in addition to all other penalties provided by law, be prohibited from selling consumer fireworks in the City for a period of two (2) years. (Ordinance No. 283, § 1; 6-26-06; Ordinance No. 304, § 1; 3-20-07).

## **CHAPTER 605: REGULAITON OF PEDDLERS & SOLICITORS**

### **SECTION 6.80. - PURPOSE**

This chapter is designed to:

- A. Prevent undue annoyance of City residents by peddlers and solicitors;
- B. Maximize the First Amendment rights of peddlers and solicitors, as well as the right of City residents to be secure in their homes;
- C. Reduce the opportunity for crime within the City;
- D. Attempt to provide some assurance to residents of the City that peddlers and solicitors are not burglars and criminals in disguise; and
- E. Attempt to increase the physical safety of peddlers and solicitors who go from place to place within the City.

### **SECTION 6.81. - DEFINITIONS**

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

*Canvasser* shall mean a person who attempts to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause.

*Peddler* shall mean a person who attempts to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service, for profit to himself or his principal, or seeks a donation for any cause of a profit-making or commercial character. Peddler shall not mean a student of an educational institution who attempts to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service as a fundraising activity for the benefit of an educational program or non-profit organization.

*Solicitor* shall mean a person who attempts to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service. Solicitor shall not mean a student of an educational institution who attempts to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to obtain a donation as part of a fundraising activity for the benefit of an educational program or non-profit organization.

#### **SECTION 6.82. – PROOF OF SOLICITATION**

It shall be presumed that an individual is a peddler rather than a solicitor. This presumption may be overcome by:

- A. 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, and that it is a duly authorized and existing not-for-profit corporation;
- B. A showing that the organization for which one wishes to solicit is an organization whose primary purpose is to influence public policy.

#### **SECTION 6.83. – PROHIBITED ACTIONS**

No person having a solicitor's or peddler's identification card, or a canvasser, shall:



- A. Enter or remain on private property where he has reason to believe that the residents thereof have indicated the solicitor, peddler, or canvasser is not welcome;
- B. Make an uninvited entry into a resident's home;
- C. Refuse to discontinue his message when requested by a hearer to do so, when on private property occupied by the hearer; or
- D. 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, peddler, or canvasser either by a posted sign or otherwise.

#### **SECTION 6.84. – TIME RESTRICTIONS**

No person shall engage in acts as a peddler, solicitor, or canvasser within the City limits except from 9:00 a.m. until 8:00 p.m. Monday through Friday, and from 10:00 a.m. until 8:00 p.m. on Saturday and Sunday.

#### **SECTION 6.85. - REQUIRED**

No person shall, as a peddler or solicitor, attempt to make personal contact with a resident at his residence without prior specific invitation or appointment from the resident unless that person obtains from the Chief of Police an identification card in accordance with the provisions of this article. This article shall not apply to canvassers, which shall not be required to obtain an identification card.

#### **SECTION 6.86. - APPLICATION**

Applications for peddler's and solicitor's identification cards may be filled out at the Police Department, on forms provided by the Police Department.

#### **SECTION 6.87. – SPECIAL REQUIREMENTS FOR PEDDLER’S CARD**

No person shall be issued a peddler's identification card unless he, or his principal, possesses a current valid Lone Jack Business License or:

- A. Provides a copy of either a valid retail sales license issued by the State Director of Revenue, as required by RSMo 144.083; or, if the applicant is exclusively a peddler of services, a valid Missouri business tax identification number; and
- B. Deposits a surety bond in the amount of one hundred dollars (\$100.00) per card with the Lone Jack Police Department, or cash in the amount of one hundred dollars (\$100.00) per card with the City Clerk, to secure collection and payment to the Missouri State Department of Revenue all City sales tax due and payable by reason of sales made within

this City. Such bond shall be forfeited to the City if applicant does not, within ninety (90) days of the expiration or surrender of his peddler's card, demonstrate by affidavit or otherwise that such sales taxes have been paid.

#### **SECTION 6.88. – INVESTIGATIONS OF APPLICANTS**

During the period of time following the application for issuance of a peddler's or solicitor's identification card and its issuance, the Chief of Police shall make diligent investigation, as to him seems necessary, to determine that the applicant is entitled to the identification card as stated in this article. If the Chief of Police has not completed his investigation within the working days that are provided in Section 6.90, he will advise the applicant of the reason for delay.

#### **SECTION 6.89. – CARD IN ADDITION TO BUSINESS LICENSE**

The identification cards for peddlers and solicitors required by this article are in addition to and not in lieu of any business license such persons may be required to obtain under the provisions of this Code.

#### **SECTION 6.90. – ISSUANCE; GROUNDS FOR DENIAL**

Five (5) working days after the application, or sooner if reasonably possible, the requested peddler's or solicitor's identification card shall be issued, unless:

- A. The application is incomplete;
- B. The required fee, if any, has not been paid;
- C. The applicant or an individual for whom a card is requested has been convicted of one or more of the following felonies within the past five (5) years:
  - 1. Theft;
  - 2. A crime against property;
  - 3. A crime against person; or
  - 4. Any conviction resulting from a charge related to peddling or soliciting;
- D. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect;
- E. The applicant or the particular individual for whom an identification card is requested has had a previous identification card revoked;

- F. The applicant or a particular individual for whom an identification card is requested has made any false statement regarding the peddling of merchandise or the solicitation of persons under a similar ordinance or code provision of any other municipality.

**SECTION 6.91. – NOTIFICATION OF APPLICANT OF REASONS FOR DENIAL.**

If the Chief of Police denies a peddler's or solicitor's identification card to any person, he shall promptly notify the applicant in writing and state therein the reasons for denial.

**SECTION 6.92. – HEARING AFTER DENIAL**

If an identification card is denied to an applicant, the applicant may, within ten (10) days of the denial, make application to the City Clerk for a hearing thereon before the Board of Aldermen. In such cases, the hearing shall be held at the next regular meeting of the Board of Aldermen.

**SECTION 6.93. - FEE**

- A. Any person desiring a peddler's identification card shall pay a fee in the amount \$20.00.
- B. There shall be no fee for a solicitor's identification card.

**SECTION 6.94. - VALIDITY**

An identification card shall be valid within the meaning of this article for a period of one hundred eighty (180) days from the date of its issuance, and thereafter it shall expire.

**SECTION 6.95. - TRANSFER**

No person having a peddler's or solicitor's identification card shall loan, transfer, or allow in any manner another person to use his card.

**SECTION 6.96. - DISPLAY**

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

**SECTION 6.97. - REVOCATION**

- A. Any identification card granted pursuant to this article may be revoked by the Chief of Police after the finding of:
  - 1. Any violation of this article by the applicant or the person for whom the particular card was issued; or

2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity; or
3. Conviction of a crime of moral turpitude; or
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.

B. The holder of such identification card may appeal such revocation as provided in Section 6.92