

AN ORDINANCE REPEALING TITLE V, CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF GLADSTONE AND ENACTING IN LIEU THEREOF, NEW PROVISIONS REGULATING THE GRANTING OF LICENSES, AND THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY.

LEGISLATIVE FINDINGS

1. Title V, Chapter 110 of the Code of Ordinances of the City of Gladstone, Missouri, regulates the granting of liquor licenses and the sale and distribution of alcoholic beverages.
2. In 2010 the City, through a series of ordinances, 4.140, 4.147, and 4.155, repealed Chapter 110 and enacted a revised liquor ordinance.
3. Since 2010 the state legislature has amended many statutes controlling the granting of liquor licenses and the sale and distribution of alcoholic beverages.
4. The City Council has determined that the administrative process associated with application of the liquor ordinance should be streamlined and simplified to better serve the community.
5. The City Council desires to repeal Title V, Chapter 110 of the Code of Ordinances to conform to state statutes and to make further revisions to the City's liquor regulations as are consistent with the best interests of the citizens of the City.

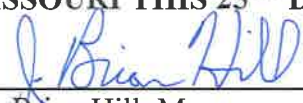
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

SECTION 1. Repeal of Code Provisions. Title V, Chapter 110, of the Code of Ordinances of the City of Gladstone, Missouri, is hereby repealed in its entirety.

SECTION 2. Enactment of New Code Provisions. New provisions regulating the granting of liquor licenses and the sale and distribution of alcoholic beverages within the City of Gladstone, Missouri are hereby enacted to read in the manner attached hereto and incorporated herein as Title V, Chapter 110, Alcoholic Beverages, Liquor Ordinance, Enacted by the Gladstone City Council August 11, 2014.

SECTION 3. Effective Date. This Ordinance shall become effective the 5th day of January, 2015.

INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 25TH DAY OF AUGUST, 2014.



J. Brian Hill, Mayor

ATTEST:


Ruth E. Bocchino, City Clerk

First Reading: August 25, 2014

Second Reading: August 25, 2014



All-America City

Gladstone



2008

OFFICE OF THE CITY COUNSELOR

TO: MAYOR J. BRIAN HILL
MAYOR PRO TEM BILL GARNOS
COUNCILMEMBER CAROL SUTER
COUNCILMEMBER JEAN MOORE
COUNCILMAN R.D. MALLAMS
CITY MANAGER KIRK DAVIS

FROM: CITY COUNSELOR RANDALL THOMPSON

RE: NEW LIQUOR ORDINANCE/CHAPTER 110

DATE: AUGUST 19, 2014, 2014

The liquor ordinance on the August 25 agenda incorporates the following changes from the ordinance which appeared on the August 11 agenda:

5.110.100

The Managing Officer definition was corrected to refer to Section 5.110.2900 instead of 5.110.300.

The Original package definition was completed by filling in the previous blank spaces with the number "one (1)". We confirmed with the state supervisor of liquor control that the minimum number of cans or bottles of beer that can be purchased from a package liquor store changes from 3 to 1 as of January 1, 2015.

5.110.1800

This subsection was changed by adding "except for events approved by the city held in public parks or public spaces." to the end of the paragraph.

5.110.2000

(a) Class A Retail licenses, was corrected by changing the small case "l" to an upper case "L".

5.110.2600

We corrected a typo by changing "United State" to "United States".

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GLADSTONE, MISSOURI 64188-0719**

**7010 NORTH HOLMES
GLADSTONE, MISSOURI 64118-2646**

**816-436-2200
816-436-2228 FAX**

5.110.2700(a)

This section was changed to read as follows: (a) An Application must be made on the forms prescribed and provided by the officer and payment made in a form accepted by the city made payable to the City of Gladstone for the correct amount of the license fee and shall accompany the application.

5.110.3900(a)

We corrected a typo by including the letter “y” on the second line to change “b” to “by”.

Please contact me with any other questions or concerns. Otherwise the ordinance is in final form and ready for passage.

Title V
Chapter 110
Alcoholic Beverages

Liquor Ordinance
Enacted by Gladstone City Council
August 25, 2014

Sec. 5.110.001. Title and Purpose.

Chapter 110 of this Title shall be known as the Liquor Control Ordinance. Intoxicating liquor is, by law, an age-restricted product that is regulated differently than other products. The provisions of state law establish vital state regulation of the sale and distribution of intoxicating liquor in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policy goals such as maintaining an orderly marketplace. The provisions of this Chapter are enacted in order to preserve and protect the health, safety, and welfare of the citizens of the City of Gladstone.

Sec. 5.110.100. 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:

Alcoholic beverages means intoxicating liquor or malt liquor or wine.

Board means the Liquor Control Board of Review.

Director means the Director of Public Safety for the City of Gladstone, Missouri.

Intoxicating liquor means alcohol for beverage purposes, alcohol, spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (.5%) of alcohol by volume.

Light wine and domestic wine means any wine containing not in excess of fourteen percent (14%) of alcohol by weight exclusively from grapes, berries and other fruits and vegetables.

Malt liquor means any beverage manufactured from pure hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (.5%) by weight.

Managing Officer means a person who meets the qualifications under Section 5.110.2900 of this Chapter.

Microbrewery means any business the primary activity of which is the brewing and selling of beer, with an annual production of 10,000 barrels or less.

Non-intoxicating Beer means any beer manufactured from pure hops and pure extracts 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 (1/2) of one percent (1%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

Officer means the Liquor Control Officer.

Original package means any package containing one (1) or more standard bottles or cans of malt liquor or non-intoxicating beer, fifty (50) milliliters (1.7 ounces) or more of spirituous liquors and one hundred (100) milliliters (3.4 ounces) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing twelve (12) ounces or less of malt liquor or non-intoxicating beer.

Person is any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, conservator or other officer appointed by any state or federal court. Clubs are also included within the meaning of the term.

Premises is the place where intoxicating liquor or non-intoxicating beer is sold and it may be one (1) room, a building comprising several rooms, or a building with adjacent or surrounding land such as a lot or garden.

Retailer means a person holding a license to sell or to offer to sell intoxicating liquor or non-intoxicating beer to a consumer only.

Sale by the drink means the sale of any intoxicating liquor, except malt liquor in the original package, in any quantity less than fifty milliliters (1.7 ounces).

Spirituous liquor means brandy, rum, whiskey, gin and all other preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented or malt liquors.

Wholesaler means a person holding a license to sell intoxicating liquor or non-intoxicating beer to wholesalers or to retailers.

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

TITLE I

LICENSING

Sec.5.110.200. License required.

It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this city intoxicating liquor, as defined in section 5.110.100, in any quantity, without taking out a license or permit as provided herein.

Sec. 5.110.300. Keeping liquor unauthorized by license.

It shall be unlawful for the holder of any license authorized by this chapter for the sale of intoxicating liquor at retail by the drink for consumption on the premises where sold, to keep or secrete, or to allow any other person to keep or secrete 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 license, or any kind of liquor used exclusively as an ingredient in any foods being prepared and sold on the premises.

Sec. 5.110.400. Hours of sale and consumption.

(a) No person having a license issued pursuant to this chapter, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, upon or about his or her premises.

(b) Any premises where intoxicating liquor is sold or consumed in violation of the provisions of this section is hereby declared to be a public and common nuisance.

Sec. 5.110.500. Serving or delivering in vehicles.

No retail licensee, nor employee of such licensee, shall sell or serve any intoxicating liquor or non-intoxicating beer to any person while such person is operating or is a passenger in or on any motor vehicle.

Sec. 5.110.600. Liquor by the drink; Conduct of business.

(a) Each holder of a license for sale of liquor by the drink shall be responsible to maintain an orderly place of business, in compliance with the following standards:

(1) Each licensee shall maintain good order within the premises and in the parking and other areas frequented by its patrons immediately adjacent to its premises, and shall take reasonable steps to suppress fights and other disturbances on and about the premises;

(2) Each licensee shall assure that noise levels emanating from its premises and the parking and other areas immediately adjacent to its premises are controlled so as not to disturb the peace and quiet enjoyment of surrounding neighborhoods;

(3) Each licensee shall comply with all of the provisions of this Chapter and the general laws of the State and the City, and assure that each of its employees also maintain such compliance;

(4) Each licensee shall assure that each of its employees has obtained the proper State and City permits required for establishments serving liquor by the drink;

(5) Each licensee shall fully cooperate with public safety, fire, and code inspection officers and officials of the City, and shall allow access to all areas of the premises under their control to such public

officials at all times during hours of business operation;

(6) Each licensee shall assure that its patrons, employees, and any entertainers employed on the premises conduct themselves in an orderly manner and not engage in lewd or disruptive behavior.

(b) Failure of a licensee to conduct its business in accordance with the foregoing standards and requirements of this chapter shall subject the licensee to enforcement measures, including possible suspension, revocation, or denial of renewal of its license.

Sec. 5.110.700. Sale permitted on certain Sundays.

When any of the following days fall on a Sunday, any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of the license on that day after 9:00 a.m. and until the time which would be lawful on any other day of the week, notwithstanding any provisions of Section 5.110.400 or any other provisions of this Chapter to the contrary:

- (1) December 31;
- (2) January 1;
- (3) March 17;
- (4) July 4;
- (5) The Sunday before Memorial Day;
- (6) The Sunday before Labor Day; and
- (7) "Super Bowl" Sunday.

Sec. 5.110.800. Prohibited employment.

(a) No licensee shall employ on or about the licensed premises any person who has been convicted of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; nor shall any licensee employ on or about the licensed premises any person who shall have had a license revoked under Chapter 311 or 312 of the Revised Statutes of Missouri (RSMo).

(b) No retail licensee shall employ a prohibited felon to any position that involves the direct participation in retail sales of intoxicating liquor. "Direct participation in retail sales" includes the duties of accepting payment, taking orders, delivering, mixing or assisting in the mixing or serving of intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, and sales clerk.

(1) A "prohibited felon" is one who has been convicted of a crime under the laws of any state or the United States, where the possible penalty at the time of the offense exceeded one (1) year confinement and the crime involves homicide, assault involving a threat of death or serious injury or actual physical injury, assault upon a law enforcement officer, kidnapping or false imprisonment, any action that would constitute a sexual offense under Chapter 566, RSMo, prostitution, pornography, robbery, arson, stealing, burglary, forgery, counterfeiting, identity

theft or false identification, bribery, unlawful use of a weapon, gambling, driving or boating while intoxicated, perjury, fake reports or declarations, the possession, purchase, sale or manufacture of drugs, tax fraud, mail fraud, food stamp fraud, or welfare fraud.

Sec. 5.110.900. Liquor in original package not to be opened where purchased.

(a) In no event shall intoxicating liquor sold in the original package be opened or consumed on the premises where purchased.

(b) In no event shall malt liquor sold in the original package be opened or consumed on the premises where purchased when by license the premises is classified under Sections 5.110.2000 (a)(1) and 5.110.2000 (a)(2).

Sec. 5.110.1000. Unfinished bottles of wine.

No person shall carry an unfinished bottle of wine, light wine or domestic wine, as described in this chapter, from the premises where liquor by the drink is sold, except by a patron purchasing the wine from a premise licensed under Section 5.110.2000(d)(1) of this chapter, provided that:

(a) The patron must have ordered a meal;

(b) The bottle or bottles of wine must have been at least partially consumed during the meal;

(c) The licensee must provide a dated receipt for the unfinished bottle or bottles of wine; and

(d) The licensee must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags, and securely seal the bags.

Sec. 5.110.1100. Purchase or possession by minor, a misdemeanor, container need not be opened and contents verified, when consent to chemical testing deemed given, when burden of proof on violator to prove not intoxicating liquor, not applicable to certain students, requirements.

(a) Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 5.110.100, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or subsequent violation of this section shall be punishable by a fine of not more than five hundred dollars or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating

liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor 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 therein contains intoxicating liquor.

(b) Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the city. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

(c) The provisions of this section shall not apply to a student who:

- (1) Is eighteen years of age or older; and
- (2) Is enrolled in an accredited college or university and is a student in a culinary course; and
- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
- (4) Tastes a beverage listed under subsection (3) only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older.

Sec. 5.110.1200. Misrepresentation of age by minor; Use of altered driver's license.

(a) Any person of the age of at least seventeen years and under the age of twenty-one years who shall represent that they have attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall upon conviction be deemed guilty of a misdemeanor. Any person under the age of seventeen years who shall represent that such person has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, may be considered as a delinquent child and referred to the proper authorities to be dealt with in accordance with the provisions of Chapter 211, RSMo.

(b) In addition to any other penalties established in subsection (a) of this section, any person who is less than twenty-one years of age who uses 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, shall be guilty of a misdemeanor and shall be subject to a fine of five hundred dollars for each separate offense.

Sec. 5.110.1300. Persons eighteen years of age or older selling or handling liquor or beer; when allowed.

(a) Except as provided in subsections (b) through (d) of this section, no person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquor.

(b) In any place of business licensed in accordance 5.110.2000 (a) (1), (2), (3), (4), or (5), persons at least eighteen years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor. Delivery of intoxicating liquor or beer away from the licensed premises cannot be performed by anyone under the age of twenty-one years. Any licensee who employs any person under the age of twenty-one years, as authorized by this subsection, shall, when at least 50 percent of the licensee's gross sales does not consist of nonalcoholic sales, have an employee twenty-one years of age or older on the licensed premises during all hours of operation.

(c) In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor or beer but which does not sell intoxicating liquor or beer at retail, persons at least eighteen years of age may be employed and their duties may include the handling of intoxicating liquor or beer for all purposes except consumption. Any wholesaler licensed pursuant to Chapter 312 of the Missouri Revised Statutes may employ persons of at least eighteen years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor or beer.

(d) Persons eighteen years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or beer in premises which sell food for consumption on the premises if at least 50 percent of all sales in those places consists of food;

provided that nothing in this section shall authorize persons under twenty-one years of age to mix or serve across the bar intoxicating beverages or malt liquor.

Sec. 5.110.1400. Persons under twenty-one years of age not allowed upon premises.

No person under twenty-one years of age shall be allowed upon the premises of, nor shall be employed as a server, entertainer or for any other purpose, by an establishment holding a liquor by the drink license unless the licensee also holds a Class D license as provided in Section 5.110.2000 (d)(1), for the same premises.

Sec. 5.110.1500. Sale to minors and certain other persons prohibited.

(a) Any licensee under this chapter, or any employee of any licensee, who shall sell, vend, give away or otherwise supply any alcoholic beverage in any quantity whatsoever to any person under the age of twenty-one years, or to any intoxicated person or person appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever, except such person's parent or guardian, shall be deemed guilty of a misdemeanor.

(b) This section shall not apply to the supplying of alcoholic beverages to a person under the age of twenty-one years for medical purposes only, when administered by a duly licensed physician.

Sec. 5.110.1600. Persons under twenty-one years of age prohibited on premises.

It shall be unlawful for the licensee of any premise located in the city to knowingly allow any person under twenty-one years of age to remain on such premises while in possession of intoxicating liquor or while consuming intoxicating liquor in violation of this Chapter.

Sec. 5.110.1700. Permitting drinking or possession by a minor.

Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one years to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one years from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one years to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a misdemeanor.

Sec. 5.110.1800. Drinking in public.

It shall be unlawful for any person to consume intoxicating liquor or malt liquor or open any original package containing intoxicating liquor or malt liquor in or upon any public street, alley, park, public thoroughfare, bus or other public conveyance, or in any schoolhouse except for events approved by the city held in public parks or public spaces.

Sec. 5.110.1900. Sale of liquor prohibited near schools and churches.

No license shall be granted for the sale of intoxicating liquor within three hundred (300) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the officer, except that when a school, church or place of worship shall hereafter be established within three hundred (300) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten days' written notice has been provided to all owners of property within three hundred (300) feet of the proposed licensed premises.

Sec. 5.110.2000. License required; classification of licenses.

It shall be unlawful for any person to sell or expose for sale in the city any intoxicating or malt liquor in any quantity, without first obtaining a license therefor from the city. For the purposes of this chapter the following classes of licenses or permits are hereby created:

(a) Class A Retail Licenses:

(1) *Original Package.* For the sale of intoxicating liquor in the original package, not to be consumed on the premises where sold, by persons engaged in the operation of a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store.

(2) *Package Malt Liquor.* For the sale of malt liquor not in excess of five percent by weight by grocers and other merchants and dealers in the original package. Notwithstanding the provisions of section 5.110.400, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9 a.m. and midnight on Sunday.

(3) *Malt Liquor by the Drink.* For the sale of malt liquor at retail by the drink for consumption on the premises where sold. Notwithstanding the provisions of section 5.110.400, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

(4) *Malt Liquor and Light Wine by the Drink.* For the sale of malt liquor and light wines at retail by the drink for consumption on the premises where sold.

(5) *All Intoxicating Liquor by the Drink.* For the sale of all intoxicating liquor at retail by the drink for consumption on the premises which shall include the sale of intoxicating liquor in the original package.

(6) *All Intoxicating Liquor by the Drink at Eating or Entertainment Places.* For the sale of all intoxicating liquor at retail by the drink for consumption on the premises for persons operating any premises where food or entertainment are sold.

(7) *50 Day Special Caterers.* For persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises for use at a particular function, occasion, or event at a particular location other than the licensed premises. The special license shall be effective for a maximum of fifty (50) days during any year, and shall authorize the service of intoxicating liquor at such function, occasion, or event during the hours at which intoxicating liquors may lawfully be sold or served upon premises licensed to sell intoxicating liquor for on-premises consumption.

(8) *Unlimited Special Caterers.* A special license under the same terms and conditions as the 50 Day Special Caterer's license described in subsection A (7) above except for an unlimited number of functions during the year.

(9) *Tax Exempt Charitable, Fraternal, Religious, Service or Veterans' Organizations.* For the sale of intoxicating liquor at retail by the drink for consumption on the premises where sold. If the licensee's premises include two or more buildings in close proximity, such license shall be valid for the sale at any such building.

(b) Class B Licenses:

(1) *Sunday Sales.* Any person who is licensed to sell intoxicating liquor at retail, including by the drink, may apply for a special license to sell intoxicating liquor at retail, including by the drink, between the hours of 9:00 a.m. and midnight on Sundays.

(c) Class C Permits:

(1) *Wine, Malt Liquor and Spirits Tasting.* Licensees holding a license to sell intoxicating liquor in the original package at retail under subsections A (1), A (2) and B (1) above may apply for a special permit to conduct wine, malt liquor and spirituous liquors tastings on the licensed premises. This subsection shall not be construed to permit the sale of wine, malt liquor or spirituous liquors for on premises consumption.

(2) *Picnic.* For the sale of all intoxicating liquor, at retail by the drink for consumption on the premises at a picnic, bazaar, fair, or similar gathering held by any church, school, civic, service, fraternal, veteran, political, or charitable club or organization. The permit shall be issued only for the day or days requested and shall not authorize the sale of intoxicating liquor for more than a total of seven days in any calendar year.

(3) *Caterer/Special Event.* For caterers or other persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, during hours at which intoxicating liquor may lawfully be sold or served upon premises licensed to sell for on-premises consumption.

(4) *Festival.* For persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises who furnish provisions and service for use at

a festival as defined in Chapter 316, RSMo. The application for a permit shall be made at least five (5) business days prior to the festival. The permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of intoxicating liquor at such festival during the hours at which intoxicating liquor may lawfully be sold or served upon premises licensed to sell intoxicating liquor for on-premises consumption. This permit shall allow for the sale of intoxicating liquor in the original package.

(d) Class D Licenses:

(1) *Under 21 Patrons.* For persons already holding licenses to sell intoxicating liquor by the drink at retail under subsections A (3), A (4), A (5) or A (6) who allow patrons under twenty-one years of age on the premises. No person who holds a license to sell intoxicating liquor at retail by the drink under subsections A (3), A (4), A (5) or A (6) may allow patrons under twenty-one years of age upon the premises unless the primary business at the licensed premises is other than the sale of intoxicating liquor or malt liquor. For purposes of this subsection, a business is primarily for other than the sale of intoxicating liquor and malt liquor if fifty percent (50%) or more of the gross income of such business is derived from the sale of food, products, goods, items, activities, or services other than intoxicating liquor, malt liquor or wine.

(e) Class E Licenses:

(1) *Manufacture.* For the manufacture of beer and malt liquor, in quantities not to exceed 10,000 barrels per annum.

TITLE II

ADMINISTRATION

Sec. 5.110.2100. Establishment of Liquor Control Officer; Powers and Duties.

The City Clerk shall serve as the Liquor Control Officer ("Officer") for the City. The officer is vested with the exclusive power to grant applications for original licenses or permits or the renewal or transfer of location of an existing license, or for change of ownership or change in managing officer, or change in management or control of a business, or to suspend or revoke a license or permit issued under this chapter for the sale of intoxicating liquor and with the power to make rules governing the conduct and method of operation of all licensees under this chapter.

The officer has the authority to suspend or revoke licenses based on violations of this chapter, violations of state law or violations of the regulations adopted by the state Division of Liquor Control. Before any license is suspended or revoked the alleged violator shall be given notice in writing of the basis for suspension or revocation and the opportunity to appear before the officer to answer the allegations forming the basis of the suspension or revocation.

Any person aggrieved by an official action of the officer affecting the licensed status of a person, including refusal to grant, the grant, the revocation, the suspension or the failure to renew

a license, may seek a determination by the board appealing such action. The officer shall be represented before the board by the City Counselor.

Sec. 5.110.2200. Liquor Control Board of Review; Creation and Duties.

The Liquor Control Board of Review is hereby created and is referred to herein as the "Board."

(a) The board shall adopt rules in accordance with the provisions of this chapter and RSMo 536.100 et seq. Meetings of the board shall be held at the call of the Chairperson, and at such times as the board may determine. Such Chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(b) Any person aggrieved by an action of the officer may appeal such decision to the board.

(c) All appeals to the board shall be heard and recorded in accordance with Section 536.130 RSMo, and shall be considered a contested case for purposes of judicial review.

Sec. 5.110.2300. Board Membership; Officers; Organization.

(a) The board shall consist of five regular members and three alternative members, who may serve in the absence of or disqualification of regular members. All board members shall be appointed by the mayor with the approval of the city council. Each member shall serve for five years, commencing on January 1 of the year that begins each member's term. Members may be removed by the city council for cause. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(b) The board members shall elect the following officers: chair, vice-chair and secretary to terms of one year. The officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.

(c) All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of such member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the city clerk, and shall be a public record. The presence of four members shall be necessary to constitute a quorum.

Sec. 5.110.2400. Appeals to Board.

(a) If an application for an original license or permit or the renewal or transfer of location of existing license, or for change of ownership or change in managing officer or change in management or control of the business under this chapter is not approved by the officer, or if another interested party disputes the approval of the same then the applicant or interested party may file with the officer a written request for a hearing appealing the officer's action within 15 days after the officer's written determination.

(b) The board shall hold a full and adequate hearing on the matter, joining all interested parties. Such hearing shall be recorded in accordance with Section 536.130 RSMo, and shall be considered a contested case for purposes of judicial review.

(c) Written notice of such hearing shall be given at least ten (10) days in advance of such hearing by regular U.S. Postal Service mail to the address provided by the applicant on the license and permit application and/or to the address provided by the applicant or other interested party on the written request for hearing filed with the officer. The applicant or other interested party will be directed to appear and show cause why the decision of the officer should not be sustained.

(d) Any party may be represented by counsel and all parties shall have an opportunity to be heard.

(e) The concurring vote of a simple majority of the board members shall be necessary to sustain or reverse the determination of the officer under review, or to decide in favor of the applicant or other interested party on any matter upon which the board is required to pass under this chapter, or to effect any variation in this chapter.

(f) Within thirty five (35) days following the hearing the board shall issue specific findings of fact, conclusions of law and decision with respect to each issue brought before it and deliver said findings of fact, conclusions of law and decision to the parties by regular mail as provided in subsection (c) herein.

(g) An appeal under this chapter stays all proceedings in furtherance of the officer's action appealed from until ten (10) days after the date of the written findings of fact, conclusions of law and decision issued by the board.

(h) The board may assess liability for payment of costs against the applicant or other interested party in any hearing had before it if the board sustains in whole or in part the action taken by the officer. The board may assess actual costs incurred by the board in conducting the hearing. No license or permit shall be granted to a party against whom costs have been assessed until said costs have been paid to the city clerk. The cost of a transcript of a hearing before the board shall be paid by the party requesting the transcript.

Sec. 5.110.2500. Judicial review of board decisions.

Following the issuance of the findings of fact, conclusions of law and decision by the board including but not limited to suspending or revoking a license or permit, or approving or disapproving and application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of managing officer, or application for change of ownership, or change in management or control of the business under this chapter, the licensee, permittee, applicant, interested party, or the officer may seek judicial review in a manner provided by law. The method of judicial review of any decision of the board shall be as provided in RSMo chapter 536.

(a) Nothing contained in this chapter shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

Sec. 5.110.2600. Prerequisites for applicants.

No person shall be granted a license under this chapter unless such person is of good moral character, a qualified legal voter and a tax paying citizen of a county, city, town or village of this state. No corporation or other form of business entity shall be granted a license under this article, unless the managing officer of the proposed licensee is of good moral character, a qualified legal voter and a tax paying citizen of a county, city, town or village of the state. No person shall be granted a license whose license as such dealer has been revoked, by the city or the state, or who has been convicted, since the ratification of the Twenty-First Amendment of the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or malt liquor, or who employs any person whose liquor license has been revoked or who has been convicted of violating the provisions of any such law since the date aforesaid.

Sec. 5.110.2700. Application, investigation.

No license shall be issued to an applicant until the following conditions have been met and complied with:

(a) An Application must be made on the forms prescribed and provided by the officer and payment made in a form accepted by the city made payable to the City of Gladstone for the correct amount of the license fee and shall accompany the application.

(b) In addition to the information described in Sec. 5.110.2600, the applicant shall provide his or her full name, age, residence, place of birth, and if a naturalized citizen, the time and place of naturalization along with the length of time the applicant has resided at the residence stated.

(c) If the applicant is a corporation or other form of business entity other than a partnership, the application shall set forth all of the information requested with respect to its managing officer, identifying such managing officer and further stating the corporate/business name, the date and state of incorporation, the five largest shareholders with their addresses and percentage of stock held.

(d) If the application is made by any form of partnership, the application shall set out the names and residences of all the partners, whether they be active or silent partners. All partners shall qualify under the laws of the city and the state for the license. All partners shall sign the application.

(e) The applicant shall state the exact location of the premises where the applicant proposes to engage in such retail liquor business, including the street address of the premises, the name and address of the owner of record of the premises and proof of the applicant's legal right to possess the premises during the term of the license.

(f) The applicant shall state the kind of business which the applicant proposes to conduct in such premises, particularly stating the hours which the applicant plans to keep such place open for business.

(g) No license shall be granted to an applicant unless he/she makes full, true and complete answers to all questions in the application. If any applicant shall make any false or incorrect answer to any question in the application or make any false statement of a material matter, it shall be cause for denial, suspension or revocation of any license issued pursuant to the application. The officer and director of public safety shall investigate any fact or issue related to any application or applicant as necessary to enforce the provisions of this chapter.

(h) Every applicant for a license to sell intoxicating liquor or intoxicating beer at retail or for a license to permit consumption of liquor must attach securely to the application a recent photograph of the individual(s) signing the application and shall submit to complete fingerprints by the director.

(i) Each application shall be submitted to the director who, through his or her duly authorized agent(s) or employee(s) shall make an immediate investigation of the statements and information contained in the application, and the safety and sanitary conditions of the premises, and report in writing to the officer the findings of such investigation(s).

(j) The applicant shall obtain a permit from the Clay County Health Department evidencing compliance with health regulations at the proposed licensed premises for the intended business operation, and submit a copy of such permit to the officer before serving alcoholic beverages.

(k) Every applicant shall submit a copy of his/her tax receipt, for the year immediately preceding the date of the application, of the county, city, town or village where he/she resides in Missouri, or if the applicant is a corporation, a copy of the tax receipt for the year immediately preceding the date of the application of the managing officer of the corporation of the county, city, town or village in Missouri where the managing officer resides.

Sec. 5.110.2800. Change of facts.

If during the period for which a license is granted there be any change of facts or information differing from that set forth in the original or in any renewal application on file with the officer, a written notice shall be given to the officer with the changed facts or information within ten days after the change.

Sec. 5.110.2900. Managing Officer qualifications.

(a) Each license holder shall designate a "managing officer" who shall be principally responsible for compliance with the city ordinance provisions relating to sales of alcoholic beverages and liquor control.

(b) The managing officer of a business organized as a sole proprietorship or partnership shall be the license holder or designated on-site manager of alcoholic beverage sales on the premises.

(c) The managing officer of a corporation or other form of business entity other than a partnership or sole proprietorship shall be a person in the employ of the corporation or other business entity that holds the license for the premises, and who is vested with the general control and superintendence of a whole, or a particular part of, the business at the particular location to which the license applies, and who is principally responsible for sales of alcoholic beverages on the licensed premises.

(1) If a corporation or other form of business entity other than a partnership or sole proprietorship utilizes an attorney, agent, or other person not directly employed at the licensed premises, as managing officer then it shall also designate a deputy managing officer for each licensed location, who shall be employed at that licensed location and directly responsible for liquor sales on the licensed premises.

(d) If the identity of the managing officer or deputy managing officer changes then the licensee shall designate a new managing officer or deputy managing officer and report the identity of such person to the officer within ten days of the change.

Sec. 5.110.3000. Issuance of license; expiration date; renewal.

(a) Provided the officer finds the application complete, the investigation complete and the applicant qualified to receive a liquor license then the officer may issue a license to the applicant permitting the applicant to operate under license for a term expiring on June 30 next succeeding the date of such license unless such license should be suspended, revoked, withdrawn or cancelled before the expiration of such time. The officer may renew or deny the license from year to year thereafter and to issue licenses to the successors or assigns of such person.

(b) The officer may place such further conditions upon a new or renewed license, or a license of an establishment that has been reviewed for suspension or revocation, as the officer may deem, in its sole discretion, to be necessary and proper for the promotion of responsible consumption of alcoholic beverages, to combat illegal underage drinking, to address violations of city liquor control ordinances, and to assure the safety and welfare of the citizens of the city.

Sec. 5.110.3100. Priority of issuance or renewal; conditions therefor.

In the issuance of new licenses or in the renewal of existing licenses, the officer shall give priority to applicants, if there are more applicants than licenses available under this chapter, on the basis of:

(a) Qualifications and prior experience of the applicant.

(b) Location and type of business and operation proposed by the applicant.

(c) A determination as to whether the proposed business can reasonably meet the 50 percent requirement as defined in this chapter.

(d) The time the application is made to the city.

Sec. 5.110.3200. Licenses not transferable or assignable; exception; change of ownership or control.

(a) No license issued under this chapter shall be transferable or assignable except as follows:

(1) In the event of the death of an individual licensee, the widow, widower, or next of kin of such deceased licensee, may make written application to the officer for transfer of such license to permit the use of the license for the remainder of the license year for which the license fee has been paid. The new applicant must meet all the requirements under this chapter and state law for the issuance of a new license.

(2) Whenever one or more members of a partnership license leaves the partnership, for whatever reason, the remaining partner(s) originally licensed may apply to the officer to continue to use the license for the period for which the license fee has been paid.

(b) No licensee under this chapter shall make any change in its ownership, management or control without first filing with the officer a notice in writing of the licensee's intention to do so, along with an affidavit listing the name and address of the new ownership, management or control. If the proposed change is of the managing officer of the licensee, the officer, upon determination that the proposed new managing officer meets the requirements of this chapter, may approve such change.

(c) The officer is authorized to establish regulations to implement the authority granted herein to approve changes and transfers made pursuant to this subsection.

Sec. 5.110.3300. Posting.

All licenses issued under this chapter shall be kept conspicuously posted on the premises for which such license is issued during the period of such license.

Sec. 5.110.3400. Fees.

(a) Upon presentation of the application to the officer each applicant shall submit annual fees applicable to the particular class of license requested, as follows:

Class A (1)	\$ 150.00
Class A (2)	\$ 22.50
Class A (3)	\$ 50.00
Class A (4)	\$ 52.50
Class A (5)	\$ 450.00
Class A (6)	\$ 450.00
Class A (7)	\$ 500.00
Class A (8)	\$1,000.00
Class A (9)	\$ 450.00
Class B (1)	\$ 300.00
Class C (1)	\$ 25.00
Class C (2)	\$ 15.00
Class C (3)	\$ 10.00 per day
Class C (4)	\$ 15.00 per day
Class D (1)	\$ 25.00
Class E (1)	\$ 7.50 for each 100 barrels or fraction thereof Up to a maximum fee of \$375.00.

(b) All license fees collected by the city collector shall be accounted for and paid into the city treasury. If the license is for less than one year, the fee shall be one twelfth of the annual fee for each month, or fraction thereof, remaining in the licensed year. A fee of \$12.50 shall be charged for any transfer or assignment of a license. If the license is a probationary license the fee shall be one-half the amount of the fee for such license classification.

Sec 5.110.3500. License required for each licensed premise; limitation on number of licenses per person.

(a) A license shall be required for each location where a business is operated under this chapter, whether in the same building or not.

(b) No person or business entity shall be issued more than five licenses for any classification or combinations of classifications under this chapter.

Sec. 5. 110.3600. Number of licenses to be granted for each classification.

(a) The number of licenses for the sale of all intoxicating liquor or malt liquor by the drink and in the original package are limited by class as follows:

Class A (1)	15
Class A (2)	15
Class A (3)	10
Class A (4)	10

Class A (5)	25
Class A (6)	30
Class B (1)	30

(b) The number of licenses designated for Classes A (1), (2), (3) and (4) under this subsection shall not include license holders whose primary business at the licensed premises is other than the sale of intoxicating liquor or malt liquor. For purposes of Classes A (1), (2), (3) and (4) of this subsection, a business is primarily for other than the sale of intoxicating liquor or malt liquor if sixty (60) percent or more of the gross income of such business is derived from the sale of food, products, goods, items, activities, or services other than intoxicating liquor, malt liquor or wine.

Sec. 5.110.3700. 50 Percent Rule Defined; further qualifications for Class D licenses.

(a) Licenses permitting patrons under twenty-one years of age upon Class D licensed premises may be issued to applicants who meet the following qualifications:

(1) Premises for which a Class D license is sought shall be exactly the same as those premises covered by an existing retail sale of intoxicating liquor by the drink license under Class A (3), or (4), or (5), or (6) and the description of the premises on each license shall be Identical.

(2) Applicants for a Class D license shall furnish with the application a certified statement, on a form provided by the officer, signed by the applicant showing that at least fifty percent (50%) of the gross income of the business for the past one (1) year immediately preceding the application was derived from the sale of food, products, goods, items, activities, or services or a certified statement signed by the applicant showing an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor.

(3) Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding application for a Class D license and shall furnish a certified statement signed by the applicant showing at least fifty percent (50%) of gross income of the business during the total period of time that it has been in business was derived from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor or a certified statement signed by the applicant showing that a projected experience based upon its non-intoxicating liquor sales during the preceding ninety (90) days would exceed not less than two hundred thousand dollars (\$200,000.00) per year.

(b) Renewal applications for Class D licenses shall be accompanied by a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the business for the past one (1) year immediately preceding the date of the renewal application was derived from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor or a certified statement signed by the applicant showing that the business' annual gross sales of food, products, goods, items, activities, or services other than the sale of intoxicating liquor immediately preceding the date of the renewal application was not less than two hundred thousand dollars (\$200,000.00) per year.

(c) Applicants for a Class D license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements, cancelled checks, purchase orders, bills of lading, purchase invoices for all products purchased and sold by the business and bank deposit records.

(d) Upon request of the officer any applicant or licensee shall produce for inspection and copying those records described in subsection (c) and such other records as may be requested by the officer from time to time. If in the reasonable discretion of the officer such records or documentation do not establish the applicant's/licensee's qualifications to hold a Class D license, the officer may, upon notice to the applicant or licensee as provided in Sec. 5.110.2300, not grant the requested license or suspend or revoke an existing license.

Sec. 5.110.3800. Alcoholic beverages to be kept under cover.

All persons holding in intoxicating liquor or malt liquor original package sales license under this chapter, whose places of business remain open upon the days and at the hours when the sale of alcoholic beverages are prohibited by law, shall, at all times upon such days and at such hours, keep all intoxicating liquor or malt liquor under cover in such a manner that such beverage stocks cannot be removed with being uncovered.

Sec. 5.110.3900. Employee permits.

(a) All persons employed in the retail sale by the drink of alcoholic beverages must procure a permit to do so. To procure such a permit, each applicant must be fingerprinted by the director, and furnish to the director an identifying photograph, in duplicate, complete an application form, and prove himself/herself to be a person of good moral character. On application, each applicant shall pay the sum of \$15.00 and shall be given a temporary card which will be good for a period of not less than thirty (30) days and may be extended to cover the period of time necessary for detailed investigation. On or before the expiration date of such temporary card, if the applicant meets the applicable requirements of the city and state, then such applicant will be given a permit card good for three (3) years from the date of the original application.

(b) Upon the expiration of the permit card, the applicant may procure a new permit card in the same manner as before except no fingerprints will be required when and if a set of classified prints of the applicant are in the files of the director. All permit cards shall bear a

description of the applicant, thumbprint and photograph and shall be laminated to prevent alteration.

(c) If any permitted employee shall be found guilty of violating or contributing to the violation of any of the provisions of this chapter, or is convicted of any crime, such employee's permit card shall be subject to suspension or revocation; provided such permitted employee shall be given a hearing in the same manner as other license holders under this chapter.

(d) It shall be unlawful for any licensee of any retail establishment to have in such licensee's employ, for the purpose of selling or assisting in the sale or delivery of alcoholic beverages, any person who does not have a permit card.

Sec. 5.110.4000. Summary to Council.

In August of each year the officer shall report to the City Council a summary of all actions taken by the officer under the authority derived from this chapter including but not necessarily limited to the following:

(a) The number and classification of each license or permit granted under Sec. 5.110.2000.

(b) Any non-renewal, suspension or revocation of licenses or permits.

(c) Violations of Chapter 110.

(d) All actions appealed to the board and any corresponding board determinations.

(e) Any recommendations for amending the liquor ordinance.

Sec. 5.110.4100. Adult entertainment, exception.

(a) It shall be unlawful for any retail licensee or such licensee's employee to permit in or upon the licensee's licensed premises adult entertainment as defined in Chapter 115 of this title, unless the licensing requirements of Chapter 115 have been met.

(b) Subsection (a) herein does not apply to Sec. 5.115.090(5)e because such subsection prohibits the sale or consumption of alcohol on such premises described therein.

Sec. 5.110.4200. Penalty for violation.

It shall be unlawful to violate any provision of this chapter. Any violation of this chapter or any other city code provision relating to licensing and sale of alcoholic beverages shall be grounds for denial, suspension or revocation of any permit or license. Violations of this chapter are misdemeanors and upon conviction are punishable by a fine of not more than \$500.00 or imprisonment for not more than ninety (90) days, or both such fine and imprisonment. Every day during which a violation occurs shall be deemed a separate offense.